



Australian Government
Attorney-General's Department



IN OUR HANDS:

A GUIDE TO HUMAN
RIGHTS FOR AUSTRALIAN
PUBLIC SERVANTS

RESPECT • PROTECT • FULFIL

Foreword from the Attorney-General



With the launch of Australia's Human Rights Framework in 2010, the Government reaffirmed its commitment to creating a fairer and more inclusive Australia.

Real and lasting change requires community engagement. It is for this reason that human rights education is the centrepiece of Australia's Human Rights Framework.

A stronger understanding of human rights is fundamental to maintaining a safe and tolerant nation. And raising awareness of human rights in the public sector is a critical part of this.

Whether promoting adherence to international human rights, administering Australian law, delivering services or developing policy, Commonwealth public servants are a pivotal part of Australia's human rights efforts.

This Guide will improve your understanding of your responsibilities and those of your colleagues in the public sector.

It is important that public servants are able to both identify breaches of human rights and identify any opportunities to better promote human rights.

That's why I encourage you to embrace the opportunity that this education program brings.

And together let us recommit to building a public sector dedicated to promoting and protecting the human rights of those whom we serve.

The Hon Robert McClelland MP, September 2011

Contents

What is this guide?	2
What are human rights?	3
Australia's human rights obligations—respect, protect, fulfil	5
The international human rights system	6
What is the role of the public service in protecting human rights?	12
Considering human rights in your work	15
Human rights flowchart	20
Australia's Human Rights Framework	23
How are human rights protected in Australia?	25
Who can I ask for help?	28

What is this guide?

This guide is part of a suite of guidance and educational materials, training and e-learning. These materials include a series of guidance sheets that provide an explanation of each right, examples of when a public sector official would need to consider that right, an explanation of relevant limitations, and the domestic laws that relate to the right or freedom. These are available at www.ag.gov.au/humanrightseducation

This guide provides you with a short and simple introduction to human rights, where they come from and what they mean for the work of government.

In April 2010, the Australian Government launched Australia's Human Rights Framework. The Framework reaffirms the Government's commitment to promoting awareness and understanding of human rights in the Australian community and respecting the seven core United Nations human rights treaties to which Australia is party.

Australia's Human Rights Framework aims to promote a human rights culture in the public service. A human rights culture ensures the rights of all people are protected and promoted through policy, legislation and service delivery. Public servants play a central role in achieving this goal.

This guide is not a substitute for legal or policy advice. If you need advice you will find contact details at the end of this guide.

What are human rights?

Human rights are a set of universally agreed standards for how people should be treated by each other and by governments.

Human rights are the basic rights and freedoms that allow us all to live with dignity and participate fully in civil, political, economic, social and cultural life.

Human rights are indivisible and interdependent, which means all human rights are connected and reinforce each other. The fulfilment of one right might rely on the fulfilment of another.

Human rights are set down in international agreements called treaties or conventions.

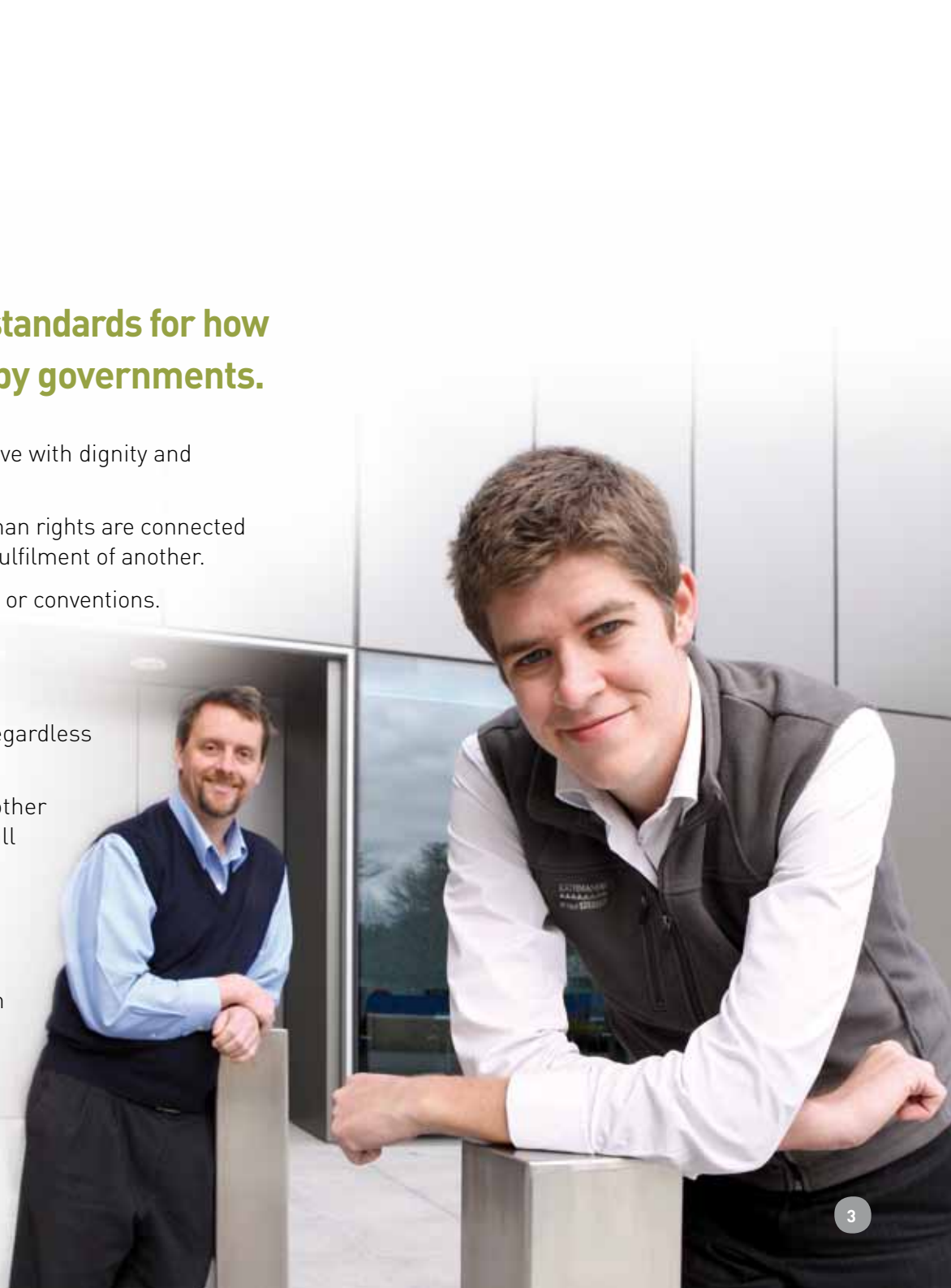
Who do human rights belong to?

