HUMAN RIGHTS FLOWCHART

AUSTRALIA'S HUMAN RIGHTS FRAMEWORK

PUBLIC SECTOR EDUCATION PROGRAM

STEP 1

What is the objective or intention of your policy/decision/action?

STEP 2

Will your policy/decision/action affect human rights? Who will be affected?

- What human rights might be affected by your policy/decision/action?
- Who will be affected by your policy/decision/action? Will some groups be more affected than others? Have you consulted with them?

NO → There may be some circumstances where a government policy/decision/action will have no impact on human rights.

YES ↓

STEP 3

Will your policy/decision/action limit any human right?

Note that your policy/decision/action may simultaneously promote or protect one right and limit another right.

NO → You now have the information you need to show how you have considered human rights in developing your policy/decision/action.

YES ↓

STEP 4

Can the right be limited?

Remember absolute rights can never be qualified or limited.

NO → You will need to reconsider your approach in order to be sure your policy/decision/action is compatible with human rights.

YES ↓

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.

NO → You will need to reconsider your approach in order to be sure your policy/decision/action is compatible with human rights.

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