

Evidence Law Review

Introduction to our review

Background Paper 1

April 2026



Published by:

Queensland Law Reform Commission

Postal address: PO Box 13312, George Street Post Shop, Brisbane, QLD 4003

Telephone: (07) 3564 7777

Email: LawReform.Commission@justice.qld.gov.au

Website: www.qlrc.qld.gov.au

© State of Queensland (Queensland Law Reform Commission) 2026

ISBN 978-1-923274-85-3

Contents

Summary	4
Introduction	5
Our review process	6
Guiding principles	8
Human rights	9
The role and purpose of evidence law	10
Queensland evidence law	13
Uniform evidence law	17
Key issues	19
Next steps	22
Appendices	23
References	26

Summary

This Background Paper is the first publication in our review of Queensland evidence law.

There are several sources of Queensland evidence law. The primary rules of evidence are set out in the Evidence Act 1977 (Qld) ('Queensland Evidence Act') and in the common law, which is the body of law developed through judicial decisions. Rules of evidence are also contained in other legislation, rules and practice directions.

This paper explains the key concepts for our review, introduces our terms of reference and explains the scope of our review and our review process. We explain our approach to developing recommendations and draft legislative provisions based on our recommendations that are consistent with our guiding principles and compatible with human rights. We explore the central role of evidence law in the fair, effective and efficient administration of justice.

This paper then summarises Queensland evidence law, providing an overview of its structure and historical development. We discuss Uniform Evidence Law ('UEL'), developed by the Commonwealth and progressively implemented in all Australian jurisdictions except Queensland and South Australia over the last 30 years. We discuss the extent to which Queensland has already adopted UEL rules and terminology.

Finally, we identify some of the key issues with Queensland evidence law and UEL, as well as issues that may arise in the reform of Queensland evidence law. We invite your feedback and discuss how you can become involved in our review.

Introduction

1. We are reviewing Queensland evidence law.
2. Evidence is the material that can be given to a court to enable the fact finder (judge, magistrate or jury) to decide the matters in dispute. Evidence law comprises the rules and legal principles that manage how facts in a legal proceeding may be proved. It regulates how evidence is gathered and presented, focusing on proving disputed facts. Evidence law is based on concepts of reliability and fairness.
3. Our review will examine the scope, operation and suitability of the Queensland Evidence Act to ensure the effective administration of justice in Queensland and the protection of victims, without reducing existing rights or safeguards. We will prepare draft legislative provisions based on our recommendations. Our terms of reference are set out in **Appendix A** and are available on our [website](#).
4. We are conducting our review in the context of the development and progressive adoption of UEL in Australia. UEL now forms the basis of evidence law in all Australian jurisdictions except Queensland and South Australia. We will consider the desirability of streamlining evidence law and whether adopting all, or further parts, of UEL in Queensland is appropriate. In maintaining existing rights and safeguards, we must consider legislative and common law developments, including recent amendments to the Queensland Evidence Act implemented to respond to recommendations of reviews and inquiries or to modify the common law.
5. Our review is not confined to the Queensland Evidence Act. As we discuss further below, Queensland evidence law is also contained in other laws, rules and practice directions and is established by common law. We are asked to consider whether a reformed Act should cover all aspects of evidence law or whether some aspects should be separately legislated. This requires us to consider the future role of common law rules of evidence and whether they should be legislated in a reformed Act.
6. Our review covers the broad scope and continuum of Queensland evidence law's operation, including in criminal and civil proceedings and in pre-trial procedures. It includes considering its appropriate application in different contexts, including child sexual abuse matters and matters involving domestic and family violence.
7. We must also consider the law's response to relevant recent and likely future developments, including in the form, collection and use of information facilitated by technological advancements.
8. In undertaking our review, we are asked to consider the importance of maintaining a simple, efficient and effective justice system in which clear and comprehensive laws of evidence play a fundamental role. We have developed four guiding principles for our review, set out below and in **Appendix B**, to centre this objective.
9. Our terms of reference also ask us to make recommendations on whether reform is required to specified areas of evidence law. Below, we explain key concepts relevant to these areas. We acknowledge that these are complex and nuanced areas of the law and that Queensland and UEL approaches can differ. We provide these brief summaries as a useful starting point, not as comprehensive definitions.
10. As our terms of reference ask us to undertake a comprehensive review of Queensland evidence law, we interpret the list of specified key areas as non-exhaustive.

Types of evidence

Evidence includes:

- **Oral:** evidence provided by a witness, for example by a person who saw the accused commit an offence.
- **Documentary:** a record of information, including written documents such as a contract, sound recordings, drawings and images.
- **Real:** a physical object, such as a weapon or piece of jewellery.

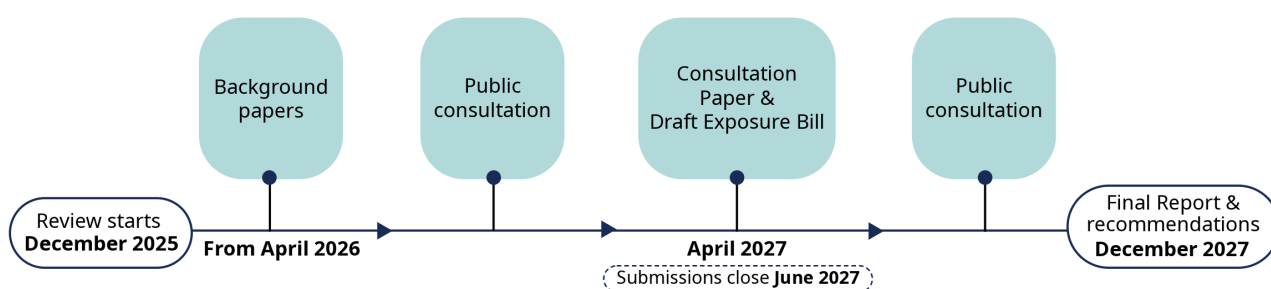
Direct evidence proves a fact without the need for an inference, for example, a witness's account of what they saw, a defendant's confession or a video recording of an assault.

Circumstantial evidence points to the existence of a fact, requiring an inference to be drawn, for example, bank statements, DNA or fingerprint evidence.

Our review process

11. Our review started in December 2025. Our Final Report, recommendations and draft legislative provisions are due to be provided to the Attorney-General on 1 December 2027.

Figure 1: Review timeline



12. We will use doctrinal, empirical and socio-legal research methods to develop our reform recommendations. These methods will collectively provide us with a deep understanding of evidence law, including its historical development and how Queensland laws compare to the laws of other jurisdictions. They will help us to understand how the laws are applied, if they are achieving their purpose, and options for reform.
13. We will consult with a broad range of people, including people and organisations with interest, experience or expertise in evidence law. We may also conduct semi-structured interviews. Feedback from stakeholders throughout Queensland, including diverse and disadvantaged communities, is critical. It will help us to understand strengths and weaknesses of the current framework and develop recommendations for reform that are legally sound, practical and reflective of contemporary values.

14. We will prepare a series of background papers about key issues in evidence law. We will release a Consultation Paper and a Draft Exposure Bill in April 2027. Our Consultation Paper will include questions on the Draft Exposure Bill and invite submissions, closing mid-June 2027.
15. All publications and updates for our review, including information about events, will be available on our website. If you would like us to notify you when we post new information, you can register by emailing QLRCCommunications@justice.qld.gov.au.

Figure 2: Sources of information for our review



16. We encourage you to give us your views at any time, including in response to this paper. There will be many opportunities to take part in our review, including events, consultations and submissions. You can also email us at QLRCEvidenceReview@justice.qld.gov.au.
17. Throughout our review, we will seek advice from our Aboriginal and Torres Strait Islander Legal Reference Group. This guidance is critical to support genuine, respectful, appropriate and culturally safe and informed engagement with Aboriginal peoples and Torres Strait Islander peoples and their communities and to ensure their knowledge and expertise informs our work.
18. We have established a Consultation Committee and a Judicial Liaison Committee to advise us on our review process and our options and recommendations for reform. The Consultation Committee includes representatives of organisations with interest, experience and expertise in Queensland evidence law. The Judicial Liaison Committee comprises judicial officers from the Supreme, District and Magistrates Courts. The committees provide forums for two-way communication during our review and will ensure our review is informed by, and benefits from, the breadth and depth of expertise and experience of Queensland evidence law. Our meeting arrangements will respect the role, time and resource constraints of committee members and will optimise opportunities for meaningful input at key review stages.

