



FACT SHEET:

Taking part in public life

Section 23 of the *Human Rights Act 2019*

Section 23 of the *Human Rights Act 2019* says that:

1. Every person in Queensland has the right, and is to have the opportunity, without discrimination, to participate in the conduct of public affairs, directly or through freely chosen representatives.
2. Every eligible person has the right, and is to have the opportunity, without discrimination
 - (a) to vote and be elected at periodic State and local government elections that guarantee the free expression of the will of the electors; and
 - (b) to have access, on general terms of equality, to the public service and public office.

Scope of the right

While every person in Queensland has the right to take part in public life, the Act makes it clear that this does not provide a right to specific outcome from their participation.

The Act limits the right to vote, be elected and have access to the public service and public service to 'eligible people'. This reflects the limitations attached to the right to vote and hold office, such as residence, age and imprisonment.

Like all rights in the Act, the right to participate in public life can be limited where it is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

What is participating in the 'conduct of public affairs'?

The Act does not define 'conduct of public affairs'. In reference to the International Covenant on Civil and Political Rights, the UN Human Rights Committee has given this concept a broad meaning saying:

"The conduct of public affairs...covers all aspects of public administration, and the formulation and implication of policy at international, national, regional and local levels." (UN Human Rights Committee, General Comment No. 25, [5]).

Examples of participating in the conduct of public life include:

- being a member of parliament;
- taking part in referendum or other electoral processes;
- being part of a community consultation with government;
- being able to attend and ask questions at a local council meeting;
- participating in public debate and dialogue with representatives (either as an individual or as part of an organisation).

Participation in 'public life' means participation in the political affairs and public administration of the State. The word 'public' life in this context does not mean 'community' life or 'social' life. The right to take part in public life does not mean the right to access public space through the use of public transport.

When this right could be relevant

Section 23 could be relevant to laws, policies, acts or decisions that:

- limit people's ability to take part in elections of local and state governments;
- require people to meet certain conditions in order to be eligible to participate in local and state elections;
- regulate how people vote in elections (for example, the method of voting);
- regulate eligibility and access to employment in the public service or appointment to public office;
- establish requirements for membership of public bodies;
- regulate the conduct of elections and the electoral process;
- regulate the suspension and conduct of local government;
- regulate the suspension and removal of statutory office holders;
- regulate electoral processes including funding of and expenditure by political parties and the drawing of electoral boundaries; or
- affect communication of information and ideas about public and political issues.

Example

ACCESS TO COUNCIL-OWNED SPACES A PART OF THE RIGHT TO PARTICIPATE IN PUBLIC LIFE

(Slattery v Manningham CC (Human Rights) [2013] VCAT 1869)

Mr Slattery was a resident and ratepayer of the City of Manningham. He had lived in the City of Manningham for many years, and had been an active and contributing member of the community. Mr Slattery was diagnosed with bipolar disorder, attention deficit hyperactive disorder and post-traumatic stress disorder. He also had an acquired brain injury and a hearing impairment. Mr Slattery made thousands of complaints to Manningham City Council. Eventually the Council decided to prohibit Mr Slattery from attending any building that is owned, occupied or managed. This meant that Mr Slattery was prohibited from going to council pools with his grandchildren, attending the library and using public toilets. Mr Slattery successfully claimed that the Council's actions breached the Victorian Charter, including engaging the right to participate in public life.

This factsheet is not intended to be a substitute for legal advice.