

Human Rights Act Impact Assessment Proforma

This proforma will help you to articulate any human rights issues in the policy/proposal that you are working on. It is necessary for you to have read the OFMDFM guidance on human rights entitled "Get in on the Act; a practical guide to the Human Rights Act for public authorities in Northern Ireland" before completing this proforma.

If the policy/proposal is relevant to some rights but does not interfere with or limit them, your assessment must be signed off by a Senior Responsible Officer (Grade 7, equivalent or above). If you find that it does interfere with or limit one or more of the Convention rights, and your Senior Responsible Officer agrees, you must seek legal advice, even if it is considered that the interference or limitation is justified.

This proforma is available at www.ofmdfmi.gov.uk/human-rights If you fill in the form electronically, there is no restriction as to the amount you can type in each box.

Your answers in the rest of this proforma will help you draft a clearer note to your legal advisor.

1. Policy title and aims

Please state the title and objective of the policy/proposal you are working on.

TITLE:

Implementation of UNDER ARTICLE 68 OF THE ROADS (NI) ORDER 1993 to abandon 1111.5m of the U1244 Crockanboy Road Greencastle in Teebane West townland

AIM:

Requests to abandon roads in rural areas are not uncommon and in general DfI Roads are content to initiate the process if the road to be abandoned is lightly trafficked and there are reasonable alternative routes. Applications for an Abandonment/Stopping-Up Order may be received either from Roads Service, other public authorities, or a member of the public.

In this case an application was received from Dalradian Gold Limited on 3 March 2016 to abandon a stretch of road as detailed above.

2. Rights which the policy/proposal engage

Go through each of the rights detailed in the table below. For each one consider whether the policy/proposal engages the right, i.e. how the policy/proposal you are working on could involve the right. Explain how the right is engaged

Please note that the rights have been abbreviated so you should see the relevant Article in the Guide referred to above for the full title and explanation of the right.

Right	Yes/No	Explanation
Article 2 Right to life	No	Implementation of this legislation does not affect anyone's Article 2 rights
Article 3 Prohibition of torture, inhuman and degrading treatment	No	Implementation of this legislation does not interfere with anyone's Article 3 rights
Article 4 Prohibition of slavery and forced labour	No	Implementation of this legislation does not interfere with anyone's Article 4 rights
Article 5 Right to liberty	No	Implementation of this legislation does not interfere with anyone's Article 5 rights
Article 6 Right to a fair trial	No	Implementation of this legislation does not interfere with anyone's Article 6 rights

Right	Yes/No	Explanation
Article 7 No punishment without law	No	Implementation of this legislation does not interfere with anyone's Article 7 rights
Article 8 Right to respect for private and family life	No	Implementation of this legislation does not interfere with anyone's Article 8 rights
Article 9 Freedom of thought conscience and religion	No	Implementation of this legislation does not interfere with anyone's Article 9 rights
Article 10 Freedom of expression	No	Implementation of this legislation does not interfere with anyone's Article 10 rights
Article 11 Freedom of assembly and association	No	Implementation of this legislation does not interfere with anyone's Article 11 rights
Article 12 Right to marry and found a family	No	Implementation of this legislation does not interfere with anyone's Article 12 rights
Article 14 Prohibition of discrimination	No	Implementation of this legislation does not interfere with anyone's Article 14 rights

Right	Yes/No	Explanation
Protocol 1, Article 1 Right to property	No	Implementation of this legislation does not interfere with anyone's Protocol 1 Article 1 rights
Protocol 1, Article 2 Right to education	No	Implementation of this legislation does not interfere with anyone's Protocol 1 Article 2 rights
Protocol 1, Article 3 Right to free elections	No	Implementation of this legislation does not interfere with anyone's Protocol 1 Article 3 rights

If you have answered yes to any of these questions you must complete the rest of the proforma. If you have answered no to **all** of the questions, you may proceed to Question 9.