Guiding principles

19. Informed by our terms of reference, we have identified guiding principles for our review. **Appendix B** contains an elaboration of the meaning of each of the principles, which are summarised below.
20. These principles will guide our consideration of the issues in our review and will be reflected in the issues, questions and options for reform outlined in our Consultation Paper. They will provide a benchmark for us to assess the suitability of our recommendations for reform. We welcome stakeholder feedback on our guiding principles.

Figure 3: Our guiding principles



Human rights

21. Human rights are fundamental rights and freedoms that apply to all people. There is a strong relationship between human rights and evidence law.
22. Queensland's human rights framework is primarily established through the Human Rights Act 2019 (Qld), which recognises and protects 23 human rights. In addition to the Human Rights Act, certain human rights are recognised in other laws, rules and policies, such as the Charter of Victims' Rights in the Victims' Commissioner and Sexual Violence Review Board Act 2024.
23. The Human Rights Act builds on rights recognised in international treaties and conventions and in the common law of Australia.¹ The common law recognises and protects human rights within the framework established by the rule of law. Key rights include that the law must be applied equally and without discrimination, the presumption of innocence and the right to a fair trial.² Parliament is presumed not to intend to limit fundamental rights unless it clearly indicates the intention to do so and the limitation is reasonable.³
24. International treaties collectively recognise a broad range of human rights. Some treaties recognise categories of human rights,⁴ and others recognise the relevance of select human rights for an identified group.⁵ While they provide guidance for the interpretation of relevant legislative provisions, their legal enforcement depends on recognition by state, territory or Commonwealth laws. In Queensland, the Human Rights Act respects and promotes a range of civil and political rights recognised at international law, as well as a more limited range of economic, social and cultural rights. The Act stipulates the relevance of international law, including court and tribunal decisions, to the interpretation of its provisions.⁶
25. Evidence law engages a broad range of human rights, centred around upholding the right to a fair hearing. Rules that prevent the disclosure of information shared with a counsellor promote the right to privacy. Compelling a witness to testify limits a person's freedom of expression, freedom of movement and right to liberty. Allowing evidence of traditional laws and customs promotes the right to equality before the law and the cultural rights of Aboriginal peoples and Torres Strait Islander peoples.
26. Human rights principles also underpin the policy objectives of evidence law and regulate its settings. Principles of natural justice and procedural fairness are central to laws of evidence that regulate fact finding processes. Rights to equality before the law and the need to prevent arbitrary decision-making have informed the development of laws of evidence that seek to minimise judicial discretion and maximise predictability and accountability.⁷
27. The enactment of the Human Rights Act has strengthened the role of human rights in evidence law. Public entities, such as the police, are obliged to act compatibly with human rights and must properly consider human rights when making decisions.⁸ The courts must interpret legislation, including the Queensland Evidence Act, consistent with its purpose, in a way that is compatible with human rights.⁹ The courts must apply and enforce rights relevant to a proceeding.¹⁰ Rights provided in the Human Rights Act can be limited, but the Act provides a framework for limiting rights and requires that limits are reasonable and demonstrably justifiable in a free and democratic society.¹¹
28. There are also contemporary human rights challenges in evidence law. The breadth of information available online poses threats to the impartiality of juries and a defendant's right to a fair hearing. Technological advancements that have changed the way police record and store information present new limitations to the right to privacy.
29. We will explore approaches to evidence law in other comparable jurisdictions in future

publications. As part of our analysis, we will consider the approaches different jurisdictions take to ensure the development and application of rules of evidence are compatible with human rights.

30. The Human Rights Act requires public entities, including the Commission, to act and make decisions that are compatible with human rights. Human rights impact how we conduct our review, including how we engage in consultation and promote participation in our work. We will consider the compatibility of our recommendations with the rights recognised in the Human Rights Act.
31. We will include a comprehensive human rights analysis in our Final Report.

The role and purpose of evidence law

32. Evidence law plays a central role in our legal system, controlling the nature and form of information that may be used by a court to decide the issues in dispute.
33. The overarching purpose of evidence law is to support fair trials and just outcomes that reflect the relevant facts. This includes supporting consistency, predictability and clarity. The rules of evidence apply in both civil and criminal proceedings.
34. Additional rules and safeguards apply in criminal matters. This is due to the accusatorial nature and structure of criminal trials as a contest between the state as prosecutor and an individual as defendant.¹² It is also because criminal matters determine a defendant's guilt or innocence and wrongful conviction is a recognised systemic risk.¹³ Additional safeguards such as the presumption of innocence and the standard of proof ('beyond reasonable doubt') are designed to minimise it.
35. To achieve its aims, evidence law should facilitate trials that are fair and efficient and findings by courts that are based on accurate facts.¹⁴ The rules of evidence have developed to regulate the material that can be put before the fact finder to achieve, and not detract from, these objectives. Academic commentary highlights that 'evidence law's primary end — accuracy in legally significant fact-finding — is a means to the proper application of the substantive law'.¹⁵
36. The focus of our adversarial system is supporting arbitration in a contest between parties asserting different versions of truth before an impartial court. It governs how people can tell their story to the court to achieve a just outcome. Evidence law recognises the inevitable uncertainties that arise from the human processes involved in analysing and interpreting information in any matter.¹⁶ It seeks to mitigate this inherent uncertainty and subjectivity by accounting for how people make decisions and store and retrieve information. It also seeks to account for individual values, interests and prejudices.
37. Evidence law has traditionally focused on the presentation of material at trial, regulating the information a court can accept as evidence and how it can use the evidence. This remains a core part of evidence law. When the ALRC conducted its initial review, evidence law was usually considered in the context of trials.¹⁷ However, the nature of litigation and the manner of resolving disputes has changed in recent decades. There is now increasing focus on resolving disputes before trial. The appropriate role of evidence law and its application in resolving disputes before trial is therefore an important issue. Accordingly, we are considering evidence law's appropriate scope and role across the continuum of the justice process.
38. A foundational aspect of this review will be defining what is evidence law. Despite its importance to the administration of justice, evidence law – as opposed to procedural rules and the substantive law – has not been exhaustively defined.
39. The ALRC suggested the laws of evidence should be classified as part of adjectival law, the

body of principles and rules which deal with how ‘people’s rights and duties may be declared, vindicated or enforced, or remedies for their infraction secured’.¹⁸ The ALRC relied on this approach in its subsequent review of UEL, defining evidence law through a categorical analysis of the topics which should be included and excluded, rather than articulating a precise definition.¹⁹

40. We acknowledge the inherent challenge in distinguishing between the core rules of evidence, which pertain to the principles of admitting and using evidence, and more procedural mechanisms designed to ensure evidence is gathered and presented in a fair way.
41. Definitional clarity will be critical for the development of a new Evidence Act for Queensland that is coherent and clear. The history of UEL’s operation in other jurisdictions, and the history of the development of Queensland evidence law, demonstrates the extent of this definitional challenge. We welcome stakeholder feedback on this issue.
42. Our terms of reference identify specific topics for our consideration. The following table identifies key concepts for those topics.

Table 1: Key concepts in evidence law from our terms of reference

Review topic	Key concepts
<p>The examination, cross-examination and re-examination of witnesses</p>	<p>A witness is a person with relevant knowledge.</p> <p>There are rules about how witnesses are questioned and how their character and credibility as a witness may be assessed.</p> <p>Witnesses are questioned as follows:</p> <ul style="list-style-type: none"> • Examination-in-chief: questioning by the party calling the witness. The questions are usually open-ended and allow the person to tell their story in their own words without being led or coached. For example: ‘What did you see?’ • Cross-examination: questioning by the opposing party, to test the accuracy, credibility and reliability of the witness’s testimony. The questions can be leading and closed to challenge the witness. For example: ‘You were drinking alcohol that night, is that correct?’ • Re-examination: limited and specific further questioning by the party calling the witness, to clarify any ambiguity. For example: ‘You were asked if you were drinking alcohol that night, can you explain that further?’
<p>The admissibility of statements and representations</p>	<p>Admissible evidence is evidence that a court permits to be introduced because it is:</p> <ul style="list-style-type: none"> • relevant • not excluded by a rule • not excluded by an exercise of discretion. <p>Evidence is relevant if it relates to a fact in issue, which is a fact disputed between the parties. For example, if the identity of the offender is disputed, a witness’ testimony about the identity of the offender is relevant.</p> <p>Relevant evidence may inadmissible if it is excluded by a rule. For</p>

