SCREENING TEMPLATE

See Guidance Notes for further information on the 'why' 'what' 'when', and 'who' in relation screening, for background information on the relevant legislation and for help in answering the questions on this template (follow the links).

(1)   INFORMATION ABOUT THE POLICY/DECISION

1.1   Title of policy/decision

Health & Safety Policy

1.2   Description of policy/decision

This policy has been developed by NIAS to take account of it's responsibilities under health and safety legislation as an employer, to its' employees and other persons as set out in the Health & Safety at Work (NI) Order 1978 and associated relevant statutory provisions. When identifying and dealing with health and safety issues the Trust will ensure, so far as is reasonably pracitable, the health, safety and welfare of all its employees during the course of their working activities, along with patients, members of the public and all others who come into contact with the Trust for whatever reason.

1.3   Main stakeholders affected

All NIAS employees

All members of the public

Anyone who enters NIAS property

1.4   Other policies/decisions with a bearing on this policy/decision

2)   SCREENING THE POLICY/DECISION

2.1   In terms of groupings under Section 75, what is the make up of those affected by the policy/decision?

Group	*Please provide details*
Gender	N/A
Age	N/A
Religion	N/A
Political Opinion	N/A
Marital Status	N/A
Dependent Status	N/A
Disability	N/A
Ethnicity	N/A
Sexual Orientation	N/A

2.2   Is there any indication or evidence of higher or lower participation or uptake by different groups?

Group	Yes/No/ Don't Know	Please provide details
Gender	No	
Age	No	
Religion	No	
Political Opinion	No	
Marital Status	No	
Dependent Status	No	
Disability	No	
Ethnicity	No	
Sexual Orientation	No	

2.3   Is there any indication or evidence that different groups have different needs, experiences, issues and priorities in relation to the policy/decision?

Group	Yes/No/ Don't Know	Please provide details
Gender	No	
Age	No	
Religion	No	
Political Opinion	No	
Marital Status	No	
Dependent Status	No	
Disability	No	
Ethnicity	No	
Sexual Orientation	No	

2.4   Is it likely that the policy/decision will meet those needs?

Group	Yes/No/ Don't Know	Please briefly give details
	N/A	
N.B. continue as appropriate		

2.5   Is there an opportunity to better promote equality of opportunity or good relations by altering the policy/decision or working with others in government or in the larger community?

Group	Suggestions
	N/A
N.B. continue as appropriate	

2.6   What changes to the policy/decision – if any – or what additional measures would you suggest to ensure that it promotes good relations?

Group	Suggestions
Religion	N/A
Political Opinion	N/A
Ethnicity	N/A

2.7   Have previous consultations with relevant groups, organisations or individuals indicated that particular policies create problems that are specific to them? **Also, please detail information used to answer any of the questions above (e.g. statistics; research reports; views of colleagues, service users, or other stakeholders).**

N/A

2.8   Please detail what data you will collect in the future in order to monitor the effect of the policy/decision on any of the groups under Section 75?

Untoward Incident Reports

Violence to Staff Reports

(3)   SHOULD THE POLICY/DECISION BE SUBJECT TO EQUALITY IMPACT ASSESSMENT?

Equality impact assessment procedures are confined to those policies/decisions considered likely to have significant/major implications for equality of opportunity.

If your screening has indicated that a policy/decision is likely to have an adverse differential impact, how would you categorise it?
Please tick.

Significant/major impact	
Low impact	

Do you consider that this policy/decision needs to be subjected to a full equality impact assessment?

Yes	
No	X

Please give reasons for your decision. This policy relates to all NIAS staff and all members of the general public and does not have any direct impact on the different groups listed in Section 75.

(4)   DISABILITY DISCRIMINATION

4.1   Does the policy/decision in any way discourage disabled people from participating in public life or does it fail to promote positive attitudes towards disabled people?

N/A

4.2   Is there an opportunity to better promote positive attitudes towards disabled people or encourage their participation in public life by making changes to the policy/decision or introducing additional measures?

N/A

4.3   Please detail what data you will collect in the future in order to monitor the effect of the policy/decision with reference to the disability duties?

