

# **Inclusion & Equality for Queenslanders with disability**

**Endeavour Foundation submission to the Legal  
Affairs and Community Safety Committee Inquiry:**

**Human Rights Act 2018**

## Endeavour Foundation Submission: Human Rights Act 2018

Committee Secretary  
Legal Affairs and Community Safety Committee  
Parliament House  
George Street  
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*By email: lacsc@parliament.qld.gov.au*

Dear Committee Members,

Endeavour Foundation thanks the Legal Affairs and Community Safety Committee for the opportunity to provide a submission to the Human Rights Act 2018 Inquiry.

Endeavour Foundation is an independent, not-for-profit organisation, established in Queensland in 1951. Our organisation began with a vision to support people with intellectual disability to live their best life – starting with equal access to education and life-skills learning.

Today we are a diverse human service organisation, providing expanded employment opportunities and support, day services, independent living skill development, community access and lifestyle support for 4000 people with disability in Queensland, New South Wales and Victoria.

We support people with intellectual disability to live, learn, work and flourish according to their own interests and priorities.

### Human rights have special importance for people with a disability

Endeavour Foundation supports the introduction of a Human Rights Act in Queensland, as a means of protecting people with a disability and vulnerable members of society from human rights violations.

While Queensland's existing Anti-Discrimination legislation protects people from discrimination on the basis of impairment (and other forms of discrimination), it is our view that the Human Rights Act 2018 offers a valuable foundation for the future by specifically affirming certain human rights that must be extended to all people.

We believe that enshrining these rights in legislation will create an increased awareness and acceptance of the rights and needs of people with a disability throughout our society.

The Human Rights Act will also create a heightened understanding within the public service (and publicly funded organisations) of the importance of ensuring social services are fully accessible and inclusive of all citizens.

We also acknowledge that a Human Rights Act will not be a panacea for the entrenched discrimination that people with a disability face as they go about their lives each day.

We expect the introduction of a Human Rights Act to bring a cultural change which will, over time, deliver improved inclusion and access for people with a disability, without creating a significant additional cost to government, business or the social sector.

We note that some of the rights named within the Human Rights Act have special relevance for people with a disability.

### The Right to Education

In particular we welcome the right to education for all children and young people, appropriate to their needs.

This right is of special significance to the members of our organisation, which was founded by a group of concerned parents whose children had been excluded from state-run schools on the basis of their intellectual disability.

We recognise that education provides the foundation for all children and young people to grow, develop and become fully participating members of society. It is essential that children and young people with a disability avoid the lifelong social, economic and health disadvantages that are associated with a lack of appropriate educational opportunities.

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Endeavour Foundation is aware of instances in which young people living with disability are still denied educational opportunities appropriate to their needs *on the basis of their disability*, within the state school system.

In some cases the Department effectively excludes young people with a disability from education by failing to provide a physically accessible setting, by failing to provide appropriate assistance and support for students with disability to fully participate in learning alongside their peers, or even by denying the validity of medical diagnoses which require specific learning support.

By including the right to education within the Human Rights Act 2018, the Queensland Parliament will affirm that it is no longer acceptable to exclude a child or young person from access to primary or secondary education, on the basis of disability.

Protecting educational opportunities for all young Queenslanders will open pathways to independence and self-determination for people with a disability, as fully participating members of society, to the benefit of all.

### The Right to Health Services

Endeavour Foundation also welcomes the right of access to health services, and to emergency medical treatment for every person.

Sadly we are aware of many situations in which health services have fallen badly short for people with a disability.

In one instance a man with intellectual disability living in Far North Queensland went to see his General Practitioner regarding significant neck pain. The doctor refused to carry out any investigations to identify the cause of the pain, and did not provide pain relief. When challenged by a support worker, the doctor rationalised his failure to provide adequate health care by saying: "he has a disability; he's not going to get better anyway". This is despite the fact that the man was clearly experiencing discomfort, and his intellectual disability was in no way related to the symptoms of neck pain.

In another situation, a person with intellectual disability had been living an active and independent life, was employed, used public transport regularly and enjoyed social engagement within the community. The individual sustained a hip injury and went to hospital for surgery. Afterwards the hospital planned to send the person home again without completing the usual course of rehabilitation needed to regain full mobility. Because the person had an intellectual disability the medical staff did not consider it important to provide the patient with the usual course of treatment needed to regain their mobility. Only after advocacy by a social worker was the person given access to rehabilitation services, enabling them to recover full strength and movement, and assume their previously active, socially-engaged and independent life.

It is also of serious concern that health care professionals often do not recognise that they are assessing or treating a person who has a brain injury, developmental delay or intellectual disability. They may pay little attention to what the patient says, on the assumption that they are affected by alcohol.

In other instances health care professionals may not allow adequate time for a person to express important information or articulate their decisions in the course of a health care consultation; or they simply assume that someone experiencing difficulty with verbal communication must also have a low IQ and therefore be unable to make informed health decisions.

While many wonderful and caring people are employed in health care roles, these examples reveal some individuals hold deeply devaluing attitudes towards people with a disability.

It is important for the health and wellbeing of people with a disability that we achieve cultural change, improve awareness and reduce discrimination within the health care sector.

### Strengthening the Shield

Endeavour Foundation strongly supports the proposed Human Rights Act, which offers more extensive rights than any other Australian state or territory, by including health services and education as human rights.

We support the creation of a Human Rights Commission to mediate human rights complaints, which will offer an accessible forum for concerns to be heard without the need for legal representation.

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Endeavour Foundation also supports the requirement of the Commission to prepare a report or notice of the outcome of human rights complaints, which we believe serves public transparency and will provide a small deterrent to human rights abuses. Combined with powers to obtain relevant information from public entities, the Human Rights Commissioner will be well situated to drive cultural change in Queensland.

In addition to these provisions, we would welcome a provision for matters to be referred from the Human Rights Commission to the Queensland Civil and Administrative Tribunal, which has extensive experience making determinations involving people with a disability.

We believe the Human Rights Act would be further strengthened by an independent cause of action, allowing people to seek legal help for serious Human Rights breaches.

Furthermore, we believe the State Government must commit adequate resources to achieve a thorough understanding and acceptance of human rights in the public sector and other organisations covered by this legislation.

We hope that through the introduction of a Human Rights Act, state and commonwealth funding bodies will acknowledge that human rights can be better supported by providing quality therapeutic supports and environments for people with disability who have complex needs.

The National Disability Insurance Agency has already recognised the foundational importance of human rights as underlying principles for the National Disability Insurance Scheme's Quality and Safeguarding Framework. As such we consider it is important for the Human Rights Act to be passed as soon as possible.

Finally, in order for the Human Rights Act to deliver genuine change in the lives of people with a disability, it is essential that opportunities are made available for people to become fully informed about their human rights. Only then can people begin the conversations and actions needed to deliver a human rights culture in Queensland.

Endeavour Foundation welcomes the passage of the Human Rights Act 2018 and thanks the Legal Affairs and Community Safety Committee for the opportunity to contribute to their important work.

Sincerely,



**DAVID CURD  
INTERIM CHIEF EXECUTIVE OFFICER  
ENDEAVOUR FOUNDATION**

