

# Briefing note

## An enforceable Human Rights Act

### Key points

Queensland's Human Rights Bill 2018 ('the Bill') was tabled on 31 October and:

- is a **welcome reform** that will lead to the development of a human rights culture in Queensland. It responds to many years of lobbying by over 40 community organisations and thousands of Queenslanders
- is **an improvement** on the Victorian Charter of Human Rights and Responsibilities Act 2006, which the Bill is modelled on. Improvements include **protecting rights to health and education and the introduction of a complaints mechanism, allowing people to complain about human rights issues to Queensland's Human Rights Commission**
- gives the Human Rights Commissioner **broad powers** to examine and report on human rights issues – penalising public entities if they fail to comply with the Commissioner's request for information and giving the Commission a central role in **holding the government to account for human rights issues**
- requires amendments to ensure that Queenslanders are able to obtain redress when we've been treated unfairly
- must be accompanied by an allocation of **adequate resources** to ensure that the Human Rights Act can be properly implemented, both within government and by non-government organisations that provide government funded services

### Queensland's Human Rights Bill is welcome

On 31 October 2018, the Human Rights Bill 2018 was tabled in Queensland's parliament. The introduction of the Bill is welcomed by the campaign for a Human Rights Act for Queensland, as is the \$2.298 million funding already committed to the Anti-Discrimination Commission (which will become the Human Rights Commission) to fund the implementation of the Act. **This is a significant step towards a fairer and more equal Queensland.** It will mean public authorities must think about human rights when delivering services and making decisions.

## **An enforceable and practical Human Rights Act for Queensland**

To be enforceable, accessible and practical the Bill should include:

1. A complaints mechanism
2. A standalone cause of action
3. A full range of remedies for breaches of human rights.

### **A complaints mechanism**

The Queensland Government **should be commended** for including a complaints mechanism in the Bill. No human rights legislation in Australia has this important feature. The Human Rights Commissioner will have wide powers, including being able to compel parties to attend mediation, publishing the outcomes of both successful and unsuccessful complaints and making public recommendations in relation to complaints.

### **A standalone cause of action**

The Human Rights Act needs a standalone cause of action so people can enforce their rights in a tribunal or a court, similar to the ACT's Human Rights Act. This will ensure that Queenslanders can take action when they've been treated unfairly.

As it stands, the Bill only allows claims to be raised in legal proceedings if there is another ground on which to challenge the decision or action. A recent independent review of the Victorian Charter recommended introducing a standalone cause of action to address this failing.

### **A full range of remedies for breaches of human rights**

Queensland's Human Rights Act should ensure that people whose rights are violated have an 'effective remedy'. These remedies should be determined by a court or tribunal to ensure they can be enforced, and are aimed at effectively preventing, stopping or providing redress for rights abuses.

An effective remedy might include putting a stop to a proposed law or action which would breach human rights, requiring a decision-maker to consider a person's human rights properly and make their decision again, or providing compensation for a person who has been treated unfairly.

The Bill currently prevents a court or tribunal ordering that compensation be paid.

## **Implementation of Queensland's Human Rights Act must be properly resourced**

The Queensland Government has committed \$2.298 million over four years (\$0.6 million per year ongoing) for the Anti-Discrimination Commission to be renamed and to support the operation and administration of the Act.

When the Victorian Charter was introduced in the 2006-07 Budget the Victorian Government allocated \$6.7 million over four years to fund the implementation of the Charter. Resources were allocated to their Human Rights and Equal Opportunity Commission and were used to establish a Human Rights Unit within the Department of Justice and assist the Victorian Police and Corrections to understand and embed charter obligations. Grants totalling \$971,362 were made to the community sector and local government so they could undertake work to educate the community and the not-for-profit sector about human rights and the Charter.

The Human Rights Act will only have real impact if each arm of government and the community understands how the act applies to them. The Queensland Government must allocate sufficient resources to ensure that each government department reviews their laws, policies and practices to ensure their compliance with human rights and for community education.