

# Do human rights apply?

The questions below can help you identify if human rights issues apply to a complaint.

If the complaint is being made on someone's behalf, check you have considered the rights of both the complainant and the 'aggrieved person' (the individual who is subject to the complaint).

1. Does the complainant refer to a specific human right, (for example, the right to respect for private and family life)?
2. Does the complainant use terms, such as fairness, respect, equality, dignity or autonomy (FREDA values)?
3. Does the complainant talk about treatment or impact in terms that could suggest human rights issues, such as 'I felt degraded' or 'it was humiliating'?
4. Without inferring matters, does the complaint raise any of the above in your own assessment?
5. Were actions or decisions made that raise human rights issues, such as the use of restraints, or a disregard for finding out or following an individual's preferences?
6. Does the complaint relate to a vulnerable person, such as an older person, a child, someone with a learning disability, or someone in the care of the state?

If the answer to any of these questions is yes, you should investigate the relevant human rights issues with the complainant and the organisation concerned.

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## **Principles of a human rights based approach**

PANEL principles of good practice

The PANEL principles are a widely recognised model of good practice for organisations that want to take a human rights based approach.

Ombudsman schemes can also refer to these principles when they investigate to what extent service providers have considered human rights in their policies and procedures.

PANEL stands for:

### **Participation**

Involve service users in the development of policy and practices from the earliest stage, particularly isolated, vulnerable and minority groups.

### **Accountability**

Monitor your human rights obligations, and put things right if something has gone wrong. Organisations should be accountable and have effective complaints procedures.

### **Non-discrimination and equality**

Do not discriminate against service users, but look to enhance equality and diversity. In some cases, human rights law prioritises the needs of some groups to ensure equality of opportunity.

### **Empowerment**

Tell service users what their human rights are and support them to claim and enjoy them.

### **Legality**

Make sure your policies and procedures are targeted to respect, protect and fulfil UK and international human rights laws.

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### FREDA values

The FREDA values describe what individuals should expect when they use a service.

They sum up in simple language the core principles behind human rights law, not only making it easier for people to understand when their human rights have been affected, but also for ombudsman schemes to identify injustices and remedies within a human rights context.

Complainants may unknowingly refer to the values – for example, suggesting they were treated unfairly or that their dignity was not respected. This may indicate that human rights are part of the complaint.

They are:

#### **Fairness**

Treat service users fairly, listen to their opinions and have robust and transparent processes in place to act on their concerns.

#### **Respect**

Consider, understand and take full account of a service user's identity, circumstances, background, rights, values, property and beliefs, when acting or making decisions.

#### **Equality**

Everyone should enjoy equal treatment and access to services, depending on their needs and circumstances, and not be discriminated against.

#### **Dignity**

Dignity underlies all human rights, which ultimately aim to uphold and protect a person's fundamental sense of humanity, self-respect and worth.

#### **Autonomy**

Individuals should be in control of the decisions that affect them and have the freedom to make their own choices.