

# Putting people first

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The first annual report on the  
operation of Queensland's  
*Human Rights Act*

2019-20



Queensland  
**Human Rights**  
Commission

# Annual report on the operation of the Human Rights Act 2019, 2019-20



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ISSN 2652-8835 (online)

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# Commissioner's foreword

Human rights are the inalienable rights and freedoms that belong to every person simply because they are human.

In passing and enacting the *Human Rights Act 2019*, the Queensland Parliament made a clear and powerful statement about the Queensland we want to build – a Queensland where everyone feels safe and respected, no matter who they are or where they are from. A Queensland which is fair and inclusive, and where everyone is afforded the dignity and freedom the more privileged among us already take for granted. A Queensland where people are put first.



The Queensland model of human rights protection, which came into full operational effect on 1 January 2020, promotes a human rights culture in the three arms of government – the executive, the legislature and the judiciary.

I can envisage no greater test of new human rights legislation than a global pandemic which necessitated a swift and far-reaching response from all levels of government to protect our community.

And yet, in spite of the undeniable challenges presented in this first year of the Act's operation, we are already beginning to see a human rights culture emerge across our public sector, in our judiciary, and within the halls of parliament.

This report attempts to outline the work done across Queensland's public sector in implementing the Act. As in any piece of work of this size and scale, capturing it all within the pages of a report is a difficult ask. The fact that it has been a challenge due to the amount of work done across state and local governments and the community and legal sectors, is something to celebrate, and I congratulate all three arms of government on the commitment they have shown in engaging with their new responsibilities under the Act.

This commitment to the protection of our rights is a sign of a strong modern democracy. It sends a strong message about our willingness to shine a light into the dark places, and to ensure dignity for all.



As we continue to navigate the challenges that 2020 has brought our way, I am buoyed by the early success stories of better outcomes for Queenslanders which are beginning to emerge. Some of those success stories are included in the pages of this report; many more exist in the community, in those 'small places, close to home' which Eleanor Roosevelt so clearly and enduringly defined as where human rights begin.

The Commission sincerely thanks the many contributors to this report. The contributors came from the community and legal sector, state and local governments. In a challenging year for all of these sectors in responding to COVID-19, many individuals and organisations still prioritised assisting us with the report for which we are very grateful.

We trust that this report, and future annual reports on the operation of the *Human Rights Act*, will be valuable resources for government, parliament, and the community to understand the impact of the Act on the lives of people in Queensland.

Thank you for continuing to work with us to build a fairer, safer and more inclusive Queensland, and to help make rights real for everyone.



**Scott McDougall**  
**Commissioner**  
**Queensland Human Rights Commission**

# About the Commission

The Queensland Human Rights Commission (**the Commission**) is an independent statutory body established under the *Anti-Discrimination Act 1991*. The Commission was formerly the Anti-Discrimination Commission Queensland, and was renamed the Queensland Human Rights Commission on 1 July 2019 following the passage of the *Human Rights Act 2019* (**the Act**). The functions and powers of the Commission under section 61 of the Act are:

- to deal with human rights complaints;
- if asked by the Attorney-General, to review the effect of Acts, statutory instruments and the common law on human rights and give the Attorney-General a written report about the outcome of the review;
- to review public entities' policies, programs, procedures, practices and services in relation to their compatibility with human rights;
- to promote an understanding and acceptance, and the public discussion, of human rights and this Act in Queensland;
- to make information about human rights available to the community;
- to provide education about human rights and this Act;
- to assist the Attorney-General in reviews of this Act under sections 95 and 96;
- to advise the Attorney-General about matters relevant to the operation of this Act; and
- another function conferred on the commission under this Act or another Act.

## About this report

Section 91 of the Act requires that, as soon as practicable after the end of each financial year, the Commissioner must prepare an annual report about the operation of the Act during the year. The purpose of this report is to provide a resource for government, parliament, and the community on the operationalisation of the Act and the degree to which it is achieving its objectives.<sup>1</sup> The Act will be reviewed in 2023<sup>2</sup> and 2027,<sup>3</sup> and the content of this report will provide evidence of how the Act has been used in its first year of operation.

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<sup>1</sup> Explanatory Notes, Human Rights Bill 2018 44.

<sup>2</sup> Section 95 of the Act requires the Attorney-General to cause an independent review of the operation of the Act up until 1 July 2023.

<sup>3</sup> Section 96 of the Act requires the Attorney-General to cause a second independent review of the operation of the Act for the period July 2023 to July 2027.

# Executive summary

The commencement of the *Human Rights Act* on 1 July 2019 ushered in a new era of public sector accountability in Queensland.

