



Isle of Man
Government

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Private Sector, Public Service Human Rights for All

THE HUMAN RIGHTS ACT 2001

A Guide for Private or Voluntary Sector Organisations
that carry out a Public Function.

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Private Sector, Public Service Human Rights for All

Private or Voluntary Sector but with a Public Function? This is for You.

Introduction

The Human Rights Act will allow people to bring cases about their rights under the European Convention on Human Rights in local courts and tribunals, instead of having to go to the European Court in Strasbourg. The Act underpins this by requiring all public authorities to act in a way that is compatible with the Convention rights.

This places new responsibilities on all people who work in public authorities. This does not just mean obvious public authorities like central Government, local Government or the police, but may also include organisations, large or small, that carry out functions which the Government would otherwise have to undertake.

This leaflet is aimed at private or voluntary sector organisations that do work of a public nature. It gives some pointers to help you decide whether your organisation might count as a public authority under the Human Rights Act, along with details of how to get more information.

We all have a vital role to play in building a culture of rights and responsibilities in the Island. This is particularly true of private or voluntary organisations with public functions, which are often working in the front line of service provision to the public. The purpose of this leaflet is to help such organisations think about what the Act will mean for them, and how it will help them to provide an even better service to the public.

What is the Human Rights Act?

The Act will come into force 1st November 2006.

Every person in the Isle of Man will have the clear legal rights from the European Convention on Human Rights. Those rights can be enforced in Manx courts and tribunals against public authorities - including private bodies that carry out public functions.

The Convention is a 'living instrument' - this means that interpretation of the rights is likely to change over time to reflect contemporary standards and values.

Why should I care about it?

The purpose of the Act is to make sure that all bodies that carry out public functions operate in a way that respects human rights.

All kinds of rules, procedures, and practices can have human rights implications. The European Convention on Human Rights is not just about torture and killing - it is about minimum standards for a modern, democratic society.

How do I know if my organisation is included?

The Human Rights Act ensures that the Government's responsibilities for human rights can be met even when a private body carries out the public function in question. If you regulate, direct or affect the public you are likely to be covered by the Act for those activities because you will be understood to be carrying out a *public function*.

The Act deliberately does not explain the meaning of *public authority* or *public function* in detail. It will be for the courts to interpret the Act and decide what should be included in this group and what should not.

Private Bodies which have some public functions are sometimes called *Hybrid Bodies*. Examples include:

- * private utilities that exercise public functions;
- * regulatory bodies;
- * professional associations in their regulatory capacity;
- * some charities or other voluntary organisations who carry out functions for or instead of Government;
- * corporations that have been incorporated under statute.

What does the Act say?

The Human Rights Act makes it unlawful for a public/private hybrid body to carry out its public functions in a way that is at odds with the Convention rights.

The Convention rights have a very wide reach. It matters in any area of work where public functions affect people's Convention rights.

A hybrid body will not be directly liable under the Act in respect of the private functions it carries out.

What should I do now?

Consider the work of your organisation -

- * Does any of it depend on powers from an Act of Tynwald or other legislation, such as rules and regulations?
- * Was the work - or part of the work - once done by central or local government, or a Statutory Board?
- * If you stopped doing the work, would Government step in and fulfil your role in some other way?
- * Does your work involve regulating the activities of the public or a section of the public?

These are just a few of the questions which might be asked. If you have answered *Yes* to any of them, you should seek advice from a suitably qualified advocate, your legal department, or (if applicable) your colleagues in the United Kingdom.

If you are likely to be treated as a public authority you need to check that your policies and procedures are compatible with the Convention rights. If you work closely with a Government Department, Board or Authority, they should be able to help you directly.

Staff training is very important. You should look at how you will raise awareness of the Act with your staff and whether your organisation needs a named person to help make sure that everyone knows about it.

For further information and enquiries:

Internet: ***www.gov.im/cso/initatives/human.xml***

Email: ***HumanRights@gov.im***

THE CONVENTION RIGHTS EXPLAINED

Article 2: The Right to Life

You have the right to have your life protected by law. There are some circumstances where there is a positive obligation to protect life.