N/A

(5) CONSIDERATION OF HUMAN RIGHTS

5.1 Does the policy/decision affect anyone's Human Rights? [PLEASE COMPLETE THE TABLE BELOW]

ARTICLE	POSITIVE IMPACT	NEGATIVE IMPACT = human right interfered with or restricted	NEUTRAL IMPACT
Article 2 – Right to life			X
Article 3 – Right to freedom from torture, inhuman or degrading treatment or punishment			X
Article 4 – Right to freedom from slavery, servitude & forced or compulsory labour			X
Article 5 – Right to liberty & security of person			X
Article 6 – Right to a fair & public trial within a reasonable time			X
Article 7 – Right to freedom from retrospective criminal law & no punishment without law.			X
Article 8 – Right to respect for private & family life, home and correspondence.			X
Article 9 – Right to freedom of thought, conscience & religion			X
Article 10 – Right to freedom of expression			X
Article 11 – Right to freedom of assembly & association			X
Article 12 – Right to marry & found a family			X

Article 14 – Prohibition of discrimination in the enjoyment of the convention rights			X
1st protocol Article 1 – Right to a peaceful enjoyment of possessions & protection of property			X
1st protocol Article 2 – Right of access to education			X

If the effect you have identified is positive or neutral please move on to Question 5.3.

5.2   If you have identified a likely negative impact who is affected and how?

At this stage we would recommend that you consult with your line manager to determine whether to seek legal advice and to refer to Human Rights Guidance to consider:

- *whether there is a law which allows you to interfere with or restrict rights*
- *whether this interference or restriction is necessary and proportionate*
- *what action would be required to reduce the level of interference or restriction in order to comply with the Human Rights Act (1998).*

5.3 Outline any actions which could be taken to promote or raise awareness of human rights or to ensure compliance with the legislation in relation to the policy/decision.

N/A

Policy/Decision Screened by: Marie Mullan, Employee Resourcing Manager

Date: 2nd May 2012

Please note that having completed the screening you will need to ensure that a consultation on the outcome of screening is undertaken, in line with Equality Commission guidance.

Logo of Organisation

Equality and Human Rights Screening Template

Guidance Notes

Contact details of local Equality Unit

Section A:
Background Information

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1   What is the Legislative Background?

1.1   Equality/Good Relations: Section 75 of the NI Act 1998

Under Section 75 of the NI Act 1998 there is a legal requirement for Public Authorities to consider the possible impact of all their decisions on 9 specified equality groups and also how to promote equality of opportunity and good relations in all areas of our work.

We have to consider how to promote equality of opportunity in relation to the following nine equality groups:

- religious belief
- sexual orientation
- political opinion
- gender
- racial group
- disability (those with a disability and those without)
- age
- dependency (those with dependants and those without)
- marital status.

We also have to consider how to promote good relations in respect of 3 groups:

- religious belief
- political opinion
- racial group.

1.2   The Human Rights Act 1998

The Human Rights Act 1998 gives legal status in UK law to fundamental human rights set out in the European Convention on Human Rights (ECHR). The Act is about respecting and fostering the Convention Rights in everything we do. Public bodies now have a statutory duty to ensure that their decisions and actions are compatible with ECHR and to act in accordance with these rights. What is more, we need to be pro active in ensuring that we comply with our obligations and ensure that we develop a human rights culture. The Act gives people a right to redress in a UK court if

they think that their human rights have been violated by a public authority.

1.3 Disability Discrimination Act (1995) (DDA)

Under the most recent amendment of the 1995 Disability Discrimination Act, that came into effect in January 2007, public authorities, in all areas of their work must now consider how to:

- promote positive attitudes towards disabled people; and
- encourage participation by disabled people in public life.

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2   What is Screening?

The Equality, Good Relations, Disability and Human Rights Screening process is one of the main tools for ensuring that we fulfil our legal obligations.

2.1   Equality and Good Relations

Screening is the first stage in assessing equality/good relations issues relating to developing any policy or area of work.

Screening helps to improve our services and policies/decisions. The Equality Commission in its Guidance states that the purpose is "to identify those policies that are likely to have a significant impact on equality of opportunity so that greatest resources can be devoted to these." The screening tool helps us to systematically consider:

- the needs and issues of the 9 equality groups;
- how we can better respond to those needs;
- how we can better promote equality of opportunity and good relations.

The screening process is to identify policies or decisions which may have a SIGNIFICANT/MAJOR IMPACT on, or CONSEQUENCE for, people including those in any of the 9 specified equality groups.