The Act is ambitious and historic. Building upon the experiences of Australia's other human rights jurisdictions, the Queensland parliament extended the breadth of protection to rights to education and to health services, and established access to a complaint conciliation mechanism.

One of the main objects of the Act is to *build a culture in the Queensland public sector that respects and promotes human rights*. In furtherance of this aim, from 1 January 2020, obligations to act compatibly with human rights were placed upon the executive, judicial and parliamentary arms of government.

This report details the operation of the Act in its first year and identifies 7 key indicators to measure growth in Queensland's human rights culture.

## The key concept of human rights compatibility

The concept of human rights compatibility is central to the Act's various obligations. *Compatibility* is achieved when a right is limited reasonably and only to the extent that can be demonstrably justified in a democratic society that places sufficient value on human dignity, equality and freedom. The Act sets out a number of factors relevant to determining whether a limit on a right is reasonable and justifiable, including whether there are any reasonably available, less restrictive, alternatives. By requiring Queensland's public sector to actively consider options that would have less impact on human rights, the Act encourages early risk identification and drives improved, more human-centred, service delivery outcomes.

Various examples provided throughout this report demonstrate the transformative potential of the Act and suggest that Queensland has made a promising start in the development of a human rights culture.

## Public entities' preparation

Established in May 2019, the Human Rights Unit (HRU) within Department of Justice and Attorney-General played a pivotal role to help prepare Queensland Government departments to embed human rights into their day to day business. The HRU convened a Human Rights Inter-Departmental Committee (HRIDC) with a representative



from each Queensland Government department to lead and support capacity-building, collaboration and cultural change.

Between 1 July and 31 December 2019, public entities prepared for the commencement of the operative provisions of the Act by investing in training for their employees. The Commission is greatly encouraged by the swift uptake of the Act by many public sector organisations in committing to training staff, reviewing and updating policies and procedures, and putting in place human rights complaints processes. However, more work will be needed to entrench human rights in government departments, councils, and functional public entities and it will be important that the HRU, councils and functional entity peak bodies are funded to continue this valuable work.

## The new commission and complaints mechanism

From 1 July 2019, the Commission transitioned from the Anti-Discrimination Commission Queensland to the Queensland Human Rights Commission, taking on new functions and responsibilities under the Act. This transformation included a rebrand, creating a new website, community education and training, and preparing for human rights complaints from 1 January 2020.

The Act does not create a stand-alone cause of action for a person aggrieved by an alleged unjustifiable limitation of a human right. However, the Act does provide free access to a complaint and conciliation service administered by the Commission.

A total of 655 enquiries and 130 complaints about human rights were made by 30 June 2020. 37 complaints were finalised, with 8 being successfully resolved through the Commission's complaints process. The relatively small number of complaints results from the fact that the complaints function commenced on 1 January 2020 and a complainant must first make an internal complaint and wait 45 days (9 weeks) before making a complaint to the Commission. This effectively limited complaints to the final quarter of the financial year.

From the small sample it is too early to identify any clear themes or patterns emerging from the complaints, however information provided in this report suggests:

- Public entities have made improvements to internal complaints procedures to identify and resolve human rights complaints.
- The complaints mechanism has provided an opportunity for the Commission to resolve grievances at the earliest opportunity without necessarily requiring a conciliation conference.

- A significant portion of complaints received were not accepted by the Commission for various reasons, most commonly the failure to comply with the requirement to first make an internal complaint.
- A greater role could be played by legal assistance providers in helping complainants to lodge complaints that are more likely to be accepted by the Commission.

## Human rights in the parliament

Committees play an important role in Queensland's parliament. Unlike every other state and the federal parliament, Queensland does not have an upper house. Queensland's seven portfolio committees take on some of the work an upper house would usually do. Under the Act parliament's obligation is to scrutinise new laws to consider whether any limitations on human rights are justified. This occurs through the tabling of statements of compatibility and human rights certificates, the committee process and parliamentary debate.

An advantage of the Queensland parliamentary scrutiny model is that generally committees invite submissions to aid in their consideration of a bill and hold public hearings where evidence is heard. Ideally, the committee process provides sufficient opportunity for evidence 'demonstrably' justifying any limitations on human rights to be presented and subjected to submissions from stakeholders, including the Commission. In the first 6 months of the Act's operation, statements of compatibility and human rights certificates carefully considered and justified limitations on rights in the majority of cases. Regrettably, as noted in this report, on more than one occasion bills or amendments were passed by parliament without being referred to a committee for consideration of human rights compatibility.

