



Cayman Islands Human Rights Commission

promoting, protecting and preserving human rights

Human Rights Impact Assessment for Legislation

The Human Rights Commission (HRC) has created this document to be used only as a guide, when assessing the human rights impact of new legislation or amendments to existing laws to ensure compliance with the Bill of Rights, Freedoms and Responsibilities.

Does this legislation have the potential to interfere with an individual's rights as set out in Part One of the Cayman Islands Constitution Order (2009) - The Bill of Rights, Freedoms and Responsibilities?

If yes, assess the following human rights principles for compliance assurance.

LEGALITY

Where there is a potential negative impact on individuals' rights, is there a clear legal basis in the relevant domestic law?

There must be a clear legal basis for the interference with a qualified right.

The interference must be undertaken 'in accordance with the law'. That is, there must be a statutory legal basis for allowing the state to interfere with an individuals' rights.

- the legal basis must be within Cayman Islands law.

If there is a negative impact and you think there may be implications on the basis of legality, seek advice from the Attorney General.

LEGITIMATE AIM

Is the aim of the legislation legitimate in terms of the Bill of Rights, Freedoms and Responsibilities?

Legislation must pursue a legitimate aim in the way in which the legislation interferes with individuals' particular right(s).

Legitimate aims are set out in each section containing a qualified or limited right and they vary from section to section.

Legitimate aims may include, for example, the interests of public health, public safety, and defense.

PROPORTIONALITY

Is the impact of the legislation proportionate to the legitimate aim being pursued?

To test proportionality consider whether the interference with rights is reasonably justifiable in a democratic society, and whether there is a demonstrable pressing social need for it.

If there are relevant and sufficient reasons and if the interference is proportionate to the aim of responding to that need...

- the proposed solution must be one that involves the minimum necessary interference with individuals' rights.