Human rights are **universal**, which means they belong to everyone regardless of age, race, sex, disability or other attribute.

Human rights are not granted or conferred by governments or any other organisation. They are inherent to all people. They are the rights we all have, simply by virtue of being human.

Why do human rights matter?

Human rights are the basis of a fair, safe and productive society. Human rights reflect many of the values that drive the work of the public service and the broader Australian community. These include ensuring relationships are respectful, communities are safe, all people have a fair go, services are focused on the people who need and use them, and government is transparent and accountable in its work.



What are the seven core treaties?

1. International Covenant on Civil and Political Rights
2. International Covenant on Economic, Social and Cultural Rights
3. Convention on the Rights of the Child
4. Convention on the Elimination of All Forms of Discrimination against Women
5. Convention on the Rights of Persons with Disabilities
6. Convention on the Elimination of All Forms of Racial Discrimination
7. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Which rights?

Australia is party to seven core human rights treaties.

These seven treaties protect a range of rights. These include:

- **Civil and political rights.** These rights allow us to take part in the public and political life of our community and include the right to vote, the right to freedom of thought and expression, the right to privacy and the right to a fair trial.
- **Economic, social and cultural rights.** These rights ensure a decent standard of living and include the right to just and favourable conditions of work, the right to health, the right to adequate housing and the right to education.
- **The rights of equality and non-discrimination.** These rights ensure everyone is able to enjoy all their human rights on an equal basis. The right to equality and non-discrimination means ensuring government policies, legislation and services do not discriminate on the grounds of race, sex, age, disability or other attribute. Achieving equality may also require governments to take positive action to ensure particular groups have equal enjoyment of human rights.

CASE STUDY: Fulfilling the right to vote for people with disability

All people have the right to elect their government in a secret ballot. An independent and secret vote in elections guarantees your vote is completely free and fair. Until 2010, people who were blind or vision impaired could not cast a secret vote in elections. They had to seek assistance from another person to complete their vote.

In 2010, an amendment to the *Commonwealth Electoral Act 1918* ensured Australians who are blind or vision impaired have a secret ballot in federal elections. This amendment meant people who are blind or vision impaired are able to enjoy the same right to vote as the rest of the population.

Australia's human rights obligations—respect, protect, fulfil

The Australian Government has an obligation to respect, protect and fulfil human rights. This means the Government is obliged to take action to ensure people can enjoy their human rights. The Government must also refrain from action that would breach people's human rights.

The obligation to **respect** means national governments must refrain from any action that would interfere with or restrict human rights.

Banning the use of the death penalty in Australia is a way the Australian Government **respects** the right to life.

The obligation to **protect** means national governments must take action to ensure governments, or third parties (for example, individuals or corporations), do not breach the rights of others.

Enforcing minimum employment standards is a way the Australian Government **protects** the right to fair conditions of work.

The obligation to **fulfil** means national governments must take positive action to ensure that everyone can exercise all their human rights. This may mean the government has to take special measures to ensure particular groups of people are able to exercise their rights in reality.

Funding Australia's education system is a way the Australian Government **fulfils** the right to education.



The international human rights system

United Nation's human rights treaties

Human rights are codified in international agreements or treaties between governments, called conventions or covenants. International human rights treaties provide an agreed set of human rights standards and establish mechanisms to monitor the way a treaty is implemented. By ratifying a treaty, a country voluntarily accepts legal obligations under international law.

A photograph of a family of three. On the left is an older man with white hair, smiling. In the center is a young boy with blonde hair, wearing a blue and white striped shirt. On the right is a woman with blonde hair, smiling broadly. They are all looking towards the camera. The background is a bright, slightly blurred outdoor setting.

The United Nations was founded in 1945 and designed to maintain international peace and security, develop friendly relations among nations and promote social progress, better living standards and human rights. Australia was one of the 51 founding Member States of the United Nations.