Article 3: Freedom from Torture or Inhuman or Degrading Treatment

You have the absolute right not to be tortured or subjected to inhuman or degrading treatment or punishment.

Article 4: Freedom from Slavery or Forced Labour

You have the absolute right not to be treated like a slave or forced to perform certain kinds of work. Forced or compulsory labour does not include military service, community service or normal civic obligations such as maintaining your property if you are a landlord; or deducting taxes from your employees wages if you are an employer.

Article 5: Personal Freedom

You have the right not to be arrested or detained except in specific circumstances. If you are charged with a criminal offence, you have the right to be brought before a court promptly, and the right to be granted bail (with certain exceptions). If you are arrested you have the right to have any charges against you explained in a language you understand.

Article 6: Right to a Fair Trial

You have the right to a fair and public hearing before an independent and impartial court or tribunal within a reasonable time. If you are charged with a criminal offence Article 6 provides some additional rights. These include the right to be physically present in court if you want to be there, the 'right to silence' although inferences may be drawn from that silence, the right to be presumed innocent until you are proved guilty, and the right to examine and cross examine witnesses on the same terms as the other party to the case.

Article 7: No Punishment without Law

You cannot be found guilty of a criminal offence that was not considered to be a criminal offence at the time you committed it. You are also protected from increases in the severity of the punishment for a crime, which are decided after you have committed that crime.

Article 8: Private and Family Life

You have the right to respect for your private and family life, your home and your correspondence. You have the right to live your own life with such personal privacy as is reasonable, taking into account the rights and freedoms of others. Any interference with your body or the way you live your life must be justified.

Article 9: Freedom of Belief

This Article protects your rights in relation to a broad range of views, beliefs, thoughts and positions of conscience as well as to your faith in a particular religion. You have the right to practice or demonstrate your beliefs in public or in private.

Article 10: Freedom of Expression

This important right allows you to hold opinions and express your views singly or in conversation. Even if your views are unpopular or shocking, you have the right to express them but offensive language insulting to racial or ethnic groups might be an example where a lawful restriction on expression may exist. The right to express political views and opinions is an especially important part of democracy. Freedom of expression is also very important for journalists, television, radio and other parts of the media.

Article 11: Free Assembly and Association

You have the right to assemble with other people in a peaceful way, which includes the right to join a trade union to protect your interests at work. It also includes the right to demonstrate peacefully.

Article 12: Marriage

Men and women have the right to marry and start a family. The Isle of Man can make its own laws governing this right, so long as the right to marry is not removed.

Article 14: Freedom from Discrimination

Discrimination occurs when people are treated differently without justification. You must be able to enjoy the various rights and freedoms under the Convention without discrimination. You cannot be denied access to the rights on the grounds of your 'status'. Article 14 does not give you general protection from discrimination in all areas of your life, but only those covered by the other rights.

PROTOCOL 1, ARTICLE 1: PROPERTY

You have the right to the peaceful enjoyment of your possessions. Public authorities cannot usually interfere with the things you own or the way you use them.

PROTOCOL 1, ARTICLE 2: EDUCATION

Children have the right not to be denied access to the educational system, and the right to an effective education. Parents have the right to expect that their religious or philosophical beliefs are respected when public authorities provide education for their children. However, the Isle of Man has negotiated a reservation to this right, so that education provided by the state is limited to what is necessary to provide an efficient education and is within reasonable public spending limits.

PROTOCOL 1, ARTICLE 3: FREE ELECTIONS

You have the right (subject to age restrictions etc.) to vote for Members of the House of Keys and the members of your local authority in free and fair elections. Elections must be held at reasonable intervals and they must be conducted by secret ballot.

PROTOCOL 13: THE DEATH PENALTY

This provision abolishes the death penalty in all circumstances.

This leaflet is only intended as a guide and should in no way be construed as legal advice.

www.gov.im/cso/initatives/human.xml

enquiries.cso@cso.gov.im