

# Human Rights Act for Queensland

Submission by Legal Aid Queensland  
to Parliamentary inquiry

# Human Rights Act for Queensland

## Introduction

Legal Aid Queensland (LAQ) welcomes the opportunity to make a submission in response to the Legal Affairs and Community Safety Committee inquiry into whether it is appropriate and desirable to legislate for a Human Rights Act in Queensland, other than through a constitutionally entrenched model.

Legal Aid Queensland provides input into State and Commonwealth policy development and law reform processes to advance its organisational objectives. Under the *Legal Aid Queensland Act 1997* (Qld), LAQ is established for the purpose of ‘giving legal assistance to financially disadvantaged persons in the most effective, efficient and economical way’ and is required to give this “legal assistance at a reasonable cost to the community and on an equitable basis throughout the state”. Consistent with these statutory objectives, LAQ contributes to government policy processes about proposals that will impact on the cost-effectiveness of LAQ’s services, either directly or consequentially through impacts on the efficient functioning of the justice system.

Legal Aid Queensland always seeks to offer policy input that is constructive and based on the extensive experience of LAQ in the day to day application of the law in courts and tribunals. We believe that this experience provides LAQ with valuable knowledge and insights into the operation of the justice system that can contribute to government policy development. LAQ also endeavours to offer policy options that may enable government to pursue policy objectives in the most effective and efficient way.

Legal Aid Queensland plays a key role in the upholding of human rights in Queensland by providing legal services to financially disadvantaged persons, particularly in the areas of criminal law, child protection and anti-discrimination law.

In Queensland human rights are protected under the common law and legislation including the *Legislative Standards Act 1992* which sets out fundamental legislative principles to be taken into account in the development of legislation, the *Anti-Discrimination Act 1991* which promotes equality of opportunity by protection from unfair discrimination in certain areas of activity including work, education and accommodation and statements of rights in other legislation, for example, the *Child Protection Act 1999* which contains a statement of standards for a child placed in care and a charter of rights for a child in care.

Victoria and the Australian Capital Territory are the only Australian jurisdictions that have human rights legislation.

Legal Aid Queensland has considered the human rights legislation of Victoria and the Australian Capital Territory and considers that there may be some benefit in Queensland enacting similar legislation articulating certain fundamental rights.

# Effectiveness of current laws and mechanisms for protecting human rights in Queensland and possible improvements to these mechanisms

## Anti-Discrimination Act 1991

Legal Aid Queensland submits that the effectiveness of the *Anti-Discrimination Act 1991* is reduced because of the definitions of *direct discrimination* and *indirect discrimination* in the Act. Regardless of whether the Queensland Government introduces a Human Rights Act, the *Anti-Discrimination Act 1991* needs to be amended to simplify the definitions of direct and indirect discrimination to enable better protection against discrimination in Queensland.

### *Direct Discrimination*

Direct discrimination is the term used to describe unlawful discrimination where a person is treated unfavourably because of an attribute protected by the legislation in a defined area of public life.<sup>1</sup>

“...the concept of direct discrimination has troubled Australian courts and tribunals because of the unnecessary complexity and lack of clarity in the legislative drafting.”<sup>2</sup>

Section 10 of the Anti-Discrimination Act currently provides:

(1) Direct discrimination on the basis of an attribute happens if a person treats, or proposes to treat, a person with an attribute less favourably than another person without the attribute is or would be treated in circumstances that are the same or not materially different.

*Example—*

*R refuses to rent a flat to C because—*

*C is English and R doesn't like English people*

*C's friend, B, is English and R doesn't like English people*

*R believes that English people are unreliable tenants.*

*In each case, R discriminates against C, whether or not R's belief about C's or B's nationality, or the characteristics of people of that nationality, is correct.*

(2) It is not necessary that the person who discriminates considers the treatment is less favourable.

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<sup>1</sup> Neil Rees, Simon Rice, Domonique Allen, *Australian Anti-Discrimination Law* (2<sup>nd</sup> Edition, 2014), page 74

<sup>2</sup> *Ibid.*

(3) The person's motive for discriminating is irrelevant.

*Example—*

*R refuses to employ C, who is Chinese, not because R dislikes Chinese people, but because R knows that C would be treated badly by other staff, some of whom are prejudiced against Asian people. R's conduct amounts to discrimination against C.*

(4) If there are 2 or more reasons why a person treats, or proposes to treat, another person with an attribute less favourably, the person treats the other person less favourably on the basis of the attribute if the attribute is a substantial reason for the treatment.

