

# HUMAN RIGHTS FROM THE TOP

## TOOLKIT

Prepared by  
**SIMON KATTERL**

[simonkatterlconsulting.com](http://simonkatterlconsulting.com)




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<sup>1</sup> Thank you to Vrinda Edan and Dan Myles who provided valuable advice on these tools.

## About this document

This document builds on the *Thinking about human rights* and *Applying human rights* resources developed for the Victorian Department of Health and Human Services with Kerin Leonard. The resources build on work of the *Human Rights from the Top* course for mental health service executives. The purpose of this document is to provide *tools*. Tools that you can integrate into your daily practice. These tools will only make sense if you have read and/or engaged with the above resources and training. They are based on a specific model developed to assist non-lawyers to comply with their obligations under the *Charter of Human Rights and Responsibilities Act 2006* (Vic) and the *Mental Health and Wellbeing Act 2022* (Vic).

# Use these tools, or better...



### Pick up and use these tools

These tools are made to assist you to embed the steps of **Forecast**, **Assess**, and **Decide** into your daily practice at a government or mental health service design and operational level.

### Let your imagination go wild

You are best placed to know what tools will work for your workplace. You might develop tools for meetings, projects, posters, conversational prompts, models for champions...the ideas that you make, for your context, with your people, will be the ones that stick most.

You can use these tools as inspiration. If you wish to use the Forecast, Assess and Decide model, please reference *Thinking about human rights*.



# Build your own tools

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## The Model: Forecast, Assess, Decide

The model developed between Simon Katterl and Kerin Leonard seeks to break down human rights obligations into concrete cognitive and behavioural steps for non-lawyers to take. Detailed further in *Thinking about human rights*, these steps are to **Forecast, Assess and Decide**. These are depicted in Figure 1. These three steps break down into six questions.

**3 Steps to better comply with human rights**

**Forecast**  
How today's decisions could impact human rights tomorrow.

**Assess**  
The human rights decision, looking at where rights are limited or lacking.

**Decide**  
How to balance any rights. Document your decision-making.

### Forecast

Many of the decisions you make within the at board, executive and leadership decisions **today** will have their impacts 'on the ground' of your service **tomorrow**.

Under forecast, you are required to forecast how your decisions today will impact human rights tomorrow by asking:

- 🧠 How could people at the end of our decision or policy be impacted?
- 🧠 How do we collaborate with lived experience in this decision?

### Assess

Your decisions or non-decisions cannot be separated from the human rights context in Victoria's mental health and wellbeing system. Most parts of the mental health system have not been designed or operated in compliance with human rights.

Under assess, you are required to understand the human rights situation as it relates to your current decision by asking:

- 🧠 What is the human rights context and history regarding this decision or area?
- 🧠 Are some rights currently limited or lacking?

### Decide

Realistically, a vast majority of your decisions will already have been improved if you take the above approach to this point. You are now at the point of making a decision and documenting it. If your proposed decision is obvious, than this should be straightforward.

Under decide, you are expected to formalise your decision in a way that complies with the Charter and principles under the Act by asking:

- 🧠 How do we promote, comply and balance human rights?
- 🧠 How will we keep records to show that we considered relevant human rights.

You must read the free *Thinking about human rights* and *Applying human rights* resources, or undertaking training, to fully understand these steps and the application of rights.

## Implementing Tools for Transformation

These tools, and the ones you create, will be most important as part of broader service or organisational transformation. This requires a whole-of-organisation commitment, with responsibilities at Board, Executive and Leadership levels.



## Opportunities

Human rights obligations apply at all levels of an organisation. They all need to work together for service and system transformation.

## Board

Strategic Planning

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Strategic Oversight & Risk Management

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Reporting requirements

## Executive

Organisational Structure & Leadership

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Service design & Policies

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Quality, Complaints, Risk

## Leaders

Championing & Mentoring

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Capability Support & Performance Management

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Business as Usual Processes




You should undertake the full **Human Rights from the Top** training to understand how:

- ✓ Obligations under the Charter and Act apply to your service at each of these levels
- ✓ Practical strategies to break these obligations down into easier steps
- ✓ Transformation requires changes at each of these levels, as well as
- ✓ A whole-of-organisation commitment to transformation from a current human rights state to a future human rights state.

# 1. Project Planning Tool: Human Rights Impact Assessment

Projects – inside government or public mental health services – are a common intervention point to prevent human rights issues. A human rights impact assessment utilising the three step (Forecast, Assess, Decide) process is a simple way to build human rights into your work.

Projects could include:



-  The design of new services
-  Introduction of digital mental health technologies
-  Workforce initiatives.

Feel free to copy and paste the below human rights impact assessment, making the appropriate attributions and noting any changes made to the content that differs from this version.