Review topic	Key concepts
	<p>example, a witness cannot give opinion evidence, unless an exception applies (see ‘the opinion rule and its exceptions’, below).</p> <p>Relevant evidence may also be excluded by an exercise of discretion. For example, a court may exclude otherwise admissible evidence on the grounds that the evidence is:</p> <ul style="list-style-type: none"> • more prejudicial than probative • liable to exclusion on public policy grounds, such as illegally obtained evidence.
The hearsay rule and its exceptions	<p>Evidence of a representation made out of court cannot be used to prove that the representation is true, unless an exception applies.</p> <p>A common example of hearsay is where a person gives evidence of something they were told happened but did not see, hear or experience themselves.</p> <p>There are specific exceptions to the rule against hearsay, for example, statements made by a witness who is no longer alive or cannot be located.</p>
The opinion rule and its exceptions	<p>Evidence of a person’s inferences, beliefs or interpretations cannot be relied on to prove a fact, unless an exception applies. The exceptions include expert opinion evidence, such as evidence by a civil engineer about the structural design of a bridge.</p>
The tendency and coincidence rules	<p>Evidence of a person’s character or past conduct, or the fact that two or more similar events occurred, cannot be relied on to prove that a person is more likely to have committed the offence, unless it has significant probative value or an exception applies.</p> <p>The exceptions include expert opinion evidence or important evidence of the context of an offence, for example, the offender’s patterns of abuse against the victim in a domestic and family violence case.</p> <p>Recent amendments to Queensland evidence law have made it easier for tendency and coincidence evidence to be admitted, particularly in sexual offence cases.</p>
The credibility rule and its exceptions	<p>General evidence about a person’s trustworthiness cannot be used to challenge a witness’s reliability, unless it is considered significant or an exception applies. The exceptions include where a person has made a previous statement that is inconsistent with evidence they later give to the court.</p>
Privileges, including client legal privilege	<p>Privilege is the legal justification to refuse to give evidence or produce documents relevant to the matter. It is not always absolute and in some circumstances the court can order that the evidence is given.</p> <p>Privilege can cover certain relationships, protecting communications or documents made in that relationship from</p>

Review topic	Key concepts
	<p>being produced or disclosed to the court. For example:</p> <ul style="list-style-type: none"> • Client (or professional) legal privilege covers confidential communications between a person and their lawyer made for the dominant purpose of obtaining legal advice. • Sexual assault counselling privilege covers communications between a person who has, or alleges to have, experienced sexual assault and their counsellor. • Journalist privilege covers the source of journalists' information. <p>The privilege against self-incrimination means that people do not have to give evidence that may indicate their guilt.</p> <p>There are exceptions to privilege, such as when the parties agree to the evidence being used.</p>

43. In Queensland, certain courts and tribunals operate with less formality and the rules of evidence do not technically apply.²⁰ Principles of evidence law still inform their decision-making and are relevant to achieving substantially just outcomes.²¹ For example, the Queensland Civil and Administrative Tribunal 'is not bound by the rules of evidence' and may 'inform itself in any way it considers appropriate' in receiving evidence about a matter before it.²² However, its decisions must still be based on evidence that logically establishes the existence or non-existence of facts relevant to issues in dispute.²³

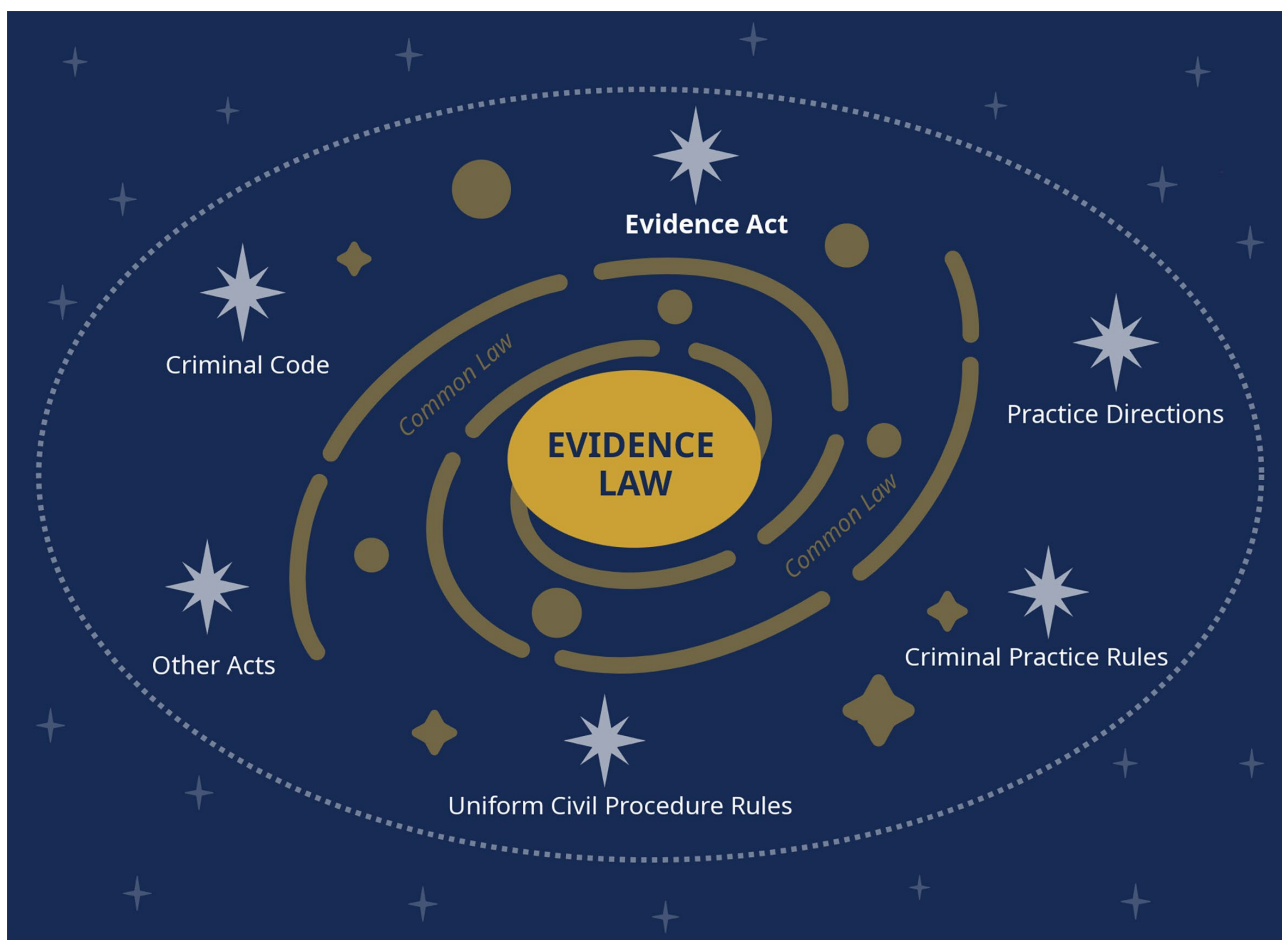
Queensland evidence law

44. Queensland has a common law legal system, with laws developed by judges in cases before them, building on the precedent of earlier judicial decisions. Common law has always been the primary source of evidence law, coexisting with relevant legislation. No legislation has attempted to codify or replace the common law of evidence in Queensland. Evidence law is legislated in the Queensland Evidence Act and in a range of other Acts, rules and practice directions.
45. The Queensland Evidence Act is comprised of 14 parts, covering topics such as:
- **Competence and compellability:** which relate to a person's capacity to give evidence and the ability for a party to call a person as a witness.
 - **Privilege:** which is the legal justification to refuse to give evidence or produce documents, including the privilege against self-incrimination, sexual assault counselling privilege and journalist privilege.
 - **Examination and cross-examination of witnesses:** which regulates how witnesses are questioned and how their character and credibility as a witness can be challenged.
 - **Measures designed to assist people give evidence:** including provisions for specific categories of witnesses, such as children.
 - **Tendency and coincidence evidence:** which is when evidence of a person's character or past conduct can be considered as evidence for a current matter.
46. The Queensland Evidence Act also prescribes procedures, including for permitting the court to

receive evidence from other jurisdictions and through different mediums.

47. Some rules of evidence derived from the common law are not expressly stated in the Queensland Evidence Act, although exceptions to the rule are included in the Act. Examples include the rules against hearsay and about admissibility of expert opinion evidence.
48. Below, we use the analogy of a constellation within the Milky Way galaxy, with its chaotic centre, to represent the Queensland evidence law framework and constituent parts.

Figure 4: Sources of Queensland evidence law



49. As Queensland operates within Australia's federal system, two evidence law frameworks apply. Queensland evidence law applies to matters in State courts, including when they are exercising federal jurisdiction.²⁴ UEL applies to matters in federal courts, including to those litigated in the Federal Court in Queensland.