3. Rights which the policy/proposal interferes with or limits

Will the policy/proposal interfere with or limit any of the rights you identified as being engaged? If so, explain how the right is interfered with or limited.

You should note that interference could be a negative impact on a right or a failure to take positive action where this is required under the Article in question. For further guidance on which Articles require positive action, please consult the Guide.

Article	Interfered with or limited? Yes/No	What is the interference/limitation?

4. Those affected by the interference/limitation

Identify who could be affected by the interference or limitation, e.g. sections of society or people with certain beliefs or opinions, and explain how they could be affected.

It will help in identifying interferences or limitations to think about all the people who could be affected and be seen as a victim within the Human Rights Act.

Who could be affected?	How could they be affected?

5. Legal basis for interference/limitation

Is there a law which allows you to interfere with or limit the rights identified in Question 4?

Any interference with or limitation on a Convention right must have a legal basis. You therefore need to establish whether there is a law which allows the proposed interference or limitation.

You may need legal advice to clarify this.

Relevant legislation:

Alternatively, the policy/proposal may involve the creation of a new law which allows for the interference or limitation. If this is the case, please detail and explain in the box below:

6. Purpose of the policy/proposal

Even if the interference or limitation in the policy/proposal is according to the law, there are further conditions which must be met. The purpose of the policy/proposal must pursue a legitimate aim or fall under one of the specific exceptions in the Article in question.

Consider each of the Articles which the policy/proposal will interfere with or limit, and for each one specify the exception or legitimate aim which allows the interference or limitation and explain why.

If you are unsure of the exceptions or legitimate aims which are applicable for the rights interfered with or limited by the policy/proposal you are working on, you should refer to the text of the Convention and the Guide.

Article	Exception / Limitation	Explanation

7. Necessary in a democratic society

Articles 8, 9, 10 and 11 specify that interferences or limitations must be necessary in a democratic society. If the policy/proposal interferes with or limits one of these rights, detail in the table below how the right is necessary in a democratic society i.e. does it fulfil a pressing social need?

You may need to speak to the Senior Responsible Officer for clarification of this

Article affected	Explain why it is necessary in a democratic society

8. Proportionality

Any interference with or limitation on a Convention right must be proportionate, i.e. the policy/proposal must interfere with or limit a right no more than is absolutely necessary to achieve its aims. For each Article which the policy/proposal interferes with or limits, explain how the interference or limitation is proportionate.

For further information on proportionality please consult the Guide.

Article affected	Explain why the interference / limitation is proportionate

9. Article 14 equality issues

Even if it does not interfere with or limit a right or freedom, could the policy/proposal result in people being treated differently in relation to any of the Convention rights? Article 14 does not allow discrimination in the exercise of any of the other Convention rights.

For further information on Article 14, please refer to the relevant pages in the Guide

Convention Article affected	How are people treated differently?	Is this justifiable?

You should now have a clearer view about the policy/proposal and the possibility of it engaging or interfering with Convention rights and freedoms.


Please ensure the proforma is also signed by your Senior Responsible Officer and if there is any possible interference or limitation refer to your legal advisor for further action and advice.

Please tick the statement that applies, and sign below.

- a) The policy/proposal does not engage any Convention rights.
- b) The policy/proposal does engage one or more of the Convention rights, but does not interfere with or limit it/them.
- c) The policy/proposal interferes with or limits one or more Convention rights and legal advice is being sought.

Countersign, hold copy with policy papers and refer to your legal advisor

Signed by  (Official)
Date 1/12/20 Grade DP

Signed by  (Senior Responsible Officer)
Date 1/12/20 Grade 6

Human Rights Act Referral to Legal Services Proforma

FAO: _____

From: _____

Please see the attached Human Rights Act Impact Assessment Proforma for the following proposal/policy.

Title and Objective of Policy/Proposal:

I have identified the following rights as being interfered with/limited by this policy/proposal.

I would be grateful for your advice on this matter. All relevant papers are attached.

Your contact in this Department is:

Name: _____
Address: _____

Tel: _____ Email: _____