## HUMAN RIGHTS IMPACT ASSESSMENT

Consistent with our obligations under the *Public Administration Act 2004* (Vic), the *Charter of Human Rights and Responsibilities Act 2006* (Vic) and the *Mental Health and Wellbeing Act 2022* (Vic), the Department of Health promote, properly consider and comply with human rights. As part of the reform process, this is evident in our work, including changes to how we do our work. The below details how we have promoted, properly considered, and complied with human rights. We utilise a framework the Department of Health Commissioned in 2022, which was delivered in August 2023.<sup>2</sup> That framework enables us to comply with these duties by *forecasting* the human rights issues in the policy we are conducting, assessing its human rights context, and deciding on a lawful and proper course of action.



### Forecast

-  How we have forecasted the decisions we make in this policy **today** will impact the human rights of individuals **tomorrow**.
-  How we have **consulted people with lived experience** of that human rights issue in our work and what they told us.

### Assess

-  How we assessed the **human rights context** of this mental health policy issue.
-  How we have assessed which human rights may be **currently limited or lacking** on this policy issue, or are at risk on this policy issue.

### Decide

-  How we decided to **balance rights** where they are in tension and to **promote specific** human rights.
-  How we have **recorded** our human rights reasoning.










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<sup>2</sup> Simon Katterl and Kerin Leonard, *Putting Human Rights at the Heart: Thinking about Human Rights* (Simon Katterl Consulting & Lionheart Consulting Australia, August 2023)

<<https://www.simonkatterlconsulting.com/writing/launch-of-new-resources-putting-human-rights-at-the-heart>>; Simon Katterl and Kerin Leonard, *Putting Human Rights at the Heart: Applying Human Rights* (Simon Katterl Consulting & Lionheart Consulting Australia, August 2023)

## 2. Forecasting Meeting Tool

At the beginning of a project, transformation initiative or service design process, a *forecasting* meeting to forecast what human rights issues will likely arise are crucial. In the meeting you could:

-  Identify all of the key decision points in the project
-  Map out who is going to be most impacted by the decision
-  Bring those people (especially people with lived experience) into the project process
-  Assess what the human rights context is for your process or item you are discussing
-  Assess whether any rights are limited or lacking in these areas already
-  Identify where rights are in tension or different groups' rights are in tension
-  Agree on a process to implement low-hanging fruit (solutions)
-  Agree on a process to deal with balancing rights in tension, complying with section 7(2) of the Charter
-  Seek endorsement from relevant sponsors of the item, process or project on your approach.

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<<https://www.simonkatterlconsulting.com/writing/launch-of-new-resources-putting-human-rights-at-the-heart>>.



### 3. Human Rights Champions: position descriptions

Human rights champions are another way that you can promote human rights in your organisation. The Human Rights Champion role may be performed by an existing worker, or may be formalised into a distinct and separate role. Proper consideration should be given to the supporting conditions, key tasks and key criteria for the roles.








#### Supporting conditions

The organisation has the responsibility to put a lot of conditions in place to support and authorise this role. These include:

- ✓ Authorisation for the role at senior executive and board levels.
- ✓ Appropriate training and professional development to anyone in the role, including access to paid for training, professional supervision, and networking opportunities.
- ✓ Identified roles within clear organisational structures.
- ✓ Appropriate time to perform the role, including expanding the EFT available to a person to properly perform the role.
- ✓ Clarity over intervention points for the Human Rights Champions, such as the need for them to provide written review at key decisions and to have their views explicitly documented where they speak to human rights in their role as Human Rights Champion.
- ✓ Designation of at least two Human Rights Champions in a workplace, to enable peer to peer support among Human Rights Champions in their role.
- ✓ Providing explicit information about the workplace rights of Human Rights Champions against bullying, victimisation and adverse actions.

#### Key tasks

Key tasks for a human rights champion can include:

-  Acting as a role model for human rights promotion and compliance.
-  Raise awareness of human rights in the workplace.
-  Raise awareness about stigma, discrimination and vilification based on mental health and other attributes.
-  Identify areas where the organisation or project can improve on human rights promotion and compliance.
-  Educate the organisation and workforce on human rights issues.
-  Contribute to review of organisational processes and procedures to ensure human rights promotion and compliance.
-  Support existing education and training specialist workforce members.

#### Key criteria

Key criteria of a human rights champion should include:

- ✓ A strong commitment to transforming the current mental health system into a rights-compliant system.
- ✓ A strong understanding of human rights, including models of supported decision-making, principles of least restrictive care, and care that is responsive to people's individual needs.
- ✓ A strong ability to persuade as well as a strong capability to collaborate with people with lived experience.
- ✓ In one of the roles, a consumer workforce member with lived experience of public mental health care.

