**Human Rights Act Impact Assessment**

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 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 from the [Executive Office](https://www.executiveoffice-ni.gov.uk/publications/human-rights-impact-assessment-proforma). 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.

# **Policy title and aims**

| Please state the title and objective of the policy/proposal you are working on. |
| --- |
| **Title**: Coronial investigations into deaths abroad**Objective(s):** To allow coroners to undertake an investigation into certain deaths abroad of Northern Ireland citizens. The current legislation outlines that an inquest may be held if an unexpected, unexplained, violent or suspicious death occurs in Northern Ireland, or a body is ‘found’ in Northern Ireland. In Forde v the Attorney General and the Coroner for Northern Ireland [2009] the Court of Appeal held that ‘found’ involves an element of discovery or surprise, meaning that a coroner can only investigate a death which occurs in this jurisdiction and not where a body has been repatriated. The Department is undertaking a public consultation on a number of different options which would allow for inquests into deaths abroad where a death is unexpected, unexplained, violent or suspicious, with the body ‘lying’ rather than ‘found’ in Northern Ireland. |

## **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 would 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 | Yes | The investigative obligations of Article 2 would be engaged only in the limited circumstances where the State had sufficient control and authority over an individual abroad and such cases are likely to be rare. |
| Article 3Prohibition of torture, inhuman and degrading treatment | No |  |
| Article 4Prohibition of slavery and forced labour | No |  |
| Article 5Right to liberty | No |  |
| Article 6 Right to a fair trial | No |  |
| Article 7No punishment without law | No |  |
| Article 8Right to respect for private and family life | No |  |
| Article 9Freedom of thought conscience and religion | No |  |
| Article 10Freedom of expression | No |  |
| Article 11 Freedom of assembly and association | No |  |
| Article 12 Right to marry and found a family | No |  |
| Article 14Prohibition of discrimination | No |  |
| Protocol 1, Article 1Right to Property | No |  |
| Protocol 1, Article 2Right to education | No |  |
| Protocol 1, Article 3Right to free elections | No |  |

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.

### **Rights which the policy/proposals interfere 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?** |
| --- | --- | --- |
| Article 2 | No  |  |

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#### **Those affected by the interference/limitation**

Identify who would 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 seen as a victim within the Human Rights Act.*

| **Who could be affected?** | **How could they be affected?** |
| --- | --- |
| Not applicable. Rights are not being interfered or limited. |  |

##### **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:

| Not applicable. Rights are not being interfered or limited. |
| --- |

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:

|  Not applicable. Rights are not being interfered or limited. |
| --- |

###### **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 exception 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** |
| --- | --- | --- |
| Article 2   | Not applicable | Article 2 rights are not being interfered or limited. |

1. **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** |
| --- | --- |
| Article 2  | Not applicable as rights are not being interfered or limited. |

1. **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** |
| --- | --- |
| Article 2 | Not applicable as rights are not being interfered or limited. |

1. **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?** |
| --- | --- | --- |
| Article 2  | Not applicable. Individuals would not be treated differently as a result of the proposed policy.  | Not applicable. |

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.

1. The policy/proposal does not engage any Convention rights.
2. The policy/proposal does engage one or more of the Convention rights, but does not interfere with or limit it/them.

**X**

1. 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 Andrew Robinson (Official)

Date 13/10/22 Grade DP

Signed by Laurene McAlpine (Senior Responsible Officer)

Date 14/10/22 Grade 5