If, during the screening process it is decided that a policy or decision does have significant/major issues relating to equality, it is

then necessary to consider carrying out a more detailed exercise called an Equality Impact Assessment (EQIA).

2.2   Disability Legislation: DDA

Under disability discrimination legislation, we should consider whether:

- the policy/decision will encourage disabled people to participate in public life or promote positive attitudes towards disabled people
- there is a better way of doing so.

2.3   Human Rights

In relation to human rights, the purpose of screening is to identify:

- whether the policy/decision is likely to affect a person's human rights
- what nature this effect is (positive, negative or neutral)
- what must be done to ensure that we comply with human rights obligations
- beyond this, what can be done to actively promote human rights.

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3   Why must we use the screening template?

Using the screening template offers key benefits in the following respects:

- Under the legislation, the onus is on organisations to provide evidence that they have taken equality, good relations, disability and human rights considerations into account. It is vitally important, therefore, that we document this process.
  To this end, the template provides **a paper trail**.
- It ensures that the four screening questions are addressed as required by the Equality Commission's guidance.
- The template takes you through the screening process step-by-step and as such is designed to serve as **a tool**.
- Since the template asks you to consider information on a wide range of issues it also provides **a mechanism** to

quality-assure your policy/decision and to manage any associated risks, specifically with respect to anti-discrimination legislation.

- Ultimately, it provides **an opportunity** to improve decision-making and practice.

4   What do we screen?

A policy refers to **ALL** the ways that our organisation carries out its activities and makes decisions. We therefore need to screen decisions we take in our work. This includes for example planning decisions, service changes, strategies, policy development, guidelines, procedures and protocols etc.

5   When   do   we   introduce   screening? AS EARLY AS POSSIBLE.

Screening can be made simpler and more useful if it is introduced at an early stage when developing or reviewing a policy/decision. Use the screening template to identify

- what equality/good relations, and human rights issues there might be;
- any gaps in information;
- how you might address those gaps;
- who it would be useful for you to talk to;
- how these considerations can be incorporated into the policy/decision development process;
- whether or not you need to do a full Equality Impact Assessment (EQIA)
- how you can make sure that this policy/decision encourages disabled people to participate in public life or promote positive attitudes towards disabled people.

6   Who carries out Screening?

The person taking the lead role is the policy/decision-maker i.e. the individual who can make changes to the policy/decision.

However screening is not an academic or theoretical exercise. You need to develop an in-depth knowledge of the implications of the policy/decision. For this, you will need others to come on board. Screening should not be carried out by one person. Include other team members, those who implement the policy, staff members from other relevant work areas etc. It is good practice to include key stakeholders in the screening.

The Equality Unit within your organisation will be able to provide you with advice and support throughout the screening process – but they won't carry out the screening itself. Screening is about mainstreaming equality, good relations and human rights.

It is helpful to use existing team or project meetings to discuss the screening questions. Include Equality and Human Rights screening as an agenda item.

Section B:
The Screening Template

We have given you a brief introduction to the legislation and the 'why' 'what' 'when', and 'who' in relation to screening. In the following, we turn our attention to the 'how'. The remainder of the guidance takes you through the screening form step by step. For each question in the form you will find further guidance and examples to illustrate the particular challenges that might arise and how you may wish to deal with them.

1. INFORMATION ABOUT THE POLICY/DECISION

1.1   Title of Policy/Decision: Give the policy/decision a title that accurately describes its focus.

1.2   Description of policy/decision: Clearly state the aims. What are you trying to achieve? How will you do so? Key constraints could be legislative (e.g. health and safety regulations) or financial. Avoid any jargon. Keep it short and simple.

> **For example**, there may be some tensions between human rights and other legislation. It is unlawful, for instance, for public authorities to act in a way incompatible with the Convention rights (Human Rights Act section 6(1)). However, under section 6(2a), they have a defence if they could not have acted differently due to a primary legislation such as mental health legislation. Under these circumstances, some elements of the Mental Health Order have been declared incompatible with Convention rights.

1.3   Who are the main stakeholders?

Stakeholders can include health and social care staff, actual or potential service users, other public sector organisations, voluntary and community groups (including Section 75 groups), trade unions/professional organisations or private sector organisations.

Specify the **key** agencies/organisations/groups/people who may be affected by the policy/decision. Consider whether staff may also be affected.