Development of Queensland evidence law

50. Queensland was established as a new, self-governing colony in 1859, upon its separation from New South Wales. At this time, Queensland was governed by the laws of New South Wales, which applied many of the laws of England.
51. The Queensland Parliament passed the Evidence and Discovery Act 1867. Its purpose was to consolidate common law evidence rules, without substantial amendment.²⁵ A small number of provisions from that Act continue to apply today.²⁶
52. Later, the Queensland Parliament passed other Acts dealing with evidence law, including the

Evidence (Attestation of Documents) Act 1937, the Australian Consular Officers' Notarial Powers and Evidence Act 1946, the Recording of Evidence Act 1962 and the Evidence on Commission Act 1988. The Government also made legislative instruments, notably the Uniform Civil Procedure Rules 1999, which apply to civil proceedings in the Supreme, District and Magistrates Courts.

53. Other pieces of legislation contain rules of evidence that are relevant to achieving the objectives of the Act, but do not have evidence law as a primary focus, for example, the criminal procedures set out in Part 8 of the Criminal Code 1899.
54. In 1975, the QLRC reported on its review of Queensland evidence law. The primary focus of this review was consolidating the various Queensland evidence Acts passed between 1867 and 1975 and modernising the wording of the Evidence and Discovery Act 1867. The QLRC provided a draft Evidence Bill with the final report, which became the Queensland Evidence Act. The Commission stated:

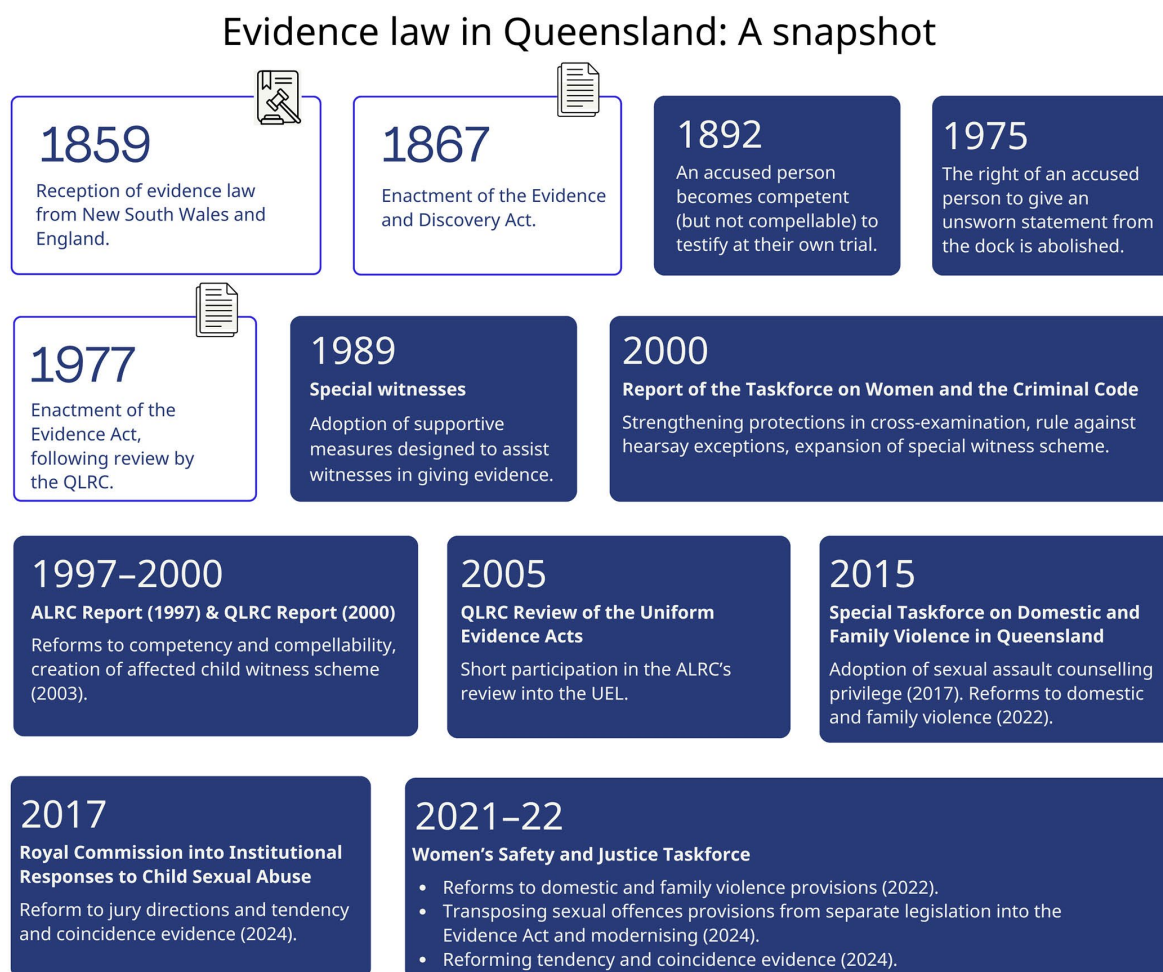
In drawing the Draft Evidence Bill, our main purpose has been to state in modern form so much of the law of evidence as may be conveniently set out in such an instrument. We have not attempted to abolish the common law on the subject ...

We have sought to avoid highly controversial alterations of the existing law, especially so far as they might relate to criminal proceedings, for fear that they might unduly delay the adoption of modern evidence legislation in Queensland. Any such alteration might just as easily be made to a new Evidence Act as to the existing conglomeration of provisions.²⁷
55. Since its enactment, the Queensland Evidence Act has been significantly amended and expanded. While substantial, reforms have been ad hoc and reactive, typically responding to the recommendations of reviews and inquiries on specific topics.
56. In 1989, the special witness scheme was introduced, empowering the court to make orders that assist a witness in giving evidence.²⁸ The scheme was directed at witnesses with identified vulnerability or who may be disadvantaged as a witness. It applied automatically to children under 12 years of age.
57. In 2000, criminal justice reforms responded to findings of the Taskforce on Women and the Criminal Code.²⁹ They included reform to rules about cross-examination, to strengthen the protections provided to witnesses.³⁰ They also included reforms to first-hand hearsay, to make it easier for victims' stories to be heard.³¹
58. In 2003, amendments aimed at improving the experience of children in the criminal justice system were enacted. These reforms were partly driven by recommendations of the ALRC and the QLRC.³² The reforms introduced the 'affected child witness' statutory regime, which included a presumption of pre-recording evidence.³³ They also included amending the presumption of competency, the tests for sworn and unsworn evidence and the statutory privilege for marital communications.³⁴
59. In 2017, introduction of the sexual assault counselling privilege responded to a recommendation of the Special Taskforce on Domestic and Family Violence.³⁵ This privilege protects evidence of communications between a person who alleges they have been a victim of sexual assault and their counsellor, unless the court otherwise orders.³⁶
60. In 2020, reforms responded to recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse. They included the introduction of an intermediary scheme to assist witnesses giving evidence and reforms to address potential disadvantage by directions about delayed prosecutions.³⁷ Separate reforms in 2024 addressed delay in making a complaint, and the absence of a complaint, in sexual offence cases.³⁸
61. In 2022, Parliament introduced a journalist privilege into the Queensland Evidence Act.³⁹ This

reform followed protracted advocacy regarding the lack of legislative protection, and sub-standard common law protections, for journalists and their sources, primarily in the context of public interest journalism.⁴⁰ The laws are more extensive than those of most other Australian jurisdictions, including in their application to pre-trial stages of civil and criminal proceedings.