(5) In determining whether a person treats, or proposes to treat a person with an impairment less favourably than another person is or would be treated in circumstances that are the same or not materially different, the fact that the person with the impairment may require special services or facilities is irrelevant.

The test required by section 10 is known as the “comparator test”. The comparator test requires that the treatment of the complainant be compared to the treatment of others who lack their protected attribute.

The comparator test is marred with difficulties in its application, making litigation more complex (and therefore costly) and providing unpredictable results. The requirement to create an artificial comparator with all the characteristics of the complainant, apart from the attribute can create bizarre outcomes that frustrate the objects of the legislation. This is because it is necessary to invoke a comparison in circumstances that are ‘not materially different’.

The difficulties with the comparator test are particularly evident in cases where it is impossible to construct a comparator who does not have a characteristic of the attribute or another attribute.

A recent case example of this problem is the decision in *Woodforth v State of Queensland*<sup>3</sup> (Woodforth) where the complainant was hearing impaired and alleged that the police had treated her less favourably because of her communication difficulties which are a characteristic of a person with hearing impairment. The appeal tribunal found that the correct comparator in this case was a person who did not have a hearing impairment but who did have communication difficulties. The appeal tribunal found:

*We do not consider that there was any evidence, or sufficient evidence, to support a finding that Ms Woodforth was treated less favourably than another person who had communication difficulties would have been treated in the same or similar circumstances on those dates.*<sup>4</sup>

The Queensland direct discrimination provision is slightly different to the direct discrimination provisions in other jurisdictions that still have the ‘comparator test’.<sup>5</sup>

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<sup>3</sup> [2016] QCATA 007

<sup>4</sup> *Ibid* at [62]

The Queensland direct discrimination provision does not refer to causation. Section 15 of the Anti-Discrimination Act "... does not refer to the respondent treating the complainant less favourably on the ground of, or by reason of, a prohibited attribute. There are no words of connection between the conduct of the respondent and the protected attributed of the complainant."<sup>6</sup> It appears that the courts and tribunals in Queensland have interpreted the direct discrimination provision in the way they would if it contained an express causation requirement.<sup>7</sup> In the case of *State of Queensland v Sharif Mahommed*, Justice Lyons stated<sup>8</sup>:

*A finding of direct discrimination on the basis of religious belief or religious activity requires a causal nexus that shows that a complainant is treated in a particular way because of his religion.*

The lack of an express causation requirement unnecessarily complicates matters.

The Australian Capital Territory<sup>9</sup> and Victoria<sup>10</sup> have removed the need for a formal comparator from their direct discrimination tests. LAQ prefers the 'detriment test' which has been introduced in those jurisdictions over the current 'comparator test'. In applying the 'detriment test' it is necessary to show that a person is treated unfavourably because of their protected attribute. This test does not require the formulation of a comparator. It is acknowledged, however, that a comparison exercise may still be relevant to the decision-maker's consideration of the basis for the unfavourable treatment. It is, however, just one factor to be weighed up among all the relevant facts and circumstances.

The inability to satisfy a technical legal test should not necessitate the failure of an otherwise meritorious claim in this beneficial jurisdiction. It is our experience that many clients who have been subject to discrimination are reluctant to pursue their rights under the Anti-Discrimination Act because of the difficulty in making the technical legal arguments necessary to prove a claim of direct discrimination.

Legal Aid Queensland submits that the direct discrimination definition in section 10 of the *Anti-Discrimination Act 1991* be amended to require a detriment test rather than the current comparator test.

### *Indirect Discrimination*

The legal protections against indirect discrimination recognise that treating all people the same may disadvantage some people or groups of people.<sup>11</sup>

Section 11 of the Anti-Discrimination Act currently provides:

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<sup>5</sup> *Sex Discrimination Act 1984* (Cth), *Disability Discrimination Act 1992* (Cth), *Age Discrimination Act 2004* (Cth), *Anti-Discrimination Act 1977* (NSW), *Equal Opportunity Act 1984* (WA).

<sup>6</sup> Neil Rees, Simon Rice, Domonique Allen, *Australian Anti-Discrimination Law* (2<sup>nd</sup> Edition, 2014), page 107

<sup>7</sup> *Ibid.*

<sup>8</sup> [2007] QSC 018 at [47]

<sup>9</sup> *Discrimination Act 1991* (ACT) s 8(1).