For example,

- If the decision relates to an internal reorganisation, the public may ultimately be affected but it would be reasonable to assume that staff are the main stakeholders.

- If the decision relates to the closure of an Accident & Emergency service, it would make sense to include both staff and actual and potential service users.

1.4 Other Policies: Specify if the policy/decision relates to a regional policy/decision by another body, whether the DHSSPS, Boards, Trusts or Agencies. There can be a wide range of policies that are in some way linked with others. Specify only **key** related policies that have a direct bearing on the policy/decision. For example developing services for people with learning disability at a Trust level may link in with Commissioning policies from Boards as well as Departmental strategies.

These may already have been screened and the process and outcome will be relevant. Make sure you obtain and use this information. If you are developing the policy according to statutes or guidance from elsewhere, make this clear – do not be seen to have responsibility for something, which "belongs" to another body.

2. SCREENING THE POLICY/DECISION FOR EQUALITY, GOOD RELATIONS, DISABILITY AND HUMAN RIGHTS

Answering the questions

These questions are the basis on which you make your decision to screen the policy/decision in or out for a full Equality Impact Assessment (EQIA). They ask for EVIDENCE. Ideally this should be information collected through quantitative and qualitative monitoring, however it can also be:

- experience and knowledge of relevant staff;
- information from previous consultations;
- internal audits, monitoring systems;
- complaints;
- existing research reports
- NISRA's equality website (www.equality.nisra.gov.uk);
- user groups;
- screening or EQIA's completed by DHSSPS, Boards, Trusts, Agencies.

Please note that questions 2.2, 2.3, 2.5 and 2.7 are specific criteria defined by the Equality Commission in its Guidance.

2.1   In terms of groupings under Section 75, what is the make up of those affected by the policy/decision?

As a starting point it is important to collect information regarding the identity of those who are impacted by the policy/decision.

For example,

- If your policy/decision relates to the redeployment of a group of staff, contact your Human Resources colleagues to find out more about the make up of this group.

- If it is about the closure of a smoking cessation service targeted at teenagers, you would need to look at who uses the service as well as who provides the service.

2.2   Is there any indication or evidence of higher or lower participation or uptake by different groups?

Having looked at the data, what conclusions can you draw in relation to the representation of one group vis-à-vis another?

For example, do more females use the service in comparison to men (=higher/lower uptake)? Are there more Protestants in the group of staff to be redeployed than Catholics (=higher/lower participation) ?

But the comparison doesn't just stop there. You also need to look beyond to understand whether the uptake or participation you have noted reflects what is to be expected.

> **For example**, there may be a higher participation of Protestants in the group because the Protestant share of the workforce of the organisation as a whole is greater, in turn reflecting the composition of the population living in the catchment area of the site.
>
> Equally, more girls may use the service because they make up the greater part of teenage smokers.

So the key question is: does the participation or uptake tells us anything about potential equality issues? Does it reflect the local community make up or relevant target group or the nature of the service etc.? If not, what are the issues that need to be addressed?

If you have identified equality issues or have a lot of "Don't knows" it would indicate that you need to gather additional information.

PLEASE NOTE: POSITIVE/AFFIRMATIVE ACTIONS TO PROMOTE EQUALITY OF OPPORTUNITY ARE ACCEPTABLE e.g. a Health Promotion Programme that targets BME communities; training for female staff that increases their capacity to access senior management posts.

Any policy/decision that targets a particular group will, by definition have a differential uptake. When assessing this you have to consider whether there are any implications that are unlawful or unjustifiable or whether it is effectively "addressing the needs of a particular group", EITHER as a way of delivering a particular service OR promoting equality of opportunity OR as part of a positive action programme.

2.3 Is there any indication or evidence that different groups have different needs, experiences, issues and priorities in relation to the policy/decision?

Do you think that any of the groups might have different needs in relation to the policy/decision? The information you collate to answer this question will be crucial in helping you decide how to design the policy/decision (or deliver the service to them) in different ways to ensure that it meets those needs.

For example

- if you are looking at a training strategy, those working part-time (most of which are females with dependants) might have difficulties attending full-day training courses). Also, older people might experience difficulties in accessing training if line managers prioritise training needs of younger employees.

- If your policy/decision relates to a service, examples might include physical access requirements, or needs arising from language barriers etc.

