

How to apply the Charter to your work

The *Charter of Human Rights and Responsibilities Act 2006* requires all public authorities in Victoria to act compatibly with human rights and give proper consideration to human rights before making a decision. To carry out these responsibilities, public authorities should:

step one

Identify relevant rights

Check the list on the back of this guide to see what rights are relevant to your situation.

step two

Consider whether rights are being limited by your action or inaction

Will your decision limit or interfere with the relevant rights you've identified?

NO – If rights are not being limited, you are acting compatibly with human rights.

YES – If human rights are being limited, you should move to step 3.

step three

To lawfully limit a right you must:

Be authorised

What law or regulation allows you to limit a person's rights? If you can't identify a law or regulation then you may not be able to limit rights.

Be justified and proportionate

Determine whether your limitation of a person's rights is justified and proportionate in the circumstances, taking into account all relevant factors, including:

- a. the nature of the right/s:** What does the human right/s protect? What are the values that underpin the right?
- b. the importance of the purpose for the limitation:** What is your purpose for limiting a human right? What are you trying to achieve by your action or inaction?
- c. the nature and extent of the limitation:** How are you limiting a human right? What are the consequences for the person whose right/s you are limiting?
- d. is there a relationship between the limitation and your purpose?** Is your action or inaction tailored to achieve your purpose? Is it proportionate? If so, you may be lawfully limiting a human right. If not, you may be breaching the Charter.
- e. Are there less restrictive means reasonably available to achieve your purpose?** Is there another way to achieve your purpose that won't limit a person's human rights as much? If so, you should take the less restrictive option.

Rights under the Charter

Section 8:

The right to recognition and equality before the law

Section 9:

The right to life

Section 10:

The right to protection from torture and cruel, inhuman or degrading treatment

Section 11:

The right to freedom from forced work

Section 12:

The right to freedom of movement

Section 13:

The right to privacy and reputation

Section 14:

The right to freedom of thought, conscience, religion and belief

Section 15:

The right to freedom of expression

Section 16:

The right to peaceful assembly and freedom of association

Section 17:

The right to protection of families and children

Section 18:

The right to take part in public life

Section 19:

Cultural rights, including Aboriginal cultural rights

Section 20:

Property rights

Section 21:

The right to liberty and security of person

Section 22:

The right to humane treatment when deprived of liberty

Section 23:

Rights of children in the criminal process

Section 24:

The right to a fair hearing

Section 25:

Rights in criminal proceedings

Section 26:

The right to not be tried or punished more than once

Section 27:

The right to protection from retrospective criminal laws.



For more information, please visit our website at humanrightscommission.vic.gov.au



Quick guide to the Charter

Helping you apply Victoria's Charter of Human Rights and Responsibilities

