

Evidence Law Review Q&A

This document provides brief responses to frequently asked questions about the Queensland Law Reform Commission and our current Evidence Law Review.

You can find out more information on our [website](#).

You can contact us at: QLRCEvidenceReview@justice.qld.gov.au.

About the Queensland Law Reform Commission

What is the Queensland Law Reform Commission?

The Commission is an independent statutory authority established by the Law Reform Commission Act. Our purpose is a fair, modern and simple legal framework for Queensland. The Commission contributes to this purpose through practical, innovative, and just law reform recommendations.

The Governor in Council appoints Commission members on the advice of the Queensland Attorney-General. A Commission member must be a person suitably qualified by the holding of judicial office, experience as a barrister or solicitor, or as a teacher of law in a university.

A small expert secretariat supports the Commission. The secretariat undertakes research, analysis, and consultation in support of law reform recommendations and provides the Commission with administrative and secretarial support. Secretariat staff are employees of the Department of Justice.

What is the Commission's role?

The Commission undertakes research and provides recommendations to reform the law on topics selected by the Queensland Attorney-General. Our recommendations are based on extensive research, public consultation, and the principles of impartiality, equity, and social justice. We publish our recommendations in our final reports, which the Attorney-General tables Parliament.

During our reviews, we publish a range of background papers and other materials to inform our consultations. After the Attorney-General tables our final reports, they are also publicly available.

Our recommendations for law reform do not automatically become law. However, over the almost 60 years of the Commission's history, there is a strong track record of implementation of our recommendations by the Government.

The Evidence Law Review

What is evidence?

Evidence is the material that parties give to a court to enable the fact finder (judge, magistrate or jury) to decide the matters in dispute. Evidence can include oral statements, written documents, drawings, images, audio recordings, and physical objects, such as a knife.

What is evidence law?

Evidence law comprises the rules and legal principles that manage how parties prove disputed facts in a legal proceeding. In Queensland, the Evidence Act, the common law, and other laws, rules and practice directions establish evidence law. Evidence law regulates how parties present evidence in

court, the information a court can accept as evidence and how a court can use the evidence. While its focus is on the presentation of material at trial it also plays a key role in pre-trial procedures. It is based on concepts of reliability and fairness.

What is uniform evidence law?

Uniform evidence law (UEL) applies in federal courts and in all states except for South Australia and Queensland. UEL is model national uniform legislation for evidence. It governs the parties' presentation of evidence and its admission by Australian courts.

The Australian Law Reform Commission (ALRC) drafted UEL in the 1980s. The Commonwealth Government initially enacted it as law in 1995, followed closely by NSW.

Is the Commission intending to implement uniform evidence law? Will this support a uniform Australian approach?

While most Australian states and territories have now adopted a version of UEL, the approach is not identical. Jurisdictions adopting model national uniform legislation like UEL can change the laws to suit their context. Different Australian states and territories have taken different approaches to modernising and reforming their Evidence Acts and responding to the findings of relevant commissions, reviews, and inquiries.

The ALRC reviewed the operation of the uniform evidence Acts in partnership with other law reform bodies in 2005. It recommended reforms to address recognised issues with UEL and to maintain and further the harmonisation of evidence law in Australia. UEL jurisdictions have adopted many, but not all, of the ALRC's recommended reforms.

We are carefully considering UEL's appropriateness as an evidence law framework for Queensland. We recognise the benefits of uniformity, including consistency and harmony with other jurisdictions. We also recognise that there can be good reasons for adopting a tailored approach.

Will the Commission study jury outcomes? How is evidence law relevant to the likelihood of a 'hung jury'?

Some rules of evidence govern the admissibility of evidence. Other rules govern how juries can use evidence. Jury directions are the avenue to inform the jury about the relevant rules, to help them to evaluate the evidence in accordance with the rules.

Juries can fail to agree on a verdict for a range of reasons, including complexities in evidentiary issues. We are exploring the body of academic literature about jury directions and jury outcomes and considering evidence law's appropriate role and settings in supporting a clear and effective criminal justice system and just outcomes.