If you have identified equality issues or have a lot of "Don't knows" it would indicate that you need to gather additional information.

2.4 Is it likely that the policy/decision will meet those needs?

Having identified the needs of different groups, you need to make the link back to the policy/decision. As it stands, are you confident that those needs will be met by the policy/decision.
Specify how you intend to ensure that the policy/decision will meet the different needs of the equality groups.
If you have identified issues and addressed them as you have developed the policy/decision, this is an opportunity for you to document how you have done so.

For example, if you have developed a Sickness Absence Management Policy and included provisions that disability-related absences will be recorded separately from sickness absence you should note this in the template.

2.5 Is there an opportunity to better promote equality of opportunity or good relations by altering the policy/decision or working with others in government or in the larger community?

If under 2.4 you have ticked "no" in relation to any of the Section 75 groups, what changes to the policy/decision or what additional measures would you suggest to ensure that those needs are met?

Show how you intend to make changes that will better meet the different needs i.e. how you are actively promoting equality of opportunity.

> **For example**, in the case of a policy on part-time working you may want to suggest that the organisation develops a leaflet targeted at under-represented groups such as men and those without dependants to clarify that eligibility is not restricted to females with young children.

If you are looking at a service-related issue, for example the provision of a sexual health advice service, for all 9 groups, consider how you can:

- ensure or improve service accessibility,
- improve the quality of the service,
- avoid adverse impact.

Continue to keep in mind the potential for promoting equality of opportunity for the 9 groups, as you work on your policy.

2.6 What changes to the policy/decision – if any – or what additional measures would you suggest to ensure that it promotes good relations?

Section 75 specifically requires us to promote good relations between people of different religious belief, racial group and political opinion against the background of Sectarianism and Racism. However a policy/decision may have an impact on good relations for other groups and these should also be noted.
Will this policy/decision impact adversely on good relations? Consider the potential for promoting good relations as you develop the policy.

2.7 Have previous consultations with relevant groups, organisations or individuals indicated that particular policies create problems that are specific to them? Also, please detail information used to answer any of the questions above (e.g. statistics; research reports; views of colleagues, service users, or other stakeholders).

Remember that you need to be able to justify any decisions you take. It is therefore important that you record the types and sources of information you have used in the screening process.

Make sure that you use a range of information sources, during the development of the policy/decision, to help you to screen effectively.

Below are some examples:

- check any statistical information available e.g. NISRA's equality website www.equality.nisra.gov.uk; Northern Ireland Neighbourhood Information Service www.ninis.nisra.gov.uk; Census of Population data sets at www.nisranew.nisra.gov.uk/census/start.html
- look at literature reviews available e.g. on access to health and social services in Northern Ireland www.dhsspsni.gov.uk/index/hss/equality/eq-literature-review.htm
- talk to other colleagues;
- include the views of service users;
- talk to members of organisations/groups;
- what have consultees from the equality groups said?
- search for information on the internet;
- check other research reports or other consultations e.g. NI Survey of People with Activity Limitations and Disabilities www.equality.nisra.gov.uk/archive/Publications/Disability/Household%20Prevalence%20Report.DOC
- What have other organisations done with similar policies/decisions?

Show how you incorporated this information into the final draft policy/decision, or if ideas were suggested that you couldn't incorporate please indicate why not. Use common sense.

2.8 Please detail what data you will collect in the future in order to monitor the effect of the policy/decision on any of the groups under Section 75?

At this stage, monitoring systems have not been established that take into account all section 75 groups. However it would be useful for each area of work to start to identify how quantitative information (i.e. statistics) might be obtained and analysed for the purpose of monitoring the policy's/decision's implementation. Ways of collecting qualitative information (i.e. views/perceptions of the main stakeholders) also need to be considered. For example, for a complaints policy it would be useful to start collecting statistics on the Section 75 background of those who raise a complaint. You may also consider contacting relevant advocacy or voluntary sector groups at regular intervals to see whether individuals have raised any issues with them that may relate to your organisation. Your local Equality Unit will be able to support you in making contact with such groups.