<sup>10</sup> *Equal Opportunity Act 2010* (Vic) s8 (1).

<sup>11</sup> Victorian Equal Opportunity and Human Rights Commission, *Victorian Discrimination Law* (2013), page 22.

(1) Indirect discrimination on the basis of an attribute happens if a person imposes, or proposes to impose, a term—

- (a) with which a person with an attribute does not or is not able to comply; and
- (b) with which a higher proportion of people without the attribute comply or are able to comply; and
- (c) that is not reasonable.

(2) Whether a term is reasonable depends on all the relevant circumstances of the case, including, for example—

- (a) the consequences of failure to comply with the term; and
- (b) the cost of alternative terms; and
- (c) the financial circumstances of the person who imposes, or proposes to impose, the term.

(3) It is not necessary that the person imposing, or proposing to impose, the term is aware of the indirect discrimination.

(4) In this section—

term includes condition, requirement or practice, whether or not written.

*Example 1—*

*An employer decides to employ people who are over 190cm tall, although height is not pertinent to effective performance of the work. This disadvantages women and people of Asian origin, as there are more men of non-Asian origin who can comply. The discrimination is unlawful because the height requirement is unreasonable, there being no genuine occupational reason to justify it.*

*Example 2—*

*An employer requires employees to wear a uniform, including a cap, for appearance reasons, not for hygiene or safety reasons. The requirement is not directly discriminatory, but it has a discriminatory effect against people who are required by religious or cultural beliefs to wear particular headdress.*

The current test for indirect discrimination requires a complainant to prove that:

1. A term has been imposed or proposed to be imposed by the respondent;
2. The complainant does not or is not able to comply with the term;
3. A higher proportion of people without the complainant's attribute could comply with the term; and
4. The term is not reasonable.

The current authority suggests that the requirement that the complainant does not or cannot comply, is not as literal as the words might imply. The words have been interpreted to include a situation where compliance with a term would cause 'serious disadvantage' to a complainant.<sup>12</sup> However, this is not always the case.<sup>13</sup>

LAQ prefers the test for indirect discrimination used in the *Age Discrimination Act 2004* (Cth)<sup>14</sup>, the *Sex Discrimination Act 1984* (Cth)<sup>15</sup>, and the Victorian<sup>16</sup>, Tasmanian<sup>17</sup>, and ACT<sup>18</sup> anti-discrimination legislation where the complainant is not required to prove that they did not, or cannot comply with the term, condition or practice.

Removing the requirement to show that a complainant does not or cannot comply, altogether, as has been done in the jurisdictions set out above, will mean that complainants with legitimate discrimination claims will not be prevented from succeeding in their discrimination claim, just because they could 'cope' with a discriminatory term.

The current test for indirect discrimination also requires that the complainant show that a higher proportion of people without their attribute could comply with the term. This 'proportionality test' presents complainants with significant difficulties in identifying a base group.<sup>19</sup>

Rather than the 'proportionality test' LAQ prefers a test of 'detriment' or 'disadvantage', such as that in the *Age Discrimination Act 2004* (Cth).<sup>20</sup>

Legal Aid Queensland submits that section 11 of the *Anti-Discrimination Act 1991* be amended to remove the requirement that complainants prove that they did not or cannot comply with the term, condition or practice.

## The Child Protection Act 1991

The *Child Protection Act 1999* provides in section 5A that the paramount principle for administering the Act is that the safety, wellbeing and best interest of a child are paramount. In section 5B the Act sets out other general principles including that a child has a right to be protected from harm or risk of harm and that if a child does not have a parent who is able and willing to protect the child, the State is responsible for protecting the child. One of the ways in which the Act seeks to give effect to these principles is by the

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<sup>12</sup> *Hurst v Queensland* (2006) 151 FCR 562

<sup>13</sup> For example, *Hinchliffe v University of Sydney* (204) 186 FLR 376, 476 [115-116] and *Ball v Silver Top Taxi Service Ltd* [2004] FMCA 967, [70]

<sup>14</sup> s 15(1)

<sup>15</sup> s 5(2)

<sup>16</sup> *Equal Opportunity Act 2010* (Vic) s 9(1).

<sup>17</sup> *Anti-Discrimination Act 1998* (Tas) s 15(1).

