



Queensland
**Human Rights
Commission**

Publishing information about a human rights complaint guideline

Approved

Scott McDougall
Commissioner
11 September 2023

Last updated

Name:
Position
Date

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Purpose of guideline

Under the *Human Rights Act 2019 (HR Act)*, the Human Rights Commissioner (Commissioner) may publish information about a human rights complaint that the Commission has finished dealing with.

This guideline sets out the Commissioner's approach to determining whether information about a human rights complaint should be published.

Human rights complaints process

Under the HR Act, a person may make a human rights complaint to the Commissioner for resolution by the Commission. The Commission attempts to resolve human rights complaints, generally through a conciliation process.

Unresolved complaint report

If the Commissioner considers the complaint has not been resolved by conciliation or otherwise, the Commissioner must prepare an unresolved complaint report as soon as practicable after the Commission has finished dealing with the complaint.

The report must include the substance of the complaint and actions taken to try to resolve the complaint. It may also include details of actions the Commissioner considers the respondent to the complaint should take to ensure its acts and decisions are compatible with human rights. An unresolved complaint report is not admissible in a proceeding in relation to a contravention of the HR Act, unless the parties agree.

Resolved complaint notice

For complaints that the Commissioner considers have been resolved, the Commissioner must give the parties a notice stating the outcome of the resolution of the complaint and that the Commission has finished dealing with the complaint.

Legal basis for publication

Section 90 of the HR Act provides that the Commissioner may publish information about a human rights complaint that the Commission has finished dealing with. The publication:

- (a) may include the substance of the complaint; and
- (b) may draw on information about the complaint contained in an unresolved complaint report or in a resolved complaint notice; and
- (c) must not include personal information about an individual unless the information has previously been published, or given for the purpose of publication, by the individual.

Purpose of publication

The main objects of the HR Act are set out in section 3 as:

- (a) to protect and promote human rights; and
- (b) to help build a culture in the Queensland public sector that respects and promotes human rights; and
- (c) to help promote a dialogue about the nature, meaning and scope of human rights.

Section 61 of the HR Act confers upon the Commission corresponding functions, for example, to promote an understanding and acceptance, and public discussion, of human rights and the Act in Queensland.

The publication of information about human rights complaints is central to achieving these objects and functions.

Publication also enhances the Commission's accountability and transparency and is consistent with the 'push model' of the *Right to Information Act 2009* to make information publicly available unless there is good reason not to.

Where the Commission publishes information about human rights complaints

The Commission may publish information about human rights complaints:

- in the Commission's annual report;
- in the annual report about the operation of the HR Act;
- in submissions to parliamentary inquiries and other reviews and consultations;
- in reports prepared pursuant to the Commission's functions, including to review public entities' policies, programs, procedures, practices and services in relation to their compatibility with human rights;
- as case studies on the Commission's website;
- by publishing information or reports of unresolved complaints, generally without any personal information about an individual.

There may be other places where the Commission will publish information about human rights complaints.

Factors relevant to whether the Commissioner will publish

The Commissioner will only publish information about a human rights complaint:

- once it has finished dealing with the complaint; and
- that is deidentified, unless the information has been previously published, or given for the purpose of publication, by the individual.

Factors that the Commissioner may consider in deciding whether to publish information about human rights complaints include:

- the objects of the HR Act;
- the functions of the Commission;
- the Commission's commitment to accountability and transparency;
- the detail to be included in the publication;
- whether the information could prejudice concurrent legal proceedings about similar or the same factual matters;
- whether publication will limit human rights of any individuals, and whether that limitation can be justified.

The Commissioner will generally publish de-identified unresolved complaint reports that contain recommendations in full, with the identities of individuals removed.

Human rights considerations

As information about human rights complaints will be deidentified before they are published, it is unlikely that the right to privacy or reputation, protected by section 25 of the HR Act, is limited by the publication.

By deidentifying information about human rights complaints before publication, obligations on the Commission in handling information about a person’s affairs under section 220 of the *Anti-Discrimination Act 1991*, and handling personal information under the *Information Privacy Act 2009* will normally be complied with.

Whether other human rights may be limited by publishing the information, and whether that limitation can be reasonably and demonstrably justified, will need to be considered on a case-by-case basis.

Further information and assistance

Employees requiring further information or assistance in relation to this guideline should contact the Senior Policy Officer, Principal Lawyer or the Responsible Officer.

Policy administration

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