



Fire Officers' Association

Basic principles - Human Rights Act 1998

Human Rights Act 1998

The Human Rights Act 1998 incorporates the principles of the European Convention on Human Rights (1953), and is directly enforceable against state and public authorities. The actions and omissions of private employers will be judged against the standards of the Convention, and all courts, including employment tribunals, will take the Act into consideration when hearing employment/worker related claims.

The Articles of the Convention taken into the Act that are most likely to impact on employment related law are:

- Article 4, prohibition of forced labour and slavery
- Article 6(1), the right to a free trial (both civil and criminal law)
- Article 8, the right to privacy and respect for family life (including correspondence)
- Article 9, freedom of thought, conscience and religion
- Article 10, freedom of expression
- Article 11, freedom of assembly and association
- Article 14, prohibition of discrimination (such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status).

Many of these are subject to exceptions and derogations, and some do not 'stand alone' as independent rights, but are limited or qualified in that interference with the right may be lawful for, for example, the protection of the rights and freedoms of others. Employers would need to be able to argue in defence of any allegation of breach of the Act that such actions were necessary for business reasons.

Legal advice should be sought if such an allegation is made.

Employers should review organisational rules and procedures to ensure that the principles of the Act are taken into account. An obvious example would be if an organisation carries out drug tests on workers without having in place a policy making it clear to those workers that they can be drug tested and also making clear why it is necessary for the employer to have this power (for instance where workers are in high risk situations such as pilots, train drivers, oil rig workers).