<sup>18</sup> *Discrimination Act 1991* (ACT) s 8(1)(b).

<sup>19</sup> *Australian Iron & Steel Pty Ltd v Banovic* (1987) 168 CLR 165

<sup>20</sup> s 15(1)(c). See also *Disability Discrimination Act 1992* (Cth), s6(1)(c) and *Equal Opportunity Act 2010* (Vic) s 9(1)(a).

inclusion of a 'statement of standards' in section 122 of the Act and a 'Charter of Rights' in section 4 of the Act and schedule 1 to the Act, applicable to children who are in care;

The 11 standards in section 122(1) include:

- (a) *the child's dignity and rights will be respected at all times;*
- (b) *the child's needs for physical care will be met, including adequate food, clothing and shelter;*
- (d) *the child's needs relating to his or her culture and ethnic grouping will be met;*
- (g) *the child will receive positive guidance when necessary to help him or her to change inappropriate behavior.*

Also, section 122(2) provides that for section 122(1)(g), techniques for managing the child's behaviour must not include corporal punishment or punishment that humiliates, frightens or threatens the child in a way that is likely to cause emotional harm.

The rights in the Charter of Rights of a Child in Care include the right:

- (a) *to be provided with a safe and stable living environment;*
- (b) *to be placed in care that best meets the child's needs and is most culturally appropriate;*
- (c) *to maintain relationships with the child's family and community;*
- (d) *to be consulted about, and to take part in making, decisions affecting the child's life (having regard to the child's age and ability to understand), particularly decisions about where the child is living, contact with the child's family and the child's health and schooling.*

The Office of the Public Guardian under section 128 of the *Public Guardian Act 2014* is the only entity empowered to seek review of decisions under section 122 (statement of standards) of the Child Protection Act; that is a decision by the chief executive to take, or not to take, a step under section 122 of the Child Protection Act for the purpose of ensuring a child placed in care under section 82 of that Act is cared for in a way that meets the statement of standards under section 122 of that Act.

There are also other reviewable decisions, such as decisions about placement and contact (see sections 86(2) & 87(2) and schedule 2 of Child Protection Act) that it could be argued allow children to enforce some of the stated rights. However, there is no mechanism to enforce majority of the stated rights, other than judicial review.

Legal Aid Queensland submits that a Human Rights Act should include a statement of the rights of a child in care, so that children in care have the benefits of any remedies contained in the Human Rights Act for breach of their rights.



# Operation and effectiveness of human rights legislation in other jurisdictions

## Application of human rights legislation

Both the *Charter of Human Rights and Responsibilities Act 2006* (Victoria) and the *Human Rights Act 2004* (ACT) establish certain rights and provide that new legislation, including subordinate legislation, contain a statement or certificate of compatibility with the human rights legislation. Courts can also declare that legislation is incompatible with the human rights legislation although this does not invalidate the legislation. Also, new legislation does not have to be compatible with the human rights legislation. Parliament may expressly declare that an Act or a provision has effect despite being incompatible with the human rights legislation. A member of Parliament introducing such legislation must make a statement to the Parliament in that regard including an explanation of the exceptional circumstances that justify incompatibility.

Under the Victorian legislation claims under the Charter may only be raised in legal proceedings if the person has another legal claim that Charter arguments can be 'tacked on' to.<sup>21</sup> Under the Australian Capital Territory legislation there is a stand-alone right to bring proceedings in the Supreme Court for a breach of a right and the court can grant any remedy it considers appropriate except damages. This aspect of human rights legislation is discussed below.

The human rights legislation of both the Australian Capital Territory and Victoria require public authorities to act in accordance with the rights contained in the legislation.

## Rights contained in human rights legislation

The rights contained in the Victorian and Australian Capital Territory legislation are similar. They include:

- recognition and equality before the law;
- right to life;
- protection from torture and cruel, inhuman or degrading treatment
- protection of the family and children; and
- rights in criminal proceedings.

The rights in criminal proceedings in the Victorian legislation include:

- presumption of innocence;
- to be informed promptly and in detail of the nature and reason for a charge in a language or type of communication the person understands;
- to have adequate time and facilities to prepare a defence and to communicate with a lawyer;
- to be tried without reasonable delay;

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<sup>21</sup> *Charter of Human Rights and Responsibilities Act 2006 (Vic)*, s 39; see also *Director of Housing v Sudi* (2011) 33 VR 559

- to examine, or have examined, witnesses against him or her, unless otherwise provided for by law;
- to obtain the attendance and examination of witnesses on his or her behalf under the same conditions as witnesses for the prosecution;
- to have the free assistance of an interpreter if he or she cannot understand or speak English;
- to have the free assistance of assistants and specialised communication tools and technology if her or she has communication or speech difficulties that require such assistance; and
- not to be compelled to testify against himself or confess guilt.