The Universal Declaration of Human Rights (UDHR) The modern concept of human rights can be dated back to the end of the Second World War. The international community was determined to put in place systems and safeguards to ensure the atrocities committed against civilians during the War would never be repeated. The UDHR was adopted by the General Assembly of the United Nations in 1948. It lays out the rights and freedoms to which all human beings are entitled. While it is not legally binding, it is a fundamental statement of principle that forms the foundation of international human rights. Australia was an active participant in negotiations of the UDHR.

The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights translate many of the principles of the Universal Declaration of Human Rights into legally binding standards.

The International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights are supplemented by a number of other treaties.

International Covenant on Civil and Political Rights

The International Covenant on Civil and Political Rights (ICCPR) sets out the rights and freedoms people need to participate in the public and political life of their community.

The ICCPR protects the right to participate in public affairs, including the right to vote and to be elected, as well as the right to freedom of thought and expression and the right to peaceful assembly and association.

The ICCPR also protects the right to liberty and physical integrity, including the right to be free from slavery, forced labour, arbitrary arrest or detention, and torture and other cruel and degrading treatment or punishment.

The ICCPR ensures procedural fairness through the right to equality before the law, to be presumed innocent until proven guilty and the right to a fair trial.

All seven core treaties include the right to be free from discrimination.

International Covenant on Economic, Social and Cultural Rights

The International Covenant on Economic, Social and Cultural Rights (ICESCR) sets out the rights and freedoms people need to live, contribute to their community and care for their families.

Economic, social and cultural rights in ICESCR include the right to the highest attainable standards of physical and mental health and to an adequate standard of living. They also include the right to education, the right to work and fair working conditions, and the right to social security.

Convention on the Elimination of All Forms of Racial Discrimination

The Convention on the Elimination of All Forms of Racial Discrimination (CERD) condemns all forms of discrimination against people on the grounds of race, colour, descent or national or ethnic origin.

Countries that are party to CERD agree to take all appropriate measures to eliminate racial discrimination in all its forms and promote understanding among all races. Countries undertake to prohibit racial discrimination by any persons, group or organisation and to review governmental, national and local policies, and amend or repeal any laws and regulations that create or perpetuate racial discrimination.

CERD also allows governments to take special measures to ensure the development and protection of certain racial groups, or individuals belonging to them, in order to achieve the full and equal enjoyment of human rights and fundamental freedoms for all people.

You can find the full text of the seven treaties at the Attorney-General's website www.ag.gov.au/humanrights

Convention on the Elimination of All Forms of Discrimination against Women

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) enshrines the key principles of equality between men and women and sets out an agenda for action to end discrimination against women. Countries that are party to CEDAW agree to take all appropriate measures to eliminate discrimination against women and modify or abolish existing laws, policies and social and cultural practices that discriminate against women.

CEDAW also allows governments to take special measures aimed at accelerating the equal enjoyment of human rights and fundamental freedoms between women and men.



The Declaration on the Rights of Indigenous Peoples

The Declaration on the Rights of Indigenous Peoples acknowledges the right of Indigenous peoples to be free from discrimination and promotes their right to the full enjoyment of all human rights.

The Declaration recognises both the individual and collective rights of Indigenous peoples, including the right to self-determination and to maintain and strengthen their distinct culture. It recognises the rights of Indigenous peoples to life and security; language, cultural and spiritual identity; education, information and employment; political, economic and social development; country and resources; and self-governance. The Declaration also recognises the right of Indigenous peoples to participate in decisions affecting their rights, and provides that governments should seek their free, prior and informed consent to policy and legislation that may affect them.

The Declaration sets out important international principles to which nations can aspire. The Declaration does not create legally binding obligations, but informs the way governments engage with and protect the rights of Indigenous peoples.

Convention on the Rights of Persons with Disabilities

The Convention on the Rights of Persons with Disabilities (CRPD) aims to protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by persons with disabilities, and to promote equal and effective participation and inclusion in society.

Countries that are party to the CRPD agree to take all appropriate measures to modify or abolish existing laws and social and cultural practices that discriminate against people with disability. Governments agree to take appropriate measures to ensure people with disability can access services and opportunities on an equal basis with people without disability so that people with disability can live independently and participate fully in all aspects of life.

Convention on the Rights of the Child

The Convention on the Rights of the Child (CRC) enshrines the rights of children and provides a set of principles for how children should be treated. Countries that are party to the CRC agree to ensure children have access to the resources and skills necessary for their survival and full development, to protect children from harm and to ensure the rights of all children are protected equally.

The CRC also protects children's right to participate in any decision affecting them and establishes the best interests of children as the primary consideration for all decisions affecting children, including decisions made by social welfare institutions, courts, administrative authorities or legislative bodies.

Convention against Torture and other Cruel, Inhuman or Degrading Treatment and Punishment

The Convention against Torture and other Cruel, Inhuman or Degrading Treatment and Punishment (CAT) aims to prevent acts of torture and other cruel, inhuman and degrading treatment or punishment, and to ensure that effective remedies are available to victims if such acts do occur.

CAT requires governments to take action to prevent torture, such as criminalising acts of torture, and promoting respect for human rights among public servants, including law enforcement officials.

Monitoring and review

UN human rights conventions are monitored by independent, expert committees or treaty bodies. These UN committees receive regular reports from governments. These reports outline the measures the government has taken to comply with its obligations under a particular convention.