62. In 2022 and 2023, significant reforms to domestic and family violence evidence law were made to give effect to recommendations of the Special Taskforce on Domestic and Family Violence and the Women’s Safety and Justice Taskforce. The reforms introduced a new part into the Queensland Evidence Act which, among other things, is aimed at:
- facilitating the admission of relevant evidence of domestic violence, including preliminary complaint evidence, expert evidence, evidence of social entrapment framing and evidence of the history of domestic relationships⁴¹
 - creating a video-recorded evidence-in-chief scheme⁴²
 - clarifying jury directions relating to domestic and family violence.⁴³
63. In 2024, further substantial reforms responded to recommendations of the Women’s Safety and Justice Taskforce and commentary from the Royal Commission into Institutional Responses to Child Sexual Abuse. They reformed the rules about tendency and coincidence evidence and sexual offence provisions. The amendments abolished the restrictive test in *Pfennig v The Queen*⁴⁴ and modelled new provisions on the Evidence Act 1995 (NSW).⁴⁵

Figure 5: Development of Queensland evidence law*



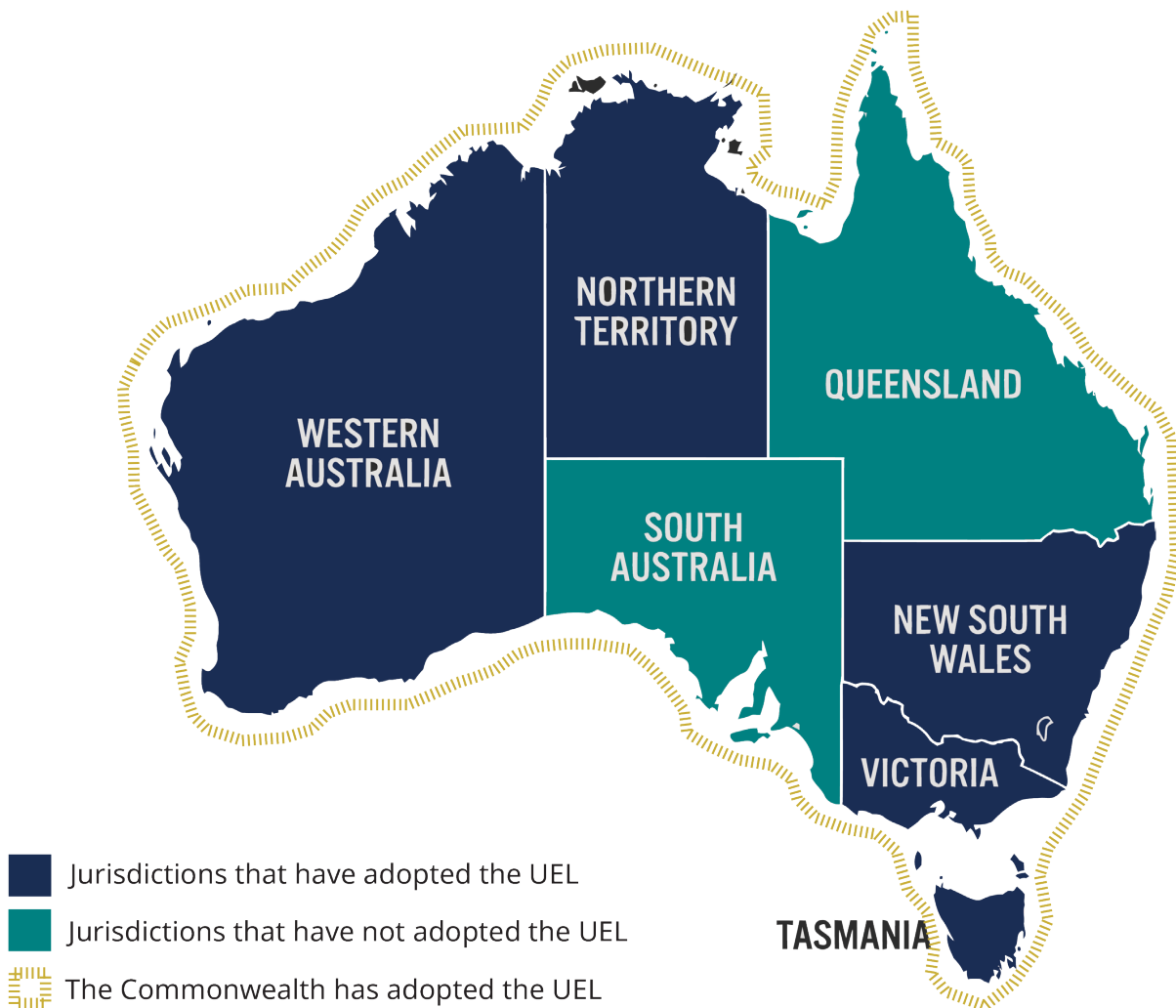
* Headline dates reflect the policy drivers for the reforms. Bracketed dates reflect the date of reforms.

Uniform evidence law

64. UEL was initially drafted by the ALRC in 1985 and amended in 1987 following its review of the laws of evidence applicable in proceedings in federal courts,⁴⁶ and the ACT.⁴⁷ The review was intended to produce a 'wholly comprehensive law of evidence based on concepts appropriate to current conditions and anticipated requirements'.⁴⁸ The ALRC's terms of reference did not extend to considering the desirability of harmonising evidence law in Commonwealth and state courts, nor did it encompass the Northern Territory.
65. Key policy reasons supporting national uniform legislation are consistency, efficiency and equality:
- Consistency recognises that cross border issues are best addressed through consistent laws.⁴⁹ Where laws are consistent through coordinated efforts, they also avoid conflict of law issues.⁵⁰
 - Efficiency recognises the 'logical convenience of having a single set of rules for the same processes throughout the entire country'.⁵¹ Uniform laws can reduce costs, streamline regulation, and improve compliance.⁵²
 - Equality recognises the potential for national uniform legislation to ensure equality of treatment across jurisdictions, improving accessibility and predictability of the law.⁵³
66. UEL is an example of mirror or model national uniform legislation. Jurisdictions adopting mirror national uniform legislation can alter the legislation to suit their jurisdiction. While this approach aims for uniformity at the outset, it can diminish over time as jurisdictions amend their Act in response to their policy agenda. Reforms may not occur through a coordinated process with other jurisdictions. In this way, mirror legislation can result in low levels of uniformity across jurisdictions over time.⁵⁴
67. The ALRC noted the following policy reasons for adopting UEL:
- Promoting accurate fact-finding by the courts, based on the principles that fact-finding should be rational, all relevant information should be available to the court, irrational fact-finding should be discouraged, and unreliable information should be treated with caution.
 - Reflecting the differences between civil and criminal proceedings.
 - Promoting predictability, by preferencing the rules controlling the admissibility of evidence over judicial discretion.
 - Achieving the key objectives of the law of evidence of simplicity and clarity, to assist the efficient conduct and resolution of legal proceedings, in and out of court.⁵⁵
68. Following consultations and amendments to the ALRC's draft UEL, the Commonwealth and New South Wales Parliaments introduced and passed virtually identical uniform evidence Acts, which commenced in 1995: the Evidence Act 1995 (Cth) and the Evidence Act 1995 (NSW). The Commonwealth's adoption of UEL made it applicable to the administration of federal laws by federal courts. We reference the Commonwealth Evidence Act as the model UEL in Australia.
69. The Commonwealth Evidence Act contains five chapters, each comprised of parts and divisions. It also includes a Schedule relating to oaths and affirmations. The Act's structure reflects the order in which evidentiary issues usually arise throughout the course of a trial.

70. The focus of each chapter is as follows:
- **Chapter 1:** preliminary matters, including the Act’s scope and application.
 - **Chapter 2:** provisions about witnesses, including competence and compellability of witnesses, as well as documents and other forms of evidence.
 - **Chapter 3:** rules relating to the admissibility of evidence. This is the most extensive part of the Act. It is based on the primary rule that only relevant evidence is admissible. The Chapter then prescribes rules for distinct types of evidence, starting with a primary exclusionary rule followed by exceptions to that rule. It includes hearsay evidence, opinion evidence, admissions, judgments and convictions, character and conduct, identification evidence, and privileged communications.
 - **Chapter 4:** provisions relating to proof and procedural matters.
 - **Chapter 5:** miscellaneous matters.
71. Over the past three decades, most Australian states and territories have introduced evidence laws modelled on the Commonwealth Evidence Act.⁵⁶ Only Queensland and South Australia have not adopted the model law. Western Australia is the most recent jurisdiction to adopt UEL, passing the Evidence Act 2025 (WA).

Figure 6: The adoption of UEL in Australia



72. The model evidence law adopted in most Australian states and territories is based on the Commonwealth model and, at the point of the legislation's passage, replicates both its structure and form.
73. Only Western Australia has departed from this model approach to any significant extent at the point of passage of the legislation. The Parliament of Western Australia enacted evidence law drawn from the Commonwealth model, whilst retaining and incorporating provisions from Western Australia's earlier laws, augmented by new provisions that implement recommendations made by the Royal Commission into Institutional Responses to Child Sexual Abuse and other bodies.⁵⁷ Western Australia has also departed from UEL's structure and numbering format.
74. In all UEL jurisdictions, UEL functions as a primary, but not exclusive, source of evidence law.⁵⁸ It coexists with common law precedent and other legislation. Different jurisdictions have taken different approaches to supplementing their primary evidence Act. For example, New South Wales and Victoria have separately legislated criminal procedures.⁵⁹ Victoria has separately legislated jury directions.⁶⁰
75. In 2005, the QLRC was tasked with reviewing UEL, to contribute to the ALRC's review. The QLRC's focus in responding to the issues identified by the ALRC was to map the differences between evidence law in Queensland and UEL and to respond to the specific questions posed in the ALRC Consultation Paper.
76. With the passage of time, we have the advantage of analysing UEL in operation and we can review Queensland's current evidence law in that context.

