

Human rights

Human rights are the basic rights that belong to all of us just because we are human beings. They have been recognised around the world as the basic standards required for governments, societies and communities to operate in a respectful and peaceful manner.

Human rights are the foundation for freedom, justice, peace and respect, and are an essential part of any democratic and inclusive society that respects the rule of law, human dignity and equality.

Everyone has the same human rights: men, women, and children, rich and poor, and all nationalities and faiths. Human rights are about recognising and respecting the dignity of other people.

Our human rights include:

- civil and political rights
- economic and social rights
- environmental and cultural rights.



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DISCLAIMER: This information is intended as a guide only. It is not a substitute for legal advice.

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Your right to rights

The Victorian Charter of Human Rights and Responsibilities



Victorian Equal Opportunity & Human Rights Commission

recognition and equality before the law right to protection from torture and cruel, inhuman or de treatment freedom from forced work freedom privacy and reputation freedom of thought, religion and belief freedom of expression peace and freedom of association protection of family making part in public life cultural rights proper right to liberty and security humane treatment deprived of liberty children in the criminal proceeding rights in criminal proceeding right not or punished more than once retrospective criminal freedom of movement right to life peaceful assem

The Victorian Charter of Human Rights and Responsibilities

The Victorian *Charter of Human Rights and Responsibilities Act 2006 (Vic)* is an Act of Parliament that sets out our rights, freedoms and responsibilities.

Your rights protected by the Charter:

- recognition and equality before the law
- right to life
- protection from torture and cruel, inhuman or degrading treatment
- freedom from forced work
- freedom of movement
- privacy and reputation
- freedom of thought, conscience, religion and belief
- freedom of expression
- peaceful assembly and freedom of association
- protection of families and children
- taking part in public life
- cultural rights
- property rights
- right to liberty and security
- humane treatment when deprived of liberty
- children in the criminal process
- fair hearing
- rights in criminal proceeding
- right not to be tried or punished more than once
- retrospective criminal laws

How does the Charter work?

The Victorian Charter of Human Rights and Responsibilities contains an agreed set of human rights, freedoms and responsibilities protected by law. Government departments and public bodies must observe these rights when they create laws, set policies and provide services.

This means that Government, public servants, local councils, Victoria Police and others are required to act in a way that is consistent with the human rights protected under the Charter.

All new laws require a Statement of Compatibility to tell Parliament whether they meet the standard set by the Charter. New laws are required to be checked against the Charter. If a law does not meet the human rights standards set out in the Charter then the Government is expected to explain how and why. In exceptional circumstances, Parliament may strike down a law that does not uphold human rights.

From 1 January 2008, the Supreme Court can issue a Declaration of Incompatibility requiring the Government to reconsider legislation but it does not have the power to strike down legislation. Parliament has the final say over what laws are in place in Victoria.

Why do we need it?

Although some human rights were protected in various other laws, several other basic and important rights, such as freedom of speech, freedom from forced work, and freedom from degrading treatment, had no clear legal protection.

The Charter is essentially a form of insurance to ensure that human rights are a priority for governments when making laws and providing services such as healthcare, education and law enforcement.

Most of us will not notice the operation of the Charter unless some attempt is made to remove or undermine a human right. For example, we do not expect the Government to prevent people from voting on election day, nor do we expect police to monitor our phone calls or for our local council to stop a meeting with a community group. These are all rights contained in the Charter.

The Victorian Equal Opportunity and Human Rights Commission

Under the Charter, the Victorian Equal Opportunity and Human Rights Commission (formerly the Equal Opportunity Commission Victoria) is responsible for:

- ensuring Victorians understand their human rights protections and obligations
- providing an independent assessment of how well State and local governments comply with the Charter.

To meet these responsibilities, the Commission will:

- report to the Attorney-General about how the Charter is operating in relation to new legislation and the courts
- work with community organisations to promote human rights and raise awareness about the Charter
- report to the Attorney-General about community perspectives on how the Charter is operating
- investigate particular human rights issues and concerns
- review the policies and practices of public authorities to ensure they comply with the Charter.

These responsibilities are in addition to the Commission's existing responsibilities which include:

- resolving complaints of discrimination, sexual harassment, and racial and religious vilification through its free, impartial conciliation process
- conducting education, consultancy services and research
- providing legal and policy advice
- informing Victorians about equal opportunity and racial and religious vilification laws.