## 4. Meeting Tool: Human Rights Statement and Notification

### Reminder

Meetings – inside government or public mental health services – are perhaps the most common point where human rights issues can be prevented. It may not be possible to undertake a full human rights impact assessment inside a meeting. Instead, it may be possible to add a statement and notification requirement to be in the agenda and minutes of meetings.

Feel free to copy and paste the below statement into your meeting notes, making the appropriate attributions and noting any changes made to the content that differs from this version.

#### **Statement of human rights commitment**

We take a collective commitment to meeting our obligations under the *Public Administration Act 2004* (Vic), the *Charter of Human Rights and Responsibilities Act 2006* (Vic) and the *Mental Health and Wellbeing Act 2022* (Vic) in every meeting. This includes forecasting the types of human rights issues that may arise from our decisions today, assessing the human rights contexts and any limitations on rights, and making decisions that promote, balance and comply with human rights.

Feel free to copy and paste the below notification reminder into your meeting notes, making the appropriate attributions and noting any changes made to the content that differs from this version.

#### **Notification of need to undertake a human rights impact assessment**

As part of our legal obligations and commitment to human rights, we will undertake a human rights impact assessment on the below issues and/or decisions.

## 5. Workplace Poster

The workplace remains an important space to share important information for workers. You may want to share the below poster, with the QR code taking people to the *Thinking about human rights* and *Applying human rights* resources. The most effective posters will come from your own organisation and staff.

**THE DECISIONS  
WE MAKE  
TODAY  
WILL HAVE THEIR  
HUMAN RIGHTS IMPACTS  
TOMORROW**



## 6. Clinical Governance Tool

Clinical governance processes – including quality committees, complaints processes and review processes – are common sites where decisions are made that will impact human rights. They are a site where there is a risk that human rights breaches will be formalised into policy of a mental health service.

### Statement of human rights commitment




We take a collective commitment to meeting our obligations under the *Public Administration Act 2004* (Vic), the *Charter of Human Rights and Responsibilities Act 2006* (Vic), the *Mental Health and Wellbeing Act 2022* (Vic), and the *Health Services Act 1988* (Vic) in every meeting. This includes forecasting the types of human rights issues that may arise from our decisions today, assessing the human rights contexts and any limitations on rights, and making decisions that promote, balance and comply with human rights.

### If you made your own statement, what would it be? Would it be stronger and/or more personal to your organisation?




Feel free to copy and paste the below notification reminder into your meeting notes, making the appropriate attributions and noting any changes made to the content that differs from this version.

### Reflecting how rights have been promoted, balanced and complied with

The following matters and decisions have impacts on the rights of individuals or will have foreseeable impacts on the rights of many others:

-  Decision 1, rights impacted
-  Decision 2, rights impacted
-  Decision 3, rights impacted

We have taken the following steps to ensure that rights are promoted, balanced and complied with:

-  Decision 1, steps taken
-  Decision 2, steps taken
-  Decision 3, steps taken.

You may need to undertake a further assessment, which can be noted using the below.

### Notification of need to undertake a human rights impact assessment

As part of our legal obligations and commitment to human rights, this committee or group will undertake a human rights impact assessment on the following topics:

## 7. Research Statement Guidance

Research has implications for human rights. At times research can be complicit in ongoing human rights breaches. Other forms of research can promote human rights. Sometimes research is silent on human rights when it shouldn't be.

A research statement that acknowledges and evidences whether human rights have been formally assessed as part of the research. If the researchers believe that their work has properly considered human rights. They should report on:

- 🧐 How human rights was considered?
- 🧐 What specific laws and what specific rights were considered?
- 🧐 How were rights promoted, balanced (where necessary) and complied with?
- 🧐 How were people with lived experience involved in this process?
- 🧐 How has this impacted the research, or where can the effects of this human rights consideration visible?

**Note:** Researchers commencing research may want to utilise a project planning or forecast meeting tool (above).

## **8. Error-Based Learning: Review Meetings**

Where you may undertake incident reporting or reviews after an adverse or sentinel event, you may want to undertake a human rights impact assessment to identify any learnings from the process. The Forecast Assess and Decide model of treatment is best integrated into existing error-based learning processes.

## **9. Ensuring Evaluations Consider Human Rights**

The Royal Commission into Victoria's Mental Health System identified evaluation as a key instrument for enabling the system to learn and improve. All public entities – Departments, statutory bodies, and public mental health services – have obligations under both the *Mental Health and Wellbeing Act 2022* (Vic) and the *Charter of Human Rights and Responsibilities Act 2006* (Vic). Evaluations, if they are going to contribute to the vision the mental health system called for, should include human rights assessments.