Once the committee has considered the report, oral testimony and submissions from non-government organisations, it will issue concluding observations or concluding comments. These comments recognise positive aspects of a country's implementation and make suggestions for areas of improvement.

Some conventions are accompanied by additional agreements that create an international avenue of complaint. These are called optional protocols. This means people who feel their rights under a convention have been breached, and have exhausted all domestic remedies, are able to take their complaint to the committee charged with monitoring that convention. Some optional protocols also allow committees to undertake inquiries into violations of a convention.

The Universal Periodic Review (UPR) reviews the human rights records of all 192 countries that are members of the UN once every four years. The UPR is a peer review process that is undertaken by the UN Human Rights Council. Any country that is a member of the UN can take part in the dialogue with the country being reviewed. The ultimate aim of the UPR is to improve the human rights situation in all countries and address human rights violations wherever they occur.

Australia's first UPR took place in January 2011. During the interactive session, 53 countries asked questions of, and made recommendations to, Australia. Australia received 145 recommendations and has fully or in-part accepted over 90 per cent of these recommendations.



The Australian Government is committed to our international obligations and our relationship with the United Nations. The Government has issued a standing invitation to the United Nations to visit Australia to examine the protection of human rights.

What is the role of the public service in protecting human rights?

The public service plays a critical role in promoting and protecting human rights.



The way that public servants do their job, whether it is delivering services, developing policy, making decisions or drafting legislation, can have a significant impact on the human rights of an individual or a group, or on the way particular rights are protected or fulfilled.

Many human rights are protected by Australian law and there are a variety of avenues available to review the decisions and actions of public servants. Courts and other bodies are often required to adjudicate complaints and deliver remedies.

However, the best way to protect human rights is to prevent breaches from happening. Public servants can do this by understanding and considering human rights principles and standards when designing policy, making decisions, drafting legislation and delivering government services.

CASE STUDY: a human rights-based approach to service delivery

A number of community service organisations have started to move towards a human rights-based approach to service delivery. This means they have started to look at where there are risks of breaching human rights and opportunities to promote human rights within the service they offer. Similar experience in the United Kingdom has shown organisations that adopt and embed human rights principles in their everyday operation provide much higher levels of service to the public. In line with this, some community services are instituting checklists that prompt staff to consider the following questions when developing organisational policy and delivering services to individual service-users:

- Do our practices uphold dignity and encourage vigilance to prevent abuse?
- Are we polite and courteous even when under pressure?
- Do we avoid making unwarranted assumptions about what people want or what is good for them?
- Do we ensure that information is accessible, understandable and culturally appropriate?
- Do we avoid assuming that we can intrude without permission into someone's personal space, even if we are the care giver?

Taken from Victorian Equal Opportunity & Human Rights Commission, *From principle to practice: Implementing the human rights based approach in community organisations*, 2008



Considering human rights in the day-to-day work of government will:

- Keep people at the centre of government services, improving the government's interactions with the people it serves.
- Bring human rights questions to the forefront when developing and implementing policy and legislation, improving the quality of outcomes.
- Provide a framework for developing policy and making decisions.
- Allow you to see the perspectives of those who might be affected by law and policy that might otherwise be overlooked.
- Ensure the Australian Public Service is a respectful and diverse workplace.
- Prevent breaches of human rights from happening.

Human rights principles give public servants a framework to use to guide decision-making in your every day work, manage risks and ensure the business of government is carried out in a way that is balanced, transparent, accountable and fair. Considering human rights in your work might not mean doing a lot of extra things, but it might involve doing things differently.

You will already be familiar with many human rights concepts from existing Government priorities, for example promoting social inclusion, improving access to justice and upholding the principles of transparent and accountable decision-making.

Public servants are expected to treat all people with respect and consideration and avoid making assumptions based on personal characteristics or behaviour. This expectation extends to public servants as employers, employees and colleagues and ensures the Australian Public Service is a safe and respectful workplace that reflects the diversity of the people it serves.

Working in a way that is compatible with human rights will lead to improved policy and legislation, better workplaces and fairer outcomes for everyone in Australia.

CASE STUDY: Considering human rights when developing legislation

Governments should consider human rights when developing and implementing Bills, even where they do not appear to engage human rights. For example, when reviewing superannuation entitlements legislation, considering human rights could include:

- Ensuring people in same-sex relationships can receive benefits equally with those in opposite-sex relationships.
- Ensuring women who remarry do not lose their spouse pensions.

Considering human rights in your work

There are a number of simple steps you can take to make sure you are considering human rights in your day-to-day work.