3 SHOULD THE POLICY/DECISION BE SUBJECT TO EQUALITY IMPACT ASSESSMENT (EQIA)?

After considering as much information as is reasonable, there are likely to be 3 outcomes:

Outcome 1: (low impact) No or very few equality issues identified:	**recommend no EQIA**
Outcome 2: (significant/major* impact) Some equality issues identified, but they are easily addressed while developing your policy/decision, or the ownership for addressing those issues lies outside the organisation	**recommend no EQIA** (You should raise the issues with the relevant organisation).
Outcome 3: (significant/major* impact) Significant/major* equality issues identified for several of the nine Equality groups:	**recommend full EQIA**

There is no cut and dried definition of 'significant/major impact'. You will need to make an informed judgement. Here are some guidelines that might be useful. Issues may be considered significant/major if:

- the information shows that the policy/decision has a direct and possibly unfair effect on groups (e.g. access to employment opportunities);
- the policy/decision affects the public considerably and is likely to be controversial (e.g. a removal of a service);
- substantial spending is involved (e.g. a new build);
- the policy/decision is important strategically (e.g. a learning and development strategy).

If you have identified significant/major equality issues AND this is an important policy or service (i.e. it will impact on a wide range of people and has considerable budgetary implications) **MAKE SURE THAT THE FULL EQIA IS PRIORITISED.** This is a grey area but it is important that you provide a clear rationale for your decision.

What is a Full Equality Impact Assessment?

A full EQIA is a more detailed assessment of equality and good relations issues. It involves a series of steps:

- 'Defining the Aims of the Policy'
  (What is it we are actually looking at?)
- 'Consideration of Data'
  (How can we tell what is happening on the ground?)
- 'Assessment of Impacts'
  (So are there any problems for any of the groups?)
- 'Consideration of Measures'
  (What can be done to make things fairer?)
- 'Formal Consultation'
  (Are we getting the right picture and are we thinking of doing the right thing?)
- 'Decision by Public Authority'
  (With what people have told us – what are we going to do?)
- 'Publication of Results of EQIA'
  (This is what we have found out and this is what we will do)
- 'Monitoring of Adverse Impacts'
  (Keeping a close eye on what is happening).

As you can see, it involves carrying out a formal consultation process with all organisation's consultees over a minimum time period of 2 months (the recommended time scale is 3 months). This can include:

- face to face meetings
- carrying out surveys;
- holding interviews;
- running focus groups;
- looking at research reports.

If you are recommending a full EQIA make sure that you refer to further guidance, e.g. to the booklet "The Easy Way to EQIA", and contact your Equality Unit.

4.   DISABILITY DISCRIMINATION
Under section 49A of the Disability Discrimination Act 1995 (as amended by the Disability Discrimination NI Order 2006), we also need to consider how we can:
- - promote positive attitudes towards disabled people;
- - encourage the participation by disabled people in public life.

'Public Life' is a very broad term, encompassing for instance public appointments, user groups, reference or advisory groups, citizen panels etc.

Please consider how you might include these obligations into your policy/decision, describe how you have done so and what monitoring arrangements you intend to put in place.

5.   CONSIDERATION OF HUMAN RIGHTS

Consider whether the policy will have any impact on the rights of our patients/clients and staff and what needs to be done to ensure compliance with human rights requirements.

The Human Rights articles and protocols are:

The Human Rights Articles

- Article 2   The right to life.

- Article 3   The right to freedom from torture, and inhuman or degrading treatment or punishment.

- Article 4   Prohibition of slavery and forced labour.

- Article 5   The right to liberty and security of person.

- Article 6   The right to a fair trial.

- Article 7   Right to no punishment with law.

- Article 8   The right to respect for private and family life, home and correspondence.

- Article 9   The right to freedom of thought, conscience and religion.

- Article 10   The right to freedom of expression.

- Article 11   The right to freedom of assembly and association.

- Article 12   The right to marry.

- Article 14   Prohibition of discrimination.

- Protocol 1, Article 1 of. Protection of property.

- Protocol 1, Article 2 of. Right to education.

The Human Rights Act (1998) gives legal force to the concepts of dignity, respect equality and fairness. Its purpose was to promote a culture of respect for everyone's human rights. It has an important role to play in moving this culture to one where the needs of the individual are at the heart of health and social care services.

It is necessary to consider the level of risk that the policy might have in relation to each of the rights of our patients, our clients and our staff. In doing so keep in mind the Articles from the ECHR. Within health and social care services a number of these Articles are particularly relevant. These include Articles 2, 3, 5, 6, 8,12. In considering human rights issues some examples are provided below by way of illustration.