Key issues

Queensland evidence law

77. The Queensland Evidence Act is nearly 50 years old and has been frequently amended. Some recent reforms have adopted select UEL rules and terminology, such as the rules about tendency and coincidence evidence.⁶¹ Others have responded to policy drivers, including the recommendations of reviews and inquiries that considered discrete legal issues.
78. Reforms responding to specific issues arising from the application of evidence law in a particular context may have fulfilled their purpose of addressing the identified need. Yet they have failed to create a consistent and coherent system that harmoniously addresses the root causes of the targeted issue, such as the accessibility of the laws or their suitability in safeguarding the rights and interests of vulnerable communities. Further, some reforms are incomplete and inconsistent even when assessed against the nature, scope and scale of the issue they were designed to address.
79. For example, the introduction of the special witness evidence provisions in 1989 have developed over time to allow the court to declare a victim of an alleged domestic violence offence a special witness. These protections do not permit the court to designate as a special witness a domestic and family violence victim-survivor charged with an offence against their perpetrator, unless the person is otherwise disadvantaged as a witness.⁶² Similarly, the 2023 reforms to evidentiary provisions for relevant evidence of domestic violence strengthened the prosecution's ability to put evidence of domestic violence before the court without affecting corresponding amendments to the disclosure provisions.⁶³
80. The approach of partially adopting aspects of UEL or otherwise amending the law in response to reviews and inquiries considering discrete legal issues, rather than comprehensively

reviewing evidence law, has resulted in a piecemeal and inconsistent framework.

81. There are some evident problems with the framework and sources of Queensland evidence law. It is fragmented across different statutes and the common law, which can create uncertainty and complexity, particularly for self-represented litigants. Its content is unsettled in key areas. Parliament's intent in legislating particular rules of evidence is not always clear, which can also create ambiguity and can hinder the efficient administration of justice.
82. Key issues include:
 - How particular people and groups are supported to give evidence, including children, spouses and witnesses in sexual abuse and domestic violence matters.⁶⁴
 - Evidence law's ability to adapt to contemporary and evolving technological developments. This includes developments that have progressed the means of recording of evidence and the use of artificial intelligence.
 - The scope and application of certain privileges, including sexual assault counselling privilege.
 - The rules governing the admissibility of expert opinion evidence.
 - The admissibility of exculpatory statements, which are statements made by a defendant to a criminal charge outside court that may indicate their innocence.
 - The adequacy, scope and reach of the recent reforms to tendency and coincidence evidence.

UEL

83. Our preliminary research and consultation have also identified key issues with UEL. They include issues associated with its original design, the different approaches to its interpretation and the lack of holistic, contemporary reforms. UEL's drafting has been criticised as unduly longwinded and heavily focused on process and procedure rather than principles.
84. UEL is not, and was not intended to be, a code of the law of evidence.⁶⁵ However, it comprehensively legislates the rules of evidence for certain topics.⁶⁶ For other rules, UEL states the principle rather than the precise test, with the vexed result of both flexibility and uncertainty. For example, it allows jurisdictions to innovate on processes for courts, parties and witnesses without having to depart from the overarching framework of evidence law. It also relies on judicial interpretation, creating disparities between jurisdictions.⁶⁷
85. Within the areas of evidence it covers, there is some inconsistency and uncertainty about the extent to which UEL comprehensively covers the topic. For example, the ALRC stated that its intent was for Chapter 3 to be 'an exhaustive statement of the law' relating to admissibility of evidence.⁶⁸ The Commonwealth Evidence Act includes a mix of 'restating and reforming elements', with some elements 'mini-codes' and others not.⁶⁹
86. Issues also arise from the lack of uniformity of implementation of UEL across jurisdictions. For example, different jurisdictions have historically taken divergent approaches to topics including improper questioning of witnesses during examination, tendency and coincidence evidence, identification evidence, and privileges (including sexual assault counselling privilege, religious confessional privilege and medical communications privilege). This creates concerns about parity and fairness between jurisdictions and clarity and accessibility of the law. Some topics, such as the rules around tendency and coincidence evidence, remain controversial notwithstanding recent High Court authority clarifying the state of the law.⁷⁰
87. Finally, UEL was drafted in 1987 and first enacted as legislation in 1995.⁷¹ In the intervening

years, there have been significant changes to legal processes, accompanied by substantive developments in our understanding of human psychology and behaviour and major technological developments.

88. There has not been a comprehensive and coordinated national approach to UEL's amendment.
89. In 2005, the ALRC was tasked with reviewing UEL. It accepted the uniform evidence Acts work in conjunction with other evidentiary laws, but that this should be done in a way that supports clarity, effectiveness and uniformity of laws. The ALRC expressed the policy position, supported by recommendations to give effect to this, that:
- uniformity in evidence law should be pursued unless there is good reason to the contrary
 - the uniform evidence Acts should be a comprehensive statement of the law on evidence (an evidence law 'pocket bible')
 - the uniform evidence Acts should be of general application to all criminal and civil proceedings.⁷²
90. They also recommended that all jurisdictions work towards harmonisation of provisions relating to children's evidence and offence-specific evidentiary provisions.⁷³
91. While the ALRC's review led to significant amendments, important issues with UEL remain. As at February 2026, 49 of the 63 recommendations have been fully implemented by all UEL jurisdictions, with a further 6 partially implemented. Key recommendations from the ALRC's review that have not been implemented relate to:
- improper questions during examination of witnesses
 - judicial warnings about forensic disadvantage stemming from delay in prosecution
 - expert opinion evidence, including in relation to the requirements to establish reliability and admissibility
 - the exceptions to hearsay.
92. Different UEL jurisdictions have taken different approaches to modernising and reforming their evidence Acts and responding to the findings of relevant commissions, reviews and inquiries. Some more recent adopters of UEL, such as Victoria, have enacted a more contemporary form of UEL from the outset.
93. This separate and piecemeal approach has resulted in uniform national legislation that is, in many respects, not substantially uniform. We will explore this further in subsequent publications.

What can we learn from UEL?

94. Reviewing UEL in 2005, the QLRC compared UEL with Queensland evidence law, noting key points of divergence and highlighting aspects that would require further review if Queensland adopted UEL. The QLRC acknowledged the ALRC's position that uniformity may not always be the overriding consideration and that sound reasons to depart from a uniform approach may include consistency with other legislation or recommendations of state law reform bodies. The QLRC noted:

It may be that ... it is considered generally desirable to adopt the uniform Evidence Acts, but that the Queensland position is preferred in respect of certain provisions.⁷⁴

95. This is a helpful foundation for our current review.
96. As we explored above, Queensland's legal framework for evidence law is unique. Key features of our evidence-related legal framework are within the Criminal Code and the Uniform Civil Procedure Rules. Queensland lacks a criminal procedures Act applicable to the higher courts. The Justices Act 1886 (Qld), currently under review, only prescribes criminal justice procedures for Queensland Magistrates Courts.
97. Our terms of reference ask us to consider the relationship between Queensland evidence law and UEL and the desirability of streamlining evidence law. However, they extend beyond the question of whether Queensland should adopt UEL.
98. Our starting point, directed by our terms of reference and our guiding principles, is acknowledging the advantages of consistency and harmony. We recognise that UEL provides a starting point and reflects the considered articulation of evidence law in Australia as the outcome of a comprehensive review, at the time of its drafting. We also recognise that two coexisting evidence law frameworks create complexity and inconsistency and can pose challenges for people navigating both state and federal courts.
99. Our approach is to consider how Queensland could build on the framework of UEL, obtaining the associated benefits of certainty, clarity, consistency and harmony. We can also obtain the benefits of the judicial interpretation of other jurisdictions. At the same time, we must consider how we can address recognised issues with UEL, including issues that would arise from its application in Queensland, and preserve areas of the law where Queensland has surpassed UEL.
100. Developing a cohesive, principled legal framework for Queensland that reflects our guiding principles requires choices about the desired degree of uniformity and the preferred approach to reconciling current points of divergence.
101. A best practice approach to reform will recognise and respond to issues with UEL, some of which we have identified above. It will also recognise and respond to issues common to the evidence law of Queensland and UEL jurisdictions. This may include issues flowing from common law interpretation of key topics, such as the High Court's narrow construction of 'probative value'.⁷⁵ It may also include issues arising from key concepts in evidence law that have not kept pace with contemporary understanding and international law, such as concepts of competence and compellability.