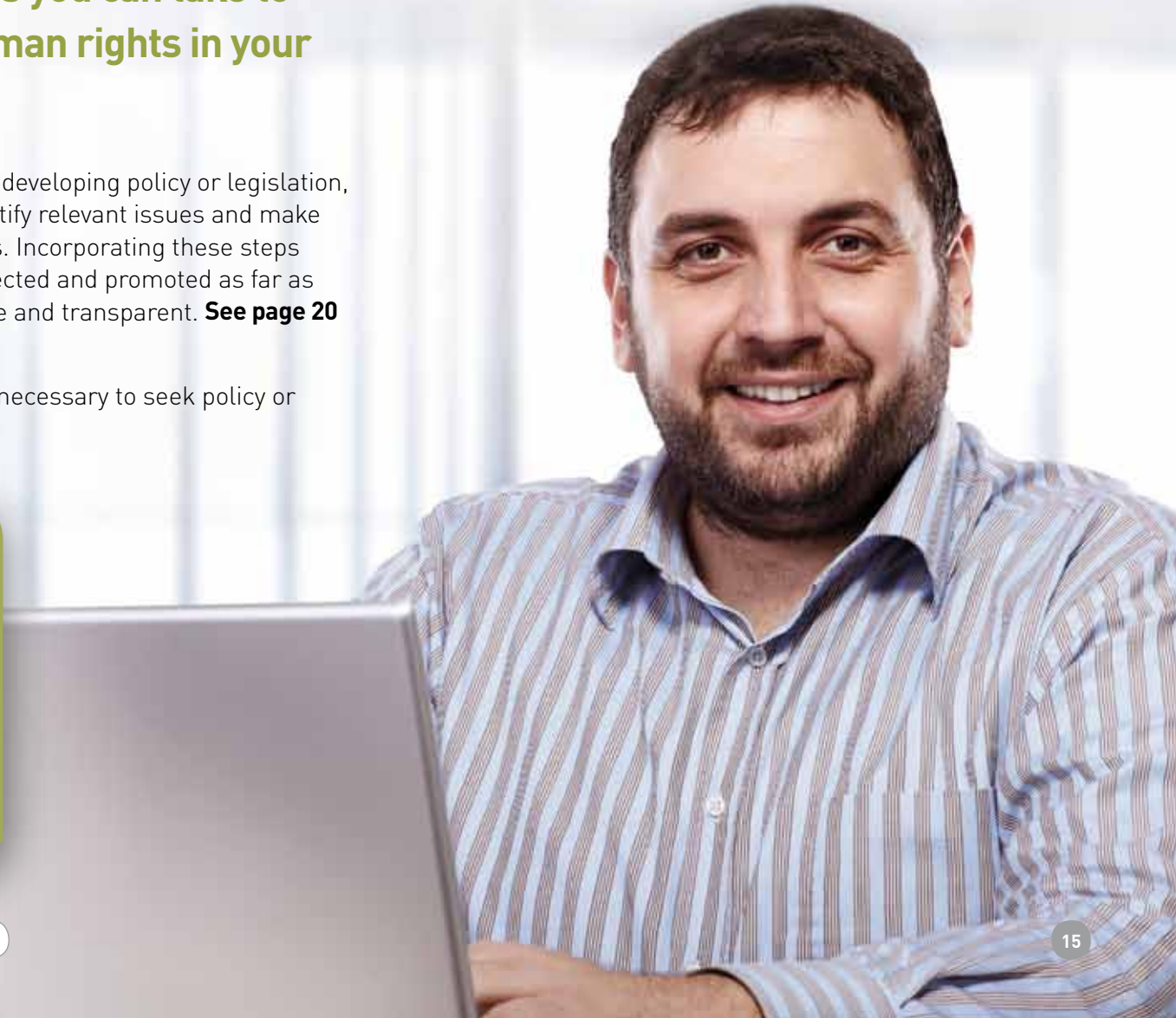
Following these steps when you are making decisions, developing policy or legislation, or providing government services will allow you to identify relevant issues and make decisions that clearly consider human rights principles. Incorporating these steps into your regular practice could ensure rights are protected and promoted as far as possible and any limitations on rights are proportionate and transparent. **See page 20 for illustrated flow chart**

If you are unsure about any of your answers, it may be necessary to seek policy or legal advice.

Human Rights Policy Branch
e: humanrights@ag.gov.au

Legislative Scrutiny Unit
e: humanrightsassistance@ag.gov.au

Office of International Law
e: OILhumanrightsadvice@ag.gov.au





Step 1 – What’s your objective?

Ask yourself what you are trying to achieve by developing a policy or program, drafting a law or providing a particular service. Your answer needs to give a basic explanation of why you are taking action, what you’re trying to achieve and how you plan to do it.

Step 2 – Which rights? Who will be affected?

Most government policies, programs and laws engage people’s human rights in some way. Once you have determined what your objective is and how you intend to achieve it, you will need to establish how this might impact human rights. To do this you need to think about which areas of people’s lives will be affected. For example, if you are making a decision or taking action related to people’s personal information, this might affect people’s right to privacy.

Remember—Australia is party to seven core UN human rights treaties. You will need to familiarise yourself with the rights in these treaties to know when they might be affected. See pages 8-10 for summaries of the treaties.

You also need to consider who is going to be affected. **Remember**—human rights are universal. This means everyone must be able to enjoy them equally, regardless of sex, race, age or disability or other attribute. Sometimes a policy response might benefit the majority of the population, but adversely impact one particular right or the rights of a particular group of people. A policy or decision that has a negative impact on one group of people might be discriminatory. For example, if an employer introduces minimum height and weight requirements that are not justified by the type of work, this might discriminate against women.

Participation is an overarching principle of human rights that should inform all legislation and policy development. Ask yourself if the people who will be affected have had the opportunity to provide input? **Remember**—participation is more than consultation, people should be able to affect the design of policies that most affect them.

Step 3 – Are you limiting any rights?

Most government policies, programs and laws engage human rights in some way. Some promote or protect rights, others place restrictions on rights.

