

A Human Rights Act for Queensland

How could a Human Rights Act assist children and young people?

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.

Protections offered by a Human Rights Act will also have relevance for particular groups of people – including children and young people.

This factsheet provides examples of how human rights legislation in other places has improved the lives of children and young people.

Young girl protected from giving evidence against her abusers

A young Victorian girl had been abused. Her advocates used the Victorian Charter of Human Rights and Responsibilities Act, and in particular the right to the protection of family and children, to argue that she shouldn't be required to give evidence against the alleged perpetrators. They said that this right should be given proper consideration when determining whether a young person should be required to provide testimony. As a result the girl was not required to give evidence.

Source: Fitzroy Legal Service: Submission for Review of the Victorian Charter of Human Rights and Responsibilities Act 2006, in HRLC Charter in Action www.hrlc.org.au/files/VictorianCharter_in_Action_CASESTUDIES_march2012.pdf (Case Study 48).

Non-discrimination

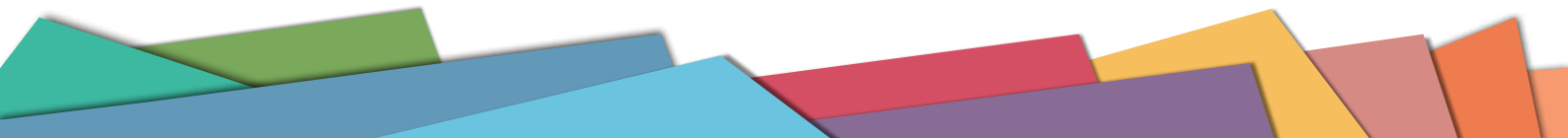
A Victorian student with a learning disability was threatened expulsion by his school due to his behavioural issues. The advocate outlined to both the school itself and to the Department of Education and Early Childhood Development the student's relevant human rights contained in the Victorian Charter of Human Rights and Responsibilities Act. As a result of the communication, the boy was provided with the supports, which reduced his behavioural issues and consequently, he was allowed to stay on at the school.

Source: Youth Affairs, Council of Victoria: Submission for Review of the Victorian Charter of Human Rights and Responsibilities Act 2006 in HRLC Charter in Action www.hrlc.org.au/files/VictorianCharter_in_Action_CASESTUDIES_march2012.pdf (Case Study 56).

Right to liberty

A warrant for imprisonment was made in relation to a young single mother of two children who was at risk of homelessness. The young mother was facing imprisonment for defaulting on the payment of outstanding fines for infringement notices. The woman's advocates applied for the matter to be relisted before a magistrate and relied on the right not to be arbitrarily deprived of liberty. This right is protected in the Victorian Charter of Human Rights and Responsibilities Act.

Source: Youthlaw's submission to the Eight Year Review of the Victorian Charter of Human Rights and Responsibilities.



Right to housing

Following the death of her father and incarceration of her mother, a 23 year old woman agreed to be the guardian of her three younger siblings. She maintained their public housing tenancy and had rental payments deducted from her Youth Allowance payments. While overseas on a study tour, her Youth Allowance was cancelled due to the discontinuation of her enrolment.

As a result she accrued significant arrears that she didn't receive notice of. The Department of Housing applied for a possession order after having issued a notice to vacate. The woman's advocates argued that the Department had failed to consider the rights of the young woman and her siblings protected in the Charter of Human Rights and Responsibilities Act. Instead of making a possession order, the Victorian Civil and Administrative Tribunal made an order that the young woman pay \$10 per week towards her rental arrears in addition to her rent.

Source: Homeless Persons Legal Clinic: Submission for Review of the Victorian Charter of Human Rights and Responsibilities Act 2006 in HRLC Charter in Action www.hrlc.org.au/files/VictorianCharter_in_Action_CASESTUDIES_march2012.pdf (Case Study 87).

Which rights?

The case studies above show that many of the rights that protect everyone have been used to protect the rights of children and young people. Many of these rights originally come from the United Nations International Covenant on Civil and Political Rights.

The United Nations Convention on the Rights of the Child provides a statement of rights that are particular to children.

Rights to education, health care, housing and work are protected in the United Nations International Covenant on Economic, Social and Cultural Rights.

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

The human rights legislation that exists in the ACT and Victoria both provide specific protections to children.

Both the Victorian Charter of Human Rights and Responsibilities Act and the ACT Human Rights Act provide every child with the right, without discrimination, to such protection as is in his or her best interests, as needed by him or her by reason of being a child.

Both the Victorian Charter of Human Rights and Responsibilities Act and the ACT Human Rights Act provide protection to children in the criminal justice system. This prevents children who are detained without charge from being detained with adults, provides 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.

The ACT Human Rights Act includes the right of every child to access free school education that is appropriate to his or her needs.

