

A Human Rights Act for Queensland

A Human Rights Act could help people to access justice.

A Human Rights Act will help to create a fair, just and equal society for everyone. When human rights are protected by law they help to ensure that we are all treated fairly, and with dignity, equality and respect.

Human rights protection will also help to improve particular systemic issues – for example improving the ability of people to access justice.

This factsheet explains how human rights legislation can improve the ability of people to access justice.

Access to justice

Article 14 of the United Nations International Covenant on Civil and Political Rights protects rights associated with access to justice including:

- The right to a fair hearing
- The right to legal advice and representation
- The right to procedural fairness
- The right to an expeditious hearing.

In order for the rights contained in the International Covenant on Civil and Political Rights to be enforceable in Queensland they need to be protected in law – for example in a Human Rights Act for Queensland.

How are these rights protected in other places?

The UK's Human Rights Act incorporates the European Convention on Human Rights into domestic law. The European Convention on Human Rights says:

“In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by the law.”

The Victorian Charter of Human Rights and Responsibilities and the ACT Human Rights Act provide people with the right to a fair hearing. Extra protections are also provided to children who are in contact with the criminal justice system. Preventing children who are detained without charge from being detained with adults and providing that an accused child must be brought to trial as quickly as possible and that a child who has been convicted of an offence must be treated in a way that is appropriate for his or her age.

Human rights in action

The right to support in giving evidence for legal proceedings

A court deemed an assault victim's evidence unreliable because he had schizophrenia – despite the victim identifying his assailants and having physical evidence of the extent of the crime. On appeal, it was found that the lower court had not properly considered the UK's Human Rights Act.

The Judge stated there is “a positive obligation on a state to provide protection through its legal system against a person suffering such ill-treatment at the hands of others.”

This judgement prompted the introduction new policies and guidance for prosecutors on how to support victims and witnesses with experience of mental distress, and how to use psychiatric evidence appropriately to assess the credibility and reliability of a witness.

Source: R (B) v DPP (2009) EWHC 106

Free legal services

The Victorian Department of Innovation, Industry and Regional Development have established the International Student Care Service to provide assistance to international students including legal advice and welfare assistance. The Department used the Charter of Human Rights and Responsibilities as a framework when developing this service.

Source: Victorian Equal Opportunity and Human Rights Commission – Submissions to the Four Year Review of the Charter of Human Rights and Responsibilities Act 2006 (1 July, 2011) http://hrlc.org.au/files/VictorianCharter_in_Action_CASESTUDIES_march2012.pdf (Case Study 17).