One of the biggest challenges for the public sector is balancing rights, resources and public need. There are times where a law, policy or procedure that promotes or protects one human right may limit another human right. For example, laws prohibiting racial vilification protect the rights of some people but may limit the right of freedom of expression of others. Remember to think about your policy, decision or action from all angles. Even when you are limiting rights for what may seem like a good reason, it is important that the process of limiting that right is fair, transparent and accountable.

Step 4 – Can the right be limited?

Whether a right can be limited will depend on the particular right in question. Some rights can never be limited. These are called **absolute rights**. No circumstance justifies a qualification or limitation of absolute rights. If your decision, policy or legislation limits an absolute right it is unlikely to be seen as human rights compatible.

Examples of **absolute** rights:

- Freedom from torture and other cruel, inhuman or degrading treatment.
- Freedom from slavery and servitude.
- Freedom from detention on the grounds of inability to pay a debt.
- Freedom from retrospective criminal laws.
- Right to recognition as a person before the law.



Step 5 – Is the limitation permissible?

Most rights and freedoms may be subject to reasonable limitations. International human rights law sets out a process we can use to determine which rights can be limited and what constitutes reasonable limitations on human rights. If you are proposing to limit rights in any way, it is important that you carefully assess whether the limitation is permissible. To do this you should consider the following questions:

1. Is there lawful authority for your policy, decision or action?

Any limitation on rights must be authorised by law. This ensures that limitations are clear and accessible for everyone and prevents arbitrary decision-making. For example, child protection laws provide a legal basis to remove children from harmful situations.

2. Why are you limiting that right?

Limitations on rights must pursue a legitimate objective.

Some human rights treaties include express limitation clauses. These specify the grounds on which a particular right can be limited. For example, the right to freedom of expression can be limited to ensure national security, public order, public health, or the protection of the rights or reputation of others. For instance, laws prohibiting speech that incites hatred or violence pursue a public order objective that justifies limiting the right to freedom of expression.

Other rights may not have an express limitation clause, but it may still be possible to limit that right to meet a pressing public or social concern. For example, increasing public safety by installing surveillance cameras in high crime areas may be considered a legitimate reason to limit the right to privacy.

3. Is the limitation rationally connected to your objective?

There must be a rational connection between the limitation and the objective of your policy, legislation or decision. In other words, to limit a right you will need to show that the limitation is necessary to achieve your objective. For example, road-side breathalyser testing may limit a driver's right to privacy but this limitation is rationally connected to ensuring road safety for all.

4. Is the limitation reasonable, necessary and proportionate to your objective?

Limitations must be reasonable, necessary and proportionate to your objective.

Remember—the limitation should not go further than what is necessary to achieve your objective.

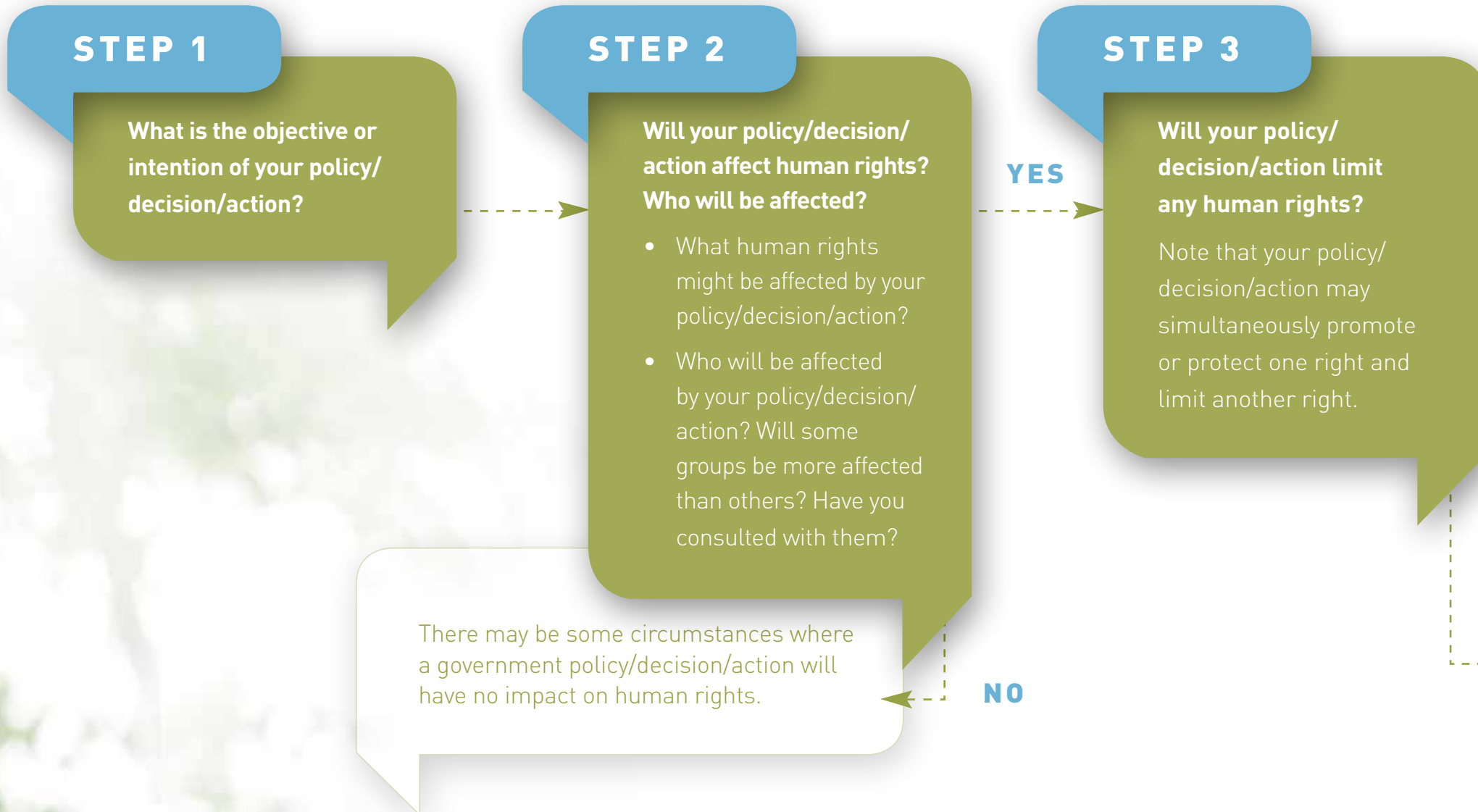
You should consider whether there is a less restrictive way to achieve the same aim. If your limitation involves a blanket restriction, you should also consider if it imposes unnecessarily broad limitations on rights. For example, granting police unlimited power to direct members of the public to move on would limit people's right to freedom of movement to an extent that could be disproportionate to the aim of maintaining public order.