Does evidence law apply in sentencing and bail hearings?

Sentencing and bail are separate parts of the criminal justice system.

Sentencing is the process of determining and applying the appropriate penalty for an offender's actions. The Penalties and Sentences Act primarily sets out the sentencing framework for Queensland. Other laws prescribe aspects of this framework, including a section in the Queensland Evidence Act that sets out the standard of proof for fact finding on sentence.

Bail involves the pre-trial determination of whether the State should hold an accused person in custody or release them into the community while they await trial or sentencing. The Queensland Bail Act regulates the bail process.

Generally, UEL applies to all court proceedings. However, it does not apply to sentencing unless the court directs that it does. It also does not apply to certain aspects of a bail hearing.

Will the Commission consider the role of evidence law pre-trial?

Yes. Our review covers the broad scope and continuum of Queensland evidence law's operation, including in pre-trial procedures. We recognise that the changing nature of litigation and legal processes has increased the focus on pre-trial resolution since drafting of the Queensland Evidence Act and Uniform Evidence Law.

How will the Commission ensure that the new Evidence Act accommodates likely technological developments?

We are committed to ensuring that the new Evidence Act will reflect and accommodate contemporary and evolving technological developments, including developments that have progressed the means of recording of evidence and the use of artificial intelligence. We have identified 'enduring' as one of the guiding principles for our review to ensure our recommendations achieve this.

We are actively engaging, through our research and consultations, with experts who can inform us about the likely nature and effect of relevant developments, including in the form, collection and use of information.

Will the Commission be taking the Human Rights Act into account in developing a new Evidence Act?

Yes. Evidence law engages a broad range of human rights, centred around upholding the right to a fair hearing. Human rights principles underpin the policy objectives of evidence law and regulate its settings.

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.

How far advanced is the Queensland system with regards to adopting 'Circle Courts'?

'Circle Courts' are courts which involve Aboriginal and Torres Strait Islander people in administering justice to members of their communities. In Queensland, Murri Courts are most akin to the 'Circle Courts' established in NSW and the ACT. Like Circle Courts, Murri Courts aim to support cultural safety, respect, open communication, and participation.

Murri Courts operate in Magistrates and Childrens Courts throughout Queensland. They are specialist, less formal, culturally appropriate sentencing courts that integrate cultural considerations into the justice process by supporting Aboriginal and Torres Strait Islander defendants to achieve culturally equitable, community-based sentencing outcomes. Locally Recognised Elders or Respected Persons walk alongside defendants. The courts aim to address underlying contributors to offending, promote rehabilitation, and reduce reoffending. They are not strictly bound by the rules of evidence.

Is the Commission considering access to legal representation for children and victims of DFV who cannot access legal representation?

This is outside the scope of this review. We have made relevant recommendations about access to legal representation for people including victim-survivors of domestic and family violence in previous reviews (see our reports for our [Criminal Defences Review](#) and [Non-Fatal Strangulation Review](#)).

Evidence law does include provisions aimed at supporting unrepresented parties or witnesses, for example, the provision of legal representation for a self-represented defendant charged with a domestic violence offence who wishes to cross-examine the complainant. We consider provisions such as these within the scope of our Evidence Law Review.

Our review process and opportunities to be involved

Is the Commission drafting a new Queensland Evidence Act?

Yes, the Commission will provide drafting instructions to the Office of the Queensland Parliamentary Counsel for a new Evidence Act that reflects our recommended reforms. The new Evidence Act would replace the current Queensland Evidence Act. The Government will decide whether to implement our recommended new legislation.

Can I be part of the review? When and how can I share my views?

Yes. We encourage you to give us your views at any time. 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.

We will release a Consultation Paper and a Draft Exposure Bill in April 2027.

Our Consultation Paper will ask questions and invite submissions by mid-June 2027.

When will changes to evidence law commence?

The Commission's role is to make recommendations about whether, and how, the Government should reform Queensland evidence law.

The Government will decide whether, and if so when, to make any of our recommended changes.