

Queensland's consent laws should be reviewed, Law Society tells Attorney-General

By Ashleigh Stevenson and Josh Robertson

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The Queensland Law Society president has written to the state's Attorney-General, backing calls for a review of Queensland's sexual consent laws.

On Wednesday ABC News reported the story of Jayne (not her real name), whose accused rapist was acquitted despite causing her shocking injuries.

In 2012, a jury acquitted the man, who could rely on a 109-year-old defence to rape in Queensland law that he had a mistaken but honest and reasonable belief that she was consenting to an escalation in sex acts.

The Queensland Women's Legal Service (QWLS) said the case highlighted why the state's rape laws were the worst in Australia.

Queensland Law Society president Ken Taylor has now written to Attorney-General Yvette D'Ath supporting a review of "the definition of consent in our criminal law".

Mr Taylor also notes the Queensland Law Reform Commission may be well placed to bring the rigour needed for such a project.

"Sexual violence is a scourge in our society occurring in both public and private domestic settings," Mr Taylor writes in the letter.

"It is a complex and particularly difficult issue for the legal system and the community.

"Tackling it requires both a continued and cooperative effort across Government and the community and respect for fundamental legislative principles which underpin the rule of law in our state."

Mr Taylor said the Queensland Law Society would be very keen to engage in a review as an expert legal stakeholder and be consulted on any proposals for reform.

"We are conscious that the law must respond to community expectations and also remain faithful to our fundamental tenets."

Ms D'Ath told the ABC she would write to the QWLS asking them to detail their concerns and propose legal changes they thought necessary.

The ABC also understands the Attorney-General's office will review details of the outcome of the trial involving Jayne.

Ms D'Ath also said it was the first time the legal service had raised the need for reform of sexual consent laws.

But a QWLS spokeswoman said it had been raised several times since October.

Queensland Opposition Leader Deb Frecklington said on Wednesday she would support a review.

"I think it's important, if other states are looking into consent," Ms Frecklington said.

New South Wales is reviewing its sexual consent laws, with the Government there declaring a "systemic problem" with rape reporting and convictions in the wake of the high-profile case of Saxon Mullins.

QWLS solicitor Julie Sarkozi said it was "easier to defend rape allegations in Queensland than in other states" because of the "blunt" effect of the "mistaken belief" defence.

In NSW already, that legal defence to rape does not stand up if an accused shows "reckless indifference".

Topics: law-crime-and-justice, sexual-offences, laws, domestic-violence, community-and-society, government-and-politics, brisbane-4000, qld, australia



PHOTO: Jayne told ABC News the not guilty verdict left her in disbelief. (ABC News: Steve Keen)

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