Next steps

102. This review presents the first opportunity for a holistic, rigorous and comprehensive review of the laws of evidence as they apply to all relevant contexts throughout Queensland.
103. We welcome stakeholder feedback on the key issues for our review, as well as any other matters you would like to raise with us.

Appendices

Appendix A: Our terms of reference

A review of evidence law in Queensland

Background

The law of evidence governs the nature and form of material that may be brought before a court. In Queensland state courts, the rules of evidence are contained in Queensland legislation, primarily the *Evidence Act 1977* (Qld), court rules and the common law.

The Uniform Evidence Law (UEL), primarily based on the Commonwealth's Evidence Act 1995 (Cth), has been adopted by New South Wales, Victoria, Tasmania, the Northern Territory and the Australian Capital Territory. Western Australia recently passed the *Evidence Act 2025* (WA) which adopts the UEL. The UEL was intended to function as evidential codes, replacing common law rules.

Two decades ago, Queensland chose not to adopt the UEL. However, in recent years the evidence law of Queensland has been frequently amended, often adopting particular UEL rules and terminology, such as tendency and coincidence. For example, the recently commenced new Part 7A replaced the common law test for the admissibility of propensity evidence in criminal proceedings established in *Pfennig v The Queen* (1995) 182 CLR 461 with a two-limb test aligned with Australia's UEL jurisdictions.

This approach to partially adopt aspects of the UEL in response to reviews and inquiries considering discrete legal issues, rather than evidence law as a whole, has resulted in a piecemeal and inconsistent framework.

A review of evidence law is timely and consistent with other Governments' consideration of these issues.

Terms of reference

1. I, DEB FRECKLINGTON, Attorney-General and Minister for Justice and Minister for Integrity (Attorney-General), refer to the Queensland Law Reform Commission (the Commission) pursuant to section 10 of the Law Reform Commission Act 1968 (Qld) for review and investigation, the scope, operation and suitability of the Evidence Act 1977 (Qld) (the Act).

Scope

2. The Commission is asked to undertake a review of the Act that considers the need to modernise and simplify the Act to ensure the effective administration of justice in Queensland and the protection of victims, without reducing existing rights or safeguards.
3. In undertaking its review, the Commission is asked to consider:
 - a. The relationship of the Act to the Evidence Act 1995 (Cth) and other applicable evidence laws and the desirability of streamlining evidence law.
 - b. Whether adopting further provisions of the UEL, or all, while retaining the benefit of recent Queensland reforms, is appropriate and desirable.
 - c. The extent to which common law rules of evidence continue to operate and whether they should be codified in the Act.
 - d. The importance of maintaining a simple, efficient and effective justice system in which clear and comprehensive laws of evidence play a fundamental role.
 - e. Recent legislative and common law developments, including Parts 6A, 6B, 6C and 7A of the Act.

- f. The appropriate scope and application of evidence law in particular contexts, including in child sexual abuse matters and matters involving domestic and family violence.
 - g. The impact of technological and other developments on evidence law, including the ability to videorecord and give evidence remotely.
 - h. The Act's application to pre-trial procedures, and whether any reforms are appropriate and desirable.
 - i. Whether the Act should cover all aspects of evidence law or whether some aspects should be separately legislated.
4. The Commission is asked to make recommendations on whether reform is required to the following areas of evidence law:
 - a. the examination, cross-examination and re-examination of witnesses,
 - b. the admissibility of statements and representations as provided for in Part 6 of the Act
 - c. the hearsay rule and its exceptions
 - d. the opinion rule and its exceptions
 - e. the tendency and coincidence rule
 - f. the credibility rule and its exceptions
 - g. privileges, including client legal privilege
5. If the Commission recommends reform of the Act, or other legislative reform, the Commission is asked to prepare draft legislative provisions based on its recommendations, noting that the decision whether to progress those recommended reforms is a matter for the Government.
6. In undertaking its review, the Commission should have regard to:
 - a. relevant Queensland Government policies
 - b. relevant court rules and practice directions
 - c. current legislative and regulatory frameworks in other Australian and comparative international jurisdictions
 - d. any other relevant matters.

Consultation

The Commission should consult with Queensland Government agencies and relevant statutory bodies, the Judiciary, key legal stakeholders, academics and any other stakeholders the Commission considers relevant.

Timeframe

The Commission is to provide its final report to the Attorney-General by 1 December 2027.

Appendix B: Our guiding principles



Fair

- Sound and logical
- Supports access to justice and is compatible with human rights
- Enhances, and does not reduce, existing rights and safeguards



Clear

- Easy to understand
- Consolidates the sources of evidence law
- Clarifies the scope and application of the law
- Harmonious and streamlined



Effective

- Promotes the efficient administration of justice
- Fit for purpose
- Applies practically across the justice process



Enduring

- Contemporary
- Reflects recent developments in evidence law
- Reflects recent technological and other developments

References

- 1 Explanatory Notes, Human Rights Bill 2018 (Qld) 2.
- 2 Human Rights Act 2019 (Qld) ss 15, 31–32.
- 3 *Coco v The Queen* (1994) 179 CLR 427, 437; *Electrolux Home Products Pty Ltd v Australian Workers' Union* (2004) 221 CLR 39, 46.
- 4 For example: The International Covenant on Civil and Political Rights, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976); International Covenant on Economic, Social and Cultural Rights, opened for signature 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976).
- 5 For example: The Convention on the Elimination of All Forms of Discrimination against Women, opened for signature 1 March 1980, 1249 UNTS 13 (entered into force 3 September 1981); Convention on the Rights of the Child, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990); Convention on the Rights of Persons with Disabilities, opened for signature 30 March 2007, 2515 UNTS 3 (entered into force 3 May 2008).
- 6 Human Rights Act 2019 (Qld) s 48(3).
- 7 Australian Law Reform Commission, NSW Law Reform Commission, and Victorian Law Reform Commission, Uniform Evidence Law Report (Final Report No 102, December 2005) 65 [2.56].
- 8 Human Rights Act 2019 (Qld) s 9(1)(c).
- 9 Human Rights Act 2019 (Qld) ss 5(2)(a), 48(1).
- 10 *Attorney-General v Grant* (No 2) [2022] QSC 252, [73], [96] citing Human Rights Act 2019 (Qld) s 5(2)(a).
- 11 Human Rights Act 2019 (Qld) s 13.
- 12 Australian Law Reform Commission, NSW Law Reform Commission, and Victorian Law Reform Commission, Uniform Evidence Law Report (Report No 102, December 2005) 65 [2.56].
- 13 Australian Law Reform Commission, NSW Law Reform Commission, and Victorian Law Reform Commission, Uniform Evidence Law Report (Report No 102, December 2005) 67 [2.66] citing a submission by the Law Council of Australia.
- 14 Stephen Odgers, *Uniform Evidence Law* (Thomson Reuters, 20th ed, 2025) 1.
- 15 Jeremy Gans, 'Evidence Law Under Victoria's Charter' (Research Paper No 260, Faculty of Law, University of Melbourne, September 2007) 3.
- 16 Stephen Gageler, 'Evidence and Truth' (2017) 13 *The Judicial Review* 1, 8.
- 17 Australian Law Reform Commission, *Evidence* (Interim Report No 26, 1985) [510].
- 18 Australian Law Reform Commission, *Evidence* (Interim Report No 26, 1985) [31] citing DM Walker, *The Oxford Companion to Law* (Clarendon Press, 1980) 24.
- 19 Australian Law Reform Commission, NSW Law Reform Commission, and Victorian Law Reform Commission, Uniform Evidence Law Report (Report No 102, December 2005) 19–20 [1.25]–[1.26].
- 20 For example, the Land Court of Queensland: Land Court Act 2000 (Qld) s 7(a); the Queensland Civil and Administrative Tribunal: Queensland Civil and Administrative Tribunal Act 2009 (Qld) s 28(3)(b)–(c).
- 21 *R v War Pensions Entitlement Appeals Tribunal; Ex parte Bott* (1933) 50 CLR 228, 256.
- 22 Queensland Civil and Administrative Tribunal Act 2009 (Qld) ss 28(3)(b), (c).
- 23 *R v Deputy Industrial Injuries Commissioner; Ex parte Moore* [1965] 1 QB 456, 488.
- 24 Judiciary Act 1903 (Cth) s 79.
- 25 James Cockle, Alfred Lutwyche and Charles Lilley, Report from the Commissioners for Enquiring into and Revising the Statute Law of Queensland (Report, August 1867) 1.
- 26 Evidence and Discovery Act 1867 (Qld) ss 31, 37A–38, 43, 61, 67.
- 27 Queensland Law Reform Commission, *The Law Relating to Evidence* (Report No 19, November 1975) 2.
- 28 The Criminal Code, Evidence Act and Other Acts Amendment Act 1989 (Qld) s 63, inserting Evidence Act 1977 (Qld) s 21A.
- 29 Explanatory Notes, Criminal Law Amendment Bill 2000 (Qld) 1.
- 30 Criminal Law Amendment Act 2000 (Qld) ss 45–47.