Also:

- a child charged with a criminal offence has the right to a procedure that takes account of his or her age and the desirability of promoting the child's rehabilitation;
- any person convicted of a criminal offence has the right to have the conviction and any sentence imposed in respect of it reviewed by a higher court in accordance with law;
- a person must not be tried or punished more than once for an offence in respect of which he or she has already been finally convicted or acquitted in accordance with law.

There are also certain safeguards against retrospective operation of criminal laws.

Both the Victorian and Australian Capital Territory legislation provide for a right to legal assistance in criminal proceedings. In the Victorian legislation it is clearly stated that the right to legal assistance under the *Legal Aid Act 1978 (Vic)* only applies if the person is eligible. The Australian Capital Territory legislation provides for a right to legal assistance if the interests of justice require that the assistance be provided, and to have the legal assistance provided without payment if the person cannot afford to pay for assistance.

Both the Victorian and Australian Capital Territory legislation also have rights against double jeopardy. If a similar approach to that taken in Victoria and the ACT were taken, an exception would need to be made for the extent to which Chapter 68 of the Criminal Code changed the pre-existing law in relation to double jeopardy.

Only the Australian Capital Territory has a right to compensation for wrongful conviction in certain circumstances.

Legal Aid Queensland supports the currently existing rights in criminal proceedings being articulated in any Human Rights Act.

Any provisions regarding the right to legal assistance would need to allow for Legal Aid Queensland's means and merit tests and guidelines and the availability of legal aid funding, in order not to jeopardise the sustainability of the legal aid system.

Legal Aid Queensland would wish to be further consulted in relation to any proposed provisions that may affect it.

## Features for inclusion in a Queensland Human Rights Act

The following submissions are informed by the statutory review of the *Human Rights and Responsibilities Act 2006* (Victoria) by Michael Brett Young, former Chief Executive Officer of the Law Institute of Victoria and partner of Maurice Blackburn, commissioned by the Victorian Government, as required by the Act.

### Stand-alone cause of action

If there is no ability to enforce the rights granted under a Human Rights Act those rights, lose their meaning.

We note that the *Human Rights Act 2004* (ACT) contains a stand-alone cause of action that gives an individual the right to commence proceedings in the Supreme Court against a public authority for breaches of the Act.<sup>22</sup> The Supreme Court has jurisdiction to grant any relief it considers appropriate except damages.<sup>23</sup>

Currently, under the Victorian Charter claims under the Charter may only be raised in legal proceedings if the person has another legal claim that Charter arguments can be 'tacked on' to.<sup>24</sup>

Mr Brett Young recommended that there be a stand-alone cause of action which can be commenced in the Victorian Civil and Administrative Tribunal (VCAT)<sup>25</sup> and that the Victorian Equal Opportunity and Human Rights Commission be given the function to resolve disputes under the Charter.<sup>26</sup> He also recommends that if the Tribunal finds that a public authority has acted incompatibly with a Charter right, it should have power to grant any relief or remedy that it considers just and appropriate, excluding the power to award damages.

Legal Aid Queensland supports a Human Rights Act containing a stand-alone cause of action for breach of rights, except damages.

### Anti-Discrimination Commission to investigate and conciliate complaints

Under any Human Rights Act there should be a body empowered to investigate and conciliate human rights complaints. Given that the Anti-Discrimination Commission Queensland (ADCQ) already preforms this role in relation to complaints of discrimination in Queensland we consider that the ADCQ would be an appropriate body to perform this function. It is essential that the ADCQ be appropriately resourced to undertake this role.

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<sup>22</sup> *Human Rights Act 2004* (ACT), s 40C(2)

<sup>23</sup> *Human Rights Act 2004* (ACT), s 40(4)

<sup>24</sup> *Charter of Human Rights and Responsibilities Act 2006* (Vic), s 39; see also *Director of Housing v Sudi* (2011) 33 VR 559

<sup>25</sup> *Ibid*, recommendation 27

<sup>26</sup> *Ibid*, recommendation 23.