5. Are there safeguards in place?

Limitations on rights should be accompanied by safeguards to ensure these limitations are exercised in a way that is transparent and accountable. You should consider whether there are appropriate provisions for procedural fairness and, where appropriate, judicial oversight. For example, many decisions made by public servants can be reviewed both internally and by independent tribunals. For instance, decisions relating to social security payments can be reviewed by the Social Security Appeals Tribunal.



Human rights flowchart



STEP 4

Can the right be limited?

Remember absolute rights can never be qualified or limited.

YES

You will need to reconsider your approach in order to be sure your policy/decision/action is compatible with human rights.

NO

You now have the information you need to show how you have considered human rights in developing your policy/decision/action.

STEP 5

Is this a permissible limitation?

Have you considered:

1. Is there lawful authority for your policy, decision or action? Limitations on rights must have a clear legal basis.
2. Why are you limiting that right? Note that some rights can only be limited for certain purposes that are set out in that treaty, for example to secure public safety or health.
3. Is the limitation rationally connected to your objective? Remember: to limit a right you will need to show that the limitation is necessary to achieve your objective.
4. Is the limitation reasonable, necessary and proportionate to your objective? Are there less restrictive ways to achieve your objective? Remember that limitations on rights must go only as far as necessary to achieve a legitimate aim.
5. Are there safeguards in place? Limitations should be accompanied by safeguards to ensure these limitations are not arbitrary and are exercised in a way that is transparent and accountable.

YES

NO

NO

YES

General principles to keep in mind

- Human rights should be read as broadly and beneficially as possible in the circumstances.
- Human rights are indivisible, which means all human rights are connected and the protection of one right may also form the basis of fulfilling other rights.
- Everyone is entitled to equal enjoyment of human rights. It may sometimes be necessary to take special measures to ensure this right is upheld in reality.
- People who are affected by policies and programs should have the opportunity to participate in the development of those policies and programs. This includes both the people who will benefit or be affected by the program, as well as those responsible for delivering it. Participation is more than consultation—people should be able to meaningfully affect the design of those policies that most affect them.
- Human rights are dynamic, living standards and respond to social and cultural changes. International human rights standards should inform your work. The work of government can also inform the development of these standards.



Australia's Human Rights Framework— enhancing the way we do business

The Attorney-General, the Hon Robert McClelland MP, launched Australia's Human Rights Framework on 21 April 2010. It outlines a range of key measures to protect and promote human rights in Australia.

Australia's Human Rights Framework does not create new human rights obligations. Rather, it reaffirms the Australian Government's commitment to promoting awareness and understanding of human rights across Australia and fulfilling its existing human rights obligations.

Measures under the Framework aim to promote a human rights culture in the Australian Public Service. A human rights culture is one where all people are treated with dignity and respect and where the rights of all people, regardless of their sex, age, race, sexuality, disability or other attribute, are understood and considered when formulating government policy and legislation and delivering government services.





Improving human rights education

Education is the highest priority for improving and promoting human rights in Australia. The centrepiece of the Framework is a series of measures to make information about human rights more readily available across the Australian community. Under the Framework, the Australian Government will enhance support for human rights education in primary and secondary schools. The Framework has provided additional resources to the Australian Human Rights Commission to develop and deliver community engagement and education programs to promote a greater understanding of human rights. Resources are also available for non-government organisations to deliver practical human rights education through Australia's Human Rights Framework – Education Grants.

The Government is also investing in an education and training program for the Commonwealth public sector, including a human rights toolkit and guidance materials. You can find a link to these at the back of this guide.

Scrutiny of legislation

The Government has introduced legislation that requires each new piece of legislation introduced into Parliament to be accompanied by a statement assessing its compatibility with the seven core UN human rights treaties to which Australia is a party. Statements will be publicly available along with other explanatory materials that accompany legislation. The Cabinet and Legislation Handbooks will be updated to include guidance on the need for consistency with Australia's human rights obligations when developing policies and legislation.