Privacy and dignity of patients

The concept of human dignity is protected by Article 3, the prohibition of inhumane and degrading treatment, which is an absolute right. The right to respect for family life is protected by Article 8.

Consider the human rights of:

An older woman being left completely naked on a mixed ward, by staff who are training her to dress herself as part of a rehabilitation programme.

Consider older people who are not incontinent, being forced to wear incontinence pads because staff do not have the time to take them to the bathroom.

Issues around respect and fairness

Article 8 could be engaged in relation to access to information.

Consider the human rights of:

People who are deaf when admitted to Accident and Emergency service are not provided with an interpreter.

People with disabilities, who find it difficult to change, or attend important appointments, due to inaccessible communication systems.

Issues around restraint and violence

The Human Rights Act protects against brutality, Article 3 and 8. Article 8 also offers the right to protection against physical, psychological and emotional abuse.

Consider the human rights of:

A mental health patient restrained in a bed to prevent escaping.

A learning disabled man being tied to his bed or wheelchair for extended periods to prevent him hitting his head and face.

Articles 2 and 8 will most likely be of particular relevance.

Consider the fact that:

Older people do not always have the same access to a range of specialist mental health services available to younger people. Restrictions on their choice of treatment options could be challenged under human rights legislation, particularly as some care homes refuse to take older people with dementia.

Poor practice in relation to support for carers, could lead to violation of Article 2. Carers often delay emergency medical treatment that could cost them their lives or put their lives at risk during treatment because of inadequate support.

Waiting lists and delayed discharges

Article 8 may be engaged.

Consider the human rights of patients:

Where routine movements, straight from hospital to residential care takes place, in a bid to avoid fines for delayed discharge, and no care assessment is provided and the individual needs of the patients not adequately addressed.

Short time scales available to arrange a placement has implications for an individual's respect for private and family life.

Access to adaptations and wheelchairs

Articles 3 and 8 may be of particular relevance.

Consider the human rights of patients:

A disabled woman was told by an Occupational Therapist that she needed a special profile bed as she was unable to leave her bed and the new arrangement would allow carers to give her baths.

The public body refused to provide her with a double bed so she could continue to sleep with her husband. She was able to successfully evoke her rights under Article 8, Respect for Private and Family Life.

Consider the human rights of patients:

Blanket policies in mental health wards, residential and nursing homes and hospital wards, which could be open to challenge from a human rights perspective. If, for example such a policy states that individuals should not be woken up at mealtimes resulting in heavily medicated patients or older residents who slept through meal times going without food for a period of time. The consequences of malnutrition could be a violation of Article 3 and Article 8. Blanket policies fail to have proper regard to individual situations and may lead to decisions that are disproportionate and in breach of human rights.

Older people being left without access to their teeth, their spectacles, hearing aids or false teeth left out of reach, could be a violation of Article 3 and Article 8.

Patients being repeatedly moved from one ward to another for non-medical treatment could be a possible violation of Article 3.

Issues around autonomy and consent

Addressed by Article 8

To be valid, consent must be given voluntarily by patients, without pressure or undue influence being exerted to either refuse or accept treatment. To give valid consent the individual needs full, appropriate and accessible information. He or she must be able to understand this

information and use it in decision making. Adults are presumed to have capacity to consent.

> **Consider the human rights of patients:**
>
> **A patient who is from a black or minority ethnic group and who does not speak English. The hospital failed to provide an interpreter to allow the patient to understand the doctor's questions and instructions and pre consent explanations. The patient refused to an important procedure because of misunderstandings about the consent form. This led to an**

> **Consider the human rights of patients:**
>
> **A female employee is about to return to work after her maternity leave. She is breastfeeding her son. Upon enquiring about assigning a rest area for her to express milk her employer tells her that they would be unable to accommodate her request due to accommodation pressures.**
> A member of staff who is currently on sick leave is repeatedly called by his line manager enquiring when he will be likely to return to work.

Remember we are required to be pro-active rather than merely refraining from any action that may violate human rights. In screening it is also necessary to consider the potential of the policy/decision to positively promote human rights.

Make sure consideration of human rights is evidenced and recorded. Seek advice from your line manager or relevant director and if necessary, through your provider of legal services.