Legal Aid Queensland submits that the Anti-Discrimination should be renamed the Anti-Discrimination and Human Rights Commission and provided with power to investigate and bring actions for systemic human rights breaches, including representative actions.

### Queensland Civil and Administrative Tribunal jurisdiction to hear and determine complaints

If a human rights complaint is not resolved through a conciliation process there should be the ability for the complainant to have the complaint referred to an adjudicative body for determination

It would be prohibitively expensive for most individuals to bring an action in the Supreme Court. Consideration should therefore be given to providing the Queensland Civil and Administrative Tribunal (QCAT) with jurisdiction to hear and determine actions for breach of rights. QCAT's experience in dealing with complaints under the Anti-Discrimination Act could easily be applied in dealing with complaints under a Human Rights Act.

It is LAQ's view that a Human Rights Act should also empower the QCAT to order a full range of remedies for breaches of the act. We note Michael Brett Young's comment following the review of the Victorian legislation:

*Providing for human rights without corresponding remedies sends mixed messages to the public sector and to the community about the importance of those rights.<sup>27</sup>*

Regarding costs, consideration could be given to applying the costs rules set out in Division 6 of the *Queensland Civil and Administration Tribunal Act 2009* (Qld) to applications determined by QCAT under a Human Rights Act. That is, that each party should bear their own costs unless the tribunal determines that it is in the interests of justice for a costs order to be made.

Legal Aid Queensland submits that the Queensland Civil and Administrative Tribunal should have jurisdiction to hear and determine actions for breach of human rights.

### Reporting of conciliation outcomes

It is also essential to provide for reporting of problems and outcomes for matters investigated and resolved by the investigative body. In providing for reporting, it is important to balance the privacy for individual

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<sup>27</sup> Michael Brett Young, *From Commitment to Culture: The 2015 Review of the Charter of Human Rights and Responsibilities Act 2006* available at <http://www.justice.vic.gov.au/home/justice+system/laws+and+regulation/human+rights+legislation/2015+review+of+the+charter+of+human+rights+and+responsibilities+act+2006> at page 127

matters going through a Commission conciliation process with the public interest in identification and addressing of systemic issues. There are a number of options available to manage this tension including:

1. Leaving it to individual complainants to refuse to settle on confidential grounds if they 'represent' a community of interests;
2. Encouraging or requiring individual conciliators to talk with respondents about addressing systemic issues as a risk management strategy;
3. Requiring State parties to report internally or publically when systemic issues are identified including declaring the human rights implications of actions (or non-action) proposed or undertaken in responses;
4. Making a self-reporting register facility available for parties who would be encouraged to agree on a summary of the matter to be included in a register of outcomes;
5. Allowing the Commission to make a de-identified summary of important matters, even when confidentially settled, and publish those summaries;
6. Requiring the Commission to make a de-identified summary of all conciliated matters and creating a publically available, easily searchable database of problems and outcomes; or
7. Requiring open reporting of conciliated outcomes.

The Australian Human Rights Commission conciliation register is an excellent example of a simple to use register which manages to balance confidentiality with appropriate reporting. It is essential that such a register be comprehensive and kept up to date.

Legal Aid Queensland supports the establishment of a register similar to the Australian Human Rights Conciliation Register for reporting the outcomes of human rights breach investigations and problems encountered in the course of investigations.

## Costs of adopting a Human Rights Act

If a Human Rights Act is adopted, there will be attendant costs.

If the Victorian and Australian Capital Territory model is adopted, additional government legal and policy resources will be required to ensure that every new Bill introduced into Parliament includes a statement of compatibility with the Human Rights Act. Also, if there is a requirement for Government agency staff to be familiar with the charter, funds will need to be expended on training which will need to be ongoing as new staff join agencies and the law in relation to the Charter develops. There will also be costs related to reporting and investigating.

Another significant cost implication of introduction of a Human Rights Act, and one which is likely to impact on Legal Aid Queensland, are costs related to litigation arising from the legislation. This is difficult to quantify and will very much depend on the nature of the rights included in any charter and whether there is a stand-alone cause of action for breaches of the rights. The effectiveness of a stand-alone cause of action for breaches of rights would be reduced if vulnerable persons who would normally seek legal assistance were unable to obtain legal assistance to enforce their rights. This would necessitate additional funding for Legal Aid Queensland and community legal centres.