The Government has also introduced legislation to establish a Parliamentary Joint Committee on Human Rights, which will scrutinise legislation for compliance with Australia's international human rights obligations. The legislation provides the Joint Committee with the ability to examine proposed and existing legislation, and the Attorney-General will also be able to ask the Joint Committee to conduct broader inquiries into human rights matters.

National Action Plan

The Australian Government is developing a new National Action Plan on human rights, working with States and Territories to outline future action to promote and protect human rights.

How are human rights protected in Australia?

Human rights are currently protected and promoted through a range of domestic legislation and independent bodies.

Commonwealth anti-discrimination legislation

One of the founding principles of human rights is equality and non-discrimination. This principle is protected in a number of Commonwealth laws.

The *Sex Discrimination Act 1984* (SDA) prohibits discrimination on the basis of sex, marital status, pregnancy, potential pregnancy, breastfeeding or family responsibilities in many areas of public life. These areas include work, education, provision of goods and services, accommodation, land, clubs and administration of Commonwealth laws and programs. The SDA also prohibits unwelcome sexual conduct (sexual harassment).

The *Racial Discrimination Act 1975* (RDA) prohibits discrimination on the basis of race, colour, descent, national or ethnic origin and immigrant status in all areas of public life. Specific areas of coverage include employment, renting or buying property, the provision of goods and services, accessing public places and in advertising. The RDA also prohibits offensive behaviour based on racial hatred (racial vilification).

The *Disability Discrimination Act 1992* (DDA) prohibits discrimination on the basis of a person's disability in many areas of public life. These areas include work, education, access to premises and provision of goods, services and facilities, administration of Commonwealth laws and programs, and requests for information. The DDA also prohibits disability harassment.

The *Age Discrimination Act 2004* makes it unlawful to discriminate on the basis of age in many areas of public life. These areas include work, education, access to goods and premises, services and facilities, accommodation, the administration of Commonwealth laws and programs, and requests for information.

The Australian Government is currently consolidating these separate Acts into one comprehensive law. A single Act will address current inconsistencies and make the system more user-friendly by clarifying relevant rights and obligations. The consolidation process will ensure no existing protection is weakened or diminished.

Australian Human Rights Commission

The Australian Human Rights Commission is an independent statutory agency.

The Commission is made up of a President and Commissioners, who hold specific responsibilities for: human rights, disability discrimination, race discrimination, sex discrimination, age discrimination, and Aboriginal and Torres Strait Islander social justice.

The Commission receives, investigates and conciliates complaints of discrimination under Commonwealth anti-discrimination legislation.

The Commission provides advice and submissions to parliaments and governments on the human rights implication of laws, policies and programs.

The Commission can conduct public inquiries into human rights matters and provide independent legal advice to assist courts in cases that involve human rights principles.

Raising community awareness and understanding of human rights is also a core part of the Commission's role. This includes developing human rights education programs and resources for schools, workplaces and the community.

All Australian States and Territories have their own body dedicated to promoting human rights, anti-discrimination or equal opportunity.

Commonwealth Ombudsman

The Office of the Commonwealth Ombudsman investigates complaints about the administrative actions of Commonwealth Government departments and agencies.

The Ombudsman can initiate investigations and has responsibility for reviewing the cases of long-term immigration detainees.

All Australian States and Territories have also established ombudsmen.

Office of the Australian Information Commissioner

The Office of the Australian Information Commissioner (OAIC) consists of the Australian Information Commissioner, the Privacy Commissioner and the Freedom of Information (FOI) Commissioner.

The OAIC's functions include investigating complaints, reviewing agency FOI decisions, education and awareness and reporting on compliance. The Information Commissioner, provides a simple, practical, cost efficient and accessible system of review. Decisions of the Information Commissioner may be reviewed by the Administrative Appeals Tribunal.

Most Australian States and Territories also have privacy commissioners.

National Congress of Australia's First Peoples

The National Congress provides national leadership in advocating for the status and rights of Aboriginal and Torres Strait Islander peoples, as First Nation peoples, to be recognised. The National Congress was established by Aboriginal and Torres Strait Islander peoples with the support of the Australian Government.

The National Congress is a conduit for communication between Aboriginal and Torres Strait Islander peoples and the government, corporate and non-government sectors.

The National Congress provides advice to ensure that Aboriginal and Torres Strait Islander peoples contribute to, and play a lead role in, policy and program development on issues that affect them.

The National Congress also ensures and contributes to mechanisms to monitor and evaluate government performance in relation to Aboriginal and Torres Strait Islander peoples.


Who can I ask for help?

This booklet is part of a suite of training and educational materials. You can find these at: www.ag.gov.au/humanrightseducation

You can also contact the Human Rights Policy Branch of the Attorney-General's Department at **humanrights@ag.gov.au** or 02 6141 6666

For advice on drafting statements of compatibility, please contact the Legislative Scrutiny Unit at **humanrightsassistance@ag.gov.au**. For legal advice you can contact the Office of International Law at the Attorney-General's Department at **OILhumanrightsadvice@ag.gov.au**.

You can find additional information on human rights and discrimination in Australia on the Australian Human Rights Commission's website **www.humanrights.gov.au**.



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Use of the Coat of Arms

The terms under which the Coat of Arms can be used are detailed on the It's an Honour (<http://www.itsanhonour.gov.au/coat-arms/index.cfm>) website.

Contact us

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Business Law Branch
Attorney-General's Department
3-5 National Circuit
BARTON ACT 2600

Telephone: (02) 6141 6666
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