



The Charter of Human Rights and Responsibilities

> Rights protected under the Charter

Prior to the introduction of the *Victorian Charter of Human Rights and Responsibilities Act 2006*, some human rights were protected in law, however many rights were not adequately protected. Basic rights that many Victorians take for granted – such as the right to freedom of expression and freedom of association – were not protected by legislation. Many others, such as the right to privacy, are not recognised or protected under the common law. The Charter addresses this gap and the following 20 rights are now protected.

Your right to recognition and equality before the law (section 8)

Everyone is entitled to equal and effective protection against discrimination, and to enjoy their human rights without discrimination.

For example, police should not refuse to investigate a crime against a person without any justification, or, a government agency should not refuse to issue a person with a valid form of identification so a person can access important services.

Your right to life (section 9)

Every person has the right to life and to not have their life taken. The right to life includes a duty on government to take appropriate steps to protect the right to life.

For example, if the government takes on the care of person in prison or foster care, then they must take positive steps to ensure that the person is safe and able to live with dignity. The government must also take steps to investigate arbitrary or unlawful killings and punish offenders.

Your right to protection from torture and cruel, inhuman or degrading treatment (section 10)

People must not be tortured, treated or punished in a cruel, inhuman or degrading way. This includes protection from treatment that humiliates a person. People must treat each other with respect. People can choose to have medicine or therapy, or be in a medical experiment. This cannot be done without their full and informed consent.

For example, hospitals should have established procedures to make sure that patients scheduled for treatment understand what is involved and have agreed to the treatment.

Your right to freedom from forced work (section 11)

A person must not be forced to work or be made a slave. A person is a slave when someone else has complete control over them.

For example, an agency cannot force a person to work by threatening punishment if they don't perform the work. This does not include work done in detention because of a work court order, work done in the community because of a community order or a civic obligation such as jury service.

Your right to freedom of movement (section 12)

People can stay in or leave Victoria whenever they want to as long as they are here lawfully. They can move around freely within Victoria and choose where they live.

For example, public authorities should respect a person's general right to be in a public space, including the right to meet and spend time in public parks.

Your right to privacy and reputation (section 13)

Everyone has the right to keep their lives private. Your family, home or personal information cannot be interfered with, unless the law allows it.

For example, public housing tenants should be given access to secure lockers for their personal effects while their homes are renovated.

Your right to freedom of thought, conscience, religion and belief (section 14)

People have the freedom to think and believe what they want, for example, religion. They can do this in public or private, as part of a group or alone.

For example, a residential care facilities should have procedures to encourage residents to raise any special needs, and to provide for them in so far as is possible. This could include providing special food or a place to pray.

Your right to freedom of expression (section 15)

People are free to say what they think and want to say. They have the right to find, receive and share information and ideas. In general, this right might be limited to respect the rights and reputation of other people, or for the protection of public safety and order.

For example, public authorities should understand and respect people's right to hand out information in a public place.

Your right to peaceful assembly and freedom of association (section 16)

People have the right to join groups or unions and to meet peacefully.

For example, people have the right to march and rally in public to promote their cause. In general, it is the responsibility of the police to respect this right and allow people to rally peacefully.

Your right to protection of families and children (section 17)

Families are entitled to protection. Children have the same rights as adults with added protection according to their best interests.

For example, the right of couples with a disability to parent their own children can be promoted by the government providing extra support services, where it is in the best interests of the child to do so.

Your right to taking part in public life (section 18)

Every person has the right to take part in public life, such as the right to vote, or to get a job in government.

For example, people with a vision impairment have the right to vote privately in state elections. The government provides specialised computer software for people with a vision impairment to assist them to vote privately in Victorian state elections.

Cultural rights (section 19)

People can have different family, religious or cultural backgrounds. They can enjoy their culture, declare and practice their religion and use their languages. Aboriginal persons hold distinct cultural rights which must not be denied.

For example, a council meets with local aboriginal people to include their views in the council's inclusion strategy.

Property rights (section 20)

People are protected from having their property taken, unless the law says it can be taken.

For example, authorities cannot confiscate or seize a person's property unless it is illegal (i.e drugs), was purchased from the proceeds of a crime, or stolen.

Your right to liberty and security of person (section 21)

Everyone has the right to freedom and safety. The right to liberty includes the right to not be arrested or detained except in accordance with the law. The right to security means that reasonable steps must be taken to ensure the physical safety of people who are in danger of physical harm.

For example, government policy says that any service wishing to severely restrain a patient must first apply to the Senior Practitioner.

Your right to humane treatment when deprived of liberty (section 22)

People have the right to be treated with humanity if they are accused of breaking the law and are detained.

For example, people accused of a crime must be treated humanely and must not be detained with people who have already been convicted of a crime.

Rights of children in the criminal process (section 23)

A child charged with committing a crime or who has been detained without charge must not be held with adults. They must also be brought to trial as quickly as possible and treated in a way that is appropriate for their age. Children are entitled to opportunities for education and rehabilitation in detention.

For example, children are able to complete their high school certificate while in the juvenile justice system. It is the responsibility of the government to ensure this opportunity is provided.

Your right to a fair hearing (section 24)

A person has a right to a fair hearing. This means the right to have criminal charges or civil proceedings decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

For example, you have the right to take your matter to court; you have the right to advice and representation, such as Legal Aid if you are eligible; your hearing should go ahead without too much delay; and all relevant evidence should be disclosed. Sometimes, the right can extend to an obligation on a decision-maker to give you reasons for their decisions.

Rights in criminal proceedings (section 25)

There are a number of minimum guarantees that you have when you have been charged with a criminal offence. These include the right to be told the charges against you in a language you understand; the right to an interpreter if you need one; the right to have time and the facilities (such as a computer) to prepare

your own case or to talk to your lawyer; the right to have your trial heard without too much delay; the right to be told about Legal Aid if you don't already have a lawyer; you are presumed innocent until proven guilty; and you don't have to testify against yourself or confess your guilt unless you choose to do so.

Right not to be tried or punished more than once (section 26)

A person will only go to court and be tried once for a crime. This means if the person is found guilty they will only be punished once. If they are found to be innocent they will not be punished.

For example, a person charged with murdering a person can only be charged for that offence once.

Retrospective criminal laws (section 27)

A person has the right not to be prosecuted or punished for things that were not criminal offences at the time they were committed.



**Victorian Equal Opportunity
& Human Rights Commission**

Need more information?

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