Human Rights

The Australian Human Rights Commission defines human rights as:

- the recognition and respect of peoples dignity
- a set of moral and legal guidelines that promote and protect a recognition of our values, our identity and ability to ensure an adequate standard of living
- the basic standards by which we can identify and measure inequality and fairness
- those rights associated with the UN Declaration of Human Rights.

Even if an individual has a disability they are still entitled to the same human rights as everyone else in the community. Examples include:

**Accommodation:** the right to safe and secure accommodation.

**Health care and medical treatment:** the right to have access to health care, medical professionals and medical treatment for health conditions.

**Services:** access to a broad range of specialist and generic services, to meet current needs, wants and preferences as fully as possible.

How are human rights protected in Australia?

In Australia human rights are protected in a variety of ways. Rights are found in the constitution, common law, and specific legislation which aims to preserve the rights of people with a disability including:

- Convention on the Rights of Persons with Disabilities (CRPD)
- Disability Discrimination Act 1992 (DDA)
- The Guardianship Act 1987 (NSW).

How can guardians preserve human rights when making decisions?

- Give paramount consideration to the individuals welfare and interests
- Where possible talk to the person about their wishes and views
- Where appropriate engage in supported decision-making to promote choice and control
- Make decisions that restrict the person as little as possible in their freedom of decision-making and in their actions
- Protect the individual from neglect, abuse and exploitation
- Seek discharge from guardianship if other options become available.
**The Right to Medical Treatment**  
**Involuntary Drug and Alcohol Treatment**

The Involuntary Drug and Alcohol Treatment (IDAT) Program began in September 2012. It gives short term care, including involuntary supervised withdrawal, to people with severe substance dependence. It replaces the Inebriates Act.

**Who is eligible?**
- People over 18 years with severe substance dependence
- People who have experienced or are at risk of serious harm and whose decision making capacity is compromised due to substance use.

**Initial Screening Criteria**
- Evidence of severe substance dependence.
- Where care, treatment or control is required to protect the person from serious harm.
- Where the person is likely to benefit from treatment but has previously refused.
- Where there are no other less restrictive treatment options available.

**How does it work?**
- Anyone can raise concerns by talking to a Medical Practitioner or an Involuntary Treatment Liaison Officer (ITLO).
- A Medical Practitioner or ITLO can then assess eligibility.
- If the person is eligible then a referral can be made for a Dependency Certificate. A Dependency Certificate is only issued if there is a treatment bed available. There are only 8-12 beds in NSW.

**Issues for guardians**
- Guardians are considered ‘Primary Carers’ and can ask for an assessment.
- Guardians may be required to provide information or reports to ITLO.
- Guardians need to be involved in discharge planning & community based care.

**Where to go for more information**
- Ring ADIS (Alcohol and Drug Information Service) 02 9361 8000 or 1800 422 599 and ask for contact details for the local ITLO.

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**The Right to Sexual Expression**

*A private guardian’s experience*

My name is Louise and I am the guardian for my brother Bob, a twenty year old man with a moderate intellectual disability. These are my recent experiences in helping Bob make decisions about his sexuality. Over the years, support workers had raised on-going concerns about Bob’s attitude and behaviour towards women. Attempts had been made to address goals around this behaviour however it was evident that there was reluctance to address the issue in a proactive way. There were no policy or guidelines around relationships and sexuality in the organisation. We eventually engaged the help of a sex educator who specialised in the area of disabilities. Following this I contacted People With Disability Australia (PWD), an agency which works with “Touching Base”, and provides a referral service linking clients to specialist sex workers. Bob now sees a wonderful sex worker who provides him with an experience that is deeply meaningful, and which is helping him to understand that his sexual expression is ok with the right person, in the right place.

Thank you for your feedback Louise

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**The Right to be Safe...**

In September 2012 the Crimes Act was amended so that a legally appointed guardian is able to apply for an Apprehended Violence Order (AVO) on behalf of a person under guardianship.