31 Criminal Law Amendment Act 2000 (Qld) s 50.

32 Australian Law Reform Commission, *Seen and Heard: Priority for Children in the Legal Process* (Report No 84, October 1997); Queensland Law Reform Commission, *The Receipt of Evidence by Queensland Courts: The Evidence of Children — Part 2* (Final Report No 55, December 2000).

33 Evidence (Protection of Children) Amendment Act 2003 (Qld) s 60, inserting Evidence Act 1977 (Qld) pt 2 div 4A.

34 Evidence (Protection of Children) Act 2003 (Qld) ss 57–58.

35 Victims of Crime Assistance and Other Legislation Amendment Act 2017 (Qld) s 7, inserting Evidence Act 1977 (Qld) pt 2 div 2A; Special Taskforce on Domestic and Family Violence in Queensland, *Not Now, Not Ever: Putting an End to Domestic and Family Violence in Queensland — Volume 1* (Report, February 2015) 316–7.

36 Evidence Act 1977 (Qld) pt 2 div 2A subdiv 3.

37 Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Act 2020 (Qld) ss 39, 44; Royal Commission into Institutional Responses to Child Sexual Abuse, *Criminal Justice Report: Parts VII – X and Appendices* (Report, 14 August 2017) 192–3.

38 Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act 2024 (Qld) s 59, inserting Evidence Act 1977 (Qld) s 103ZZ.

39 Evidence and Other Legislation Amendment Act 2022 (Qld) s 33, inserting Evidence Act 1977 (Qld) pt 2 div 2B.

40 Adam Lukacs, ‘Evaluating the Merits of Queensland’s New Shield Law: Reform Lessons for the Rest of Australia’ (2023) 42(1) *University of Queensland Law Journal* 65, 66.

41 Evidence and Other Legislation Amendment Act 2022 (Qld) s 37, inserting Evidence Act 1977 (Qld) pt 6A.

42 Evidence and Other Legislation Amendment Act 2022 (Qld) s 37, inserting Evidence Act 1977 (Qld) pt 6A.

43 Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act 2023 (Qld) s 67, inserting Evidence Act 1977 (Qld) pt 6A div 3.

44 *Pfennig v The Queen* (1995) 182 CLR 461.

45 Explanatory Notes, Criminal Justice Legislation (Sexual Violence and Other Matters) Amendment Bill 2024 (Qld) 17; Criminal Justice Legislation (Sexual Violence and Other Matters) Amendment Act 2024 (Qld) s 40, inserting Evidence Act 1977 (Qld) pt 7A.

46 The High Court of Australia, the Federal Court of Australia and the Family Court of Australia.

47 The Supreme Courts and the Courts of Petty Sessions of the Australian Capital Territory, Norfolk Island, and Christmas Island and Cocos (Keeling) Islands.

48 Australian Law Reform Commission, *Evidence* (Interim Report No 26, 1985) [21].

49 Guyzal Hill, *National Uniform Legislation* (Springer Nature, 2022) 53 citing Department of the Prime Minister and Cabinet (Cth), *Guidance for Intergovernmental Meetings* (Guidance, October 2020).

50 John Goldring, ‘“Unification and Harmonisation” of the Rules of Law’ (1978) 9(3) *Federal Law Review* 284, 285.

51 Guyzal Hill, *National Uniform Legislation* (Springer Nature, 2022) 4. See also House of Representatives Standing Committee on Legal and Constitutional Affairs, *Parliament of Australia, Harmonisation of Legal Systems within Australia and between Australia and New Zealand* (Report, November 2006) 5–9 [2.2]–[2.11].

52 John Goldring, ‘Unification of Laws in Australia — The Great Pipe-Dream’ (1977) *Uniform Law Review* 82, 101; Guyzal Hill, *National Uniform Legislation* (Springer Nature, 2022) 4.

53 Guyzal Hill, *National Uniform Legislation* (Springer Nature, 2022) 25 citing BR Opeskin, ‘The Architecture of Public Health Law Reform: Harmonisation of Law in a Federal System’ (1998) 22 *Melbourne University Law Review* 337, 338.

54 Australian Law Reform Commission, NSW Law Reform Commission, and Victorian Law Reform Commission, *Uniform Evidence Law Report* (Report No 102, December 2005) 57 [2.25].

55 Australian Law Reform Commission, *Evidence* (Report No 38, 1987) [46].

56 By Tasmania in 2001, Norfolk Island in 2004, Victoria in 2008, the ACT in 2011 and the Northern Territory in 2011. See Christopher Beale, *Judicial College of Victoria, Pocket Evidence Law* (online at 24 March 2026) 2.

57 Explanatory Memorandum, Evidence Bill 2025 (WA).

58 Competence and compellability and admissibility of evidence are codes: Australian Law Reform
Commission, NSW Law Reform Commission, and Victorian Law Reform Commission, Uniform Evidence Law
Report (Report No 102, December 2005) 52 [2.6].

59 Criminal Procedure Act 1986 (NSW); Criminal Procedure Act 2009 (Vic).

60 Jury Directions Act 2015 (Vic).

61 For example, the recently commenced new Part 7A replaced the common law test for the admissibility of
propensity evidence in criminal proceedings established in *Pfennig v The Queen* (1995) 182 CLR 461, with a
two-limb test aligned with Australia's UEL jurisdictions.

62 Evidence Act 1977 (Qld) ss 21(1)(b)–(c), 21(2)(b).

63 Evidence Act 1977 (Qld) pt 6A div 1A, inserted by the Domestic and Family Violence Protection (Combating
Coercive Control) and Other Legislation Amendment Act 2023 (Qld) s 64.

64 Many recent amendments have changed the laws relevant to special witnesses: Evidence Act 1977 (Qld)
parts 6A–C.

65 Queensland Law Reform Commission, A Review of the Uniform Evidence Acts (Report No 60, September
2005) 2 [1.5].

66 The law of competence and compellability, and the admissibility of evidence, are a code: Evidence Act 1995
(Cth) ss 12, 56; Australian Law Reform Commission, NSW Law Reform Commission, and Victorian Law
Reform Commission, Uniform Evidence Law Report (Report No 102, December 2005) 52 [2.6].

67 Stephen Odgers, Uniform Evidence Law (Thomson Reuters, 20th ed, 2025) 39.

68 Australian Law Reform Commission, Evidence (Interim Report No 26, 1985) [510].

69 John Dyson Heydon, 'The Non-Uniformity of the "Uniform" Evidence Acts and Their Effect on the General
Law' (2013) 2 Journal of Civil Litigation and Practice 169, 182.

70 *R v Bauer* (2018) 266 CLR 56, 81–8 [47]–[60], a unanimous decision in which the High Court largely resolved
the approach to determining the admissibility of tendency evidence in single complaint cases.

71 Evidence Act 1995 (Cth).

72 Australian Law Reform Commission, NSW Law Reform Commission, and Victorian Law Reform Commission,
Uniform Evidence Law Report (Report No 102, December 2005) 56 [2.22].

73 Australian Law Reform Commission, NSW Law Reform Commission, and Victorian Law Reform Commission,
Uniform Evidence Law Report (Report No 102, December 2005) 61 [2.44].

74 Queensland Law Reform Commission, A Review of the Uniform Evidence Acts (Report No 60, September
2005) 9 [1.30]–[1.31].

75 *IMM v The Queen* (2016) 257 CLR 300.



Queensland Law Reform Commission
Level 30, 400 George Street, Brisbane QLD 4000
PO Box 13312, George Street Post Shop, Brisbane QLD 4003
P: (07) 3564 7777 | E: LawReform.Commission@justice.qld.gov.au
[www.qlrc.qld.gov.au](http://www qlrc.qld.gov.au)
