

A Human Rights Act for Queensland

How could a Human Rights Act help people with disability?

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 Queenslanders who are vulnerable, marginalised or disadvantaged – including people with disability.

This factsheet provides examples of how human rights legislation in other places has improved the lives of people with disability.

Access to medical treatment

A 61-year old man with down syndrome living in the UK had been on the waiting list for the removal of thick cataracts for 18 months. He was informed by the hospital that it would be another nine months before he would receive surgery. Prior to losing his sight the man had been fiercely independent and social. Because of the loss of his sight he could no longer leave the house alone, take part in social activities or bathe, shave and dress himself. He had become depressed and his health had suffered.

His advocates used the UK's Human Rights Act to challenge his treatment. They said that by not providing the surgery to remove the cataracts he was being subjected to inhuman and degrading treatment and that it was also a breach of the right to private life. They also argued that these breaches were the direct result of him being discriminated against because of his disability. They said that a person without disability would not have been left with such a serious visual impairment for such a long time. Within 6 weeks of this action being taken the man had surgery and he promptly resumed his old life.

Source: Down's Syndrome Association at Our Human Rights Stories; <http://www.ourhumanrightsstories.org.uk/case-study/using-human-rightsact-challenge-delayed-medical-treatment-man-downs-syndrome>

A place to call home

A Victorian man suffering from physical disabilities and limited mobility continued to live in his family home after his mother had been admitted in an elderly care unit and placed under a financial administration order. In order to prevent the home being sold, the man's advocate raised the right to property under the Victorian Charter of Human Rights and Responsibilities Act. In consideration of this right an agreement was reached so that the man could continue living in the house as a tenant paying rent.

Source: Disability Justice Advocacy: Submission for Review of the Victorian Charter of Human Rights and Responsibilities Act 2006; in Charter of Rights in Action www.hrlc.org.au/files/VictorianCharter_in_Action_CASESTUDIES_march2012.pdf (Case Study 63, p 36).

A private life

A couple in the UK were living in an assessment centre so the department of social services could examine their parenting skills. The couple both had learning disabilities. CCTV cameras had been installed, including in their bedroom. Social workers explained that the cameras were there to observe them performing their parental duties and for the protection of their baby.

With the help of an advocate, the couple used the UK's Human Rights Act to challenge the use of the cameras. They said that the Department had not given proper consideration to their right to family and private life. The couple explained that they did not want their intimacy to be monitored. Besides, the baby slept in a separate nursery so it was not necessary to monitor the couple in their bedroom at night.

As a result, the Department agreed to switch off the cameras during the night so that the couple could enjoy their evenings together in privacy.

Source: ATD Fourth World at Our Human Rights Stories; <http://www.ourhumanrightsstories.org.uk/case-study/learning-disabled-couple-use-human-rights-act-challenge-cctvs-placed-their-bedroom>

A right to education

A Victorian student with a learning disability was threatened with expulsion by his school due to his behavioural issues. His advocate outlined to both the school and to the Department of Education and Early Childhood Development the student's relevant human rights protected in the Victorian Charter of Human Rights and Responsibilities. As a result of the communication, the boy was provided with support, 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 Charter of Rights in Action www.hrlc.org.au/files/VictorianCharter_in_Action_CASESTUDIES_march2012.pdf (Case Study 56, p 34).

Which rights?

The case studies above show that the rights that protect everyone have been used to protect the rights of people with disability. 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 Persons with Disabilities provides a statement of rights that are particular to people with disability.

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