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In applying the test, the courts are often conscious of the need to pay some deference to the expertise and competence of other branches of government. This rigorous analysis of the relationship between proportionality and deference under the Human Rights Act sets out a model of proportionality, drawn from existing case law, which integrates deference within the multi-stage proportionality test.

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proportionality is closely related to the self-restraining judicial principle that when the courts engage in judicial review they should pay some deference to the judgment of the original decision-maker. To date, there has yet to be a sophisticated analysis of proportionality and deference 1

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the multi stage proportionality test the model is institutionally sensitive and can be applied to proportionality based judicial review of all forms of government activity the model

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applying proportionality, deference to the decision-maker is the proper course in many cases. 17 THE CHALLENGE TO BRITISH COURTS Despite this overlap and despite the perhaps subtle influence of proportionality in traditional judicial review, it has never been a concept applied directly in British administrative law.

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The model is structural in that it takes account of the operation of deference within the process of proportionality. The model is institutionally sensitive in that it takes account of the differences between the institutions which the courts can review under the HRA.

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