While parliament continues to be able to pass laws that are not consistent with human rights, during the period 2019-20 the parliament did not exercise its power to override the Act.

## Human rights in courts and tribunals

Queensland courts and tribunals have important duties under the Act that arise via direct application to their judicial function, when acting in an administrative capacity and when interpreting legislation.

Further, courts and tribunals are required to determine human rights claims when raised in proceedings pursuant to section 59 of the Act, known as the *piggyback* provision.

In the 6 month period in which the operative provisions had effect, the Act was applied on several occasions by the Supreme and District

Courts and the Queensland Civil and Administrative Tribunal. During this period, the Commission intervened in only one Supreme Court proceeding however it is likely the Commission will intervene more frequently in coming years as Queensland's human rights jurisprudence takes shape.

The Supreme Court or the Court of Appeal may make a declaration of incompatibility, if the Court considers that a legislation cannot be interpreted in a way that is compatible with human rights. The courts did not exercise this power in the financial year 2019-20.

## COVID impacts

Two months into the new complaints process, and while many public entities were in the early stages of implementing the Act, the COVID-19 pandemic emerged. On 11 March 2020, the World Health Organisation declared that COVID-19 was a global pandemic. As governments across the world implemented increasingly restrictive measures in response to the pandemic that required adjustments in many areas of everyday life, questions about the impact on human rights began to emerge.

There could have been no greater test of the Act in the first year than a worldwide health emergency.

Human rights protections apply in a pandemic as they do at other times. The Commission observed early in the pandemic the many benefits of the Act as a safeguard for human rights in Queensland: during the law-making stage, when developing policy, and when making decisions.

The Act provides a framework for assessing the impact on human rights of restrictions introduced in response to COVID-19. In the context of a pandemic, statements and certificates of compatibility provide transparency about the impact on the human rights of people in Queensland, and describe why the government considers the legislation is the least restrictive way of achieving the important purpose of protecting lives. This explanatory material provides stakeholders, such as the Commission and the broader community, with information about the justification for proposed changes.

The Act has also been tested during the pandemic as government departments and agencies, councils, and functional public entities make everyday decisions that have an impact on the lives of people in Queensland. To fulfil their obligations, public entities must properly consider human rights when making decisions and taking actions. For example, when considering an exemption from restrictions imposed

on an individual, the Chief Health Officer is required to consider if any limitation on rights is proportionate.

## Finding new ways of working

While COVID-19 has slowed the progress of implementing of the Act in some cases, in others the Act has proved a valuable framework to assist decision-making in challenging situations. The Act requires that public entities consider the least restrictive option in the circumstances, while still meeting an important public purpose. The Act prompted novel solutions that a public entity may not have previously considered, for example using video conferencing technology to ensure that people can maintain family contact and continue to receive health services.

During the pandemic, deeply entrenched practices in the public sector have been disrupted. When face-to-face interactions could not continue because of social distancing, public entities started taking on new ways of doing things that are not only less restrictive of rights, but sometimes more practical and efficient. In this respect, the pandemic is accelerating the development towards the goal of building a human rights culture in Queensland that promotes and respects rights. Rather than creating an additional layer of bureaucracy, the Commission has seen the human rights framework improve service provision and efficiency across sectors. This early momentum is encouraging. While the pandemic continues, and even after the imminent threat to lives decreases, human rights must remain at the forefront of public decision-making.

# Report summary

The Act requires under s91 that this report contain particular information. This information has been summarised below, with the location of more detailed commentary in this report.

**Table 1: Required information for this report under s91 of the Human Rights Act 2019**

Section	Required information
91(2)(a)	<i>details of the examination of the interaction between this Act and other Acts, statutory instruments and the common law</i>  This provision refers to section 61(b) of the Act. The Commission has not been asked to perform this function in the 2019-20 financial year.
91(2)(b)	<i>details of all declarations of incompatibility made</i>  No declarations of incompatibility were made in the 2019-20 financial year.
91(2)(c)	<i>details of all override declarations made</i>  No override declarations were made in the 2019-20 financial year.
91(2)(d)	<i>details of all interventions by the Attorney-General or the commission under section 50 or 51</i>  The Attorney-General and the Commission intervened in: <i>The Australian Institute for Progress Ltd v The Electoral Commission of Queensland</i> [2020] QSC 54.



Section	Required information
	<p>The Attorney-General intervened in: <i>Innes v Electoral Commission of Queensland &amp; Anor</i> (No 2) [2020] QSC 293.</p> <p>For more information, see <i>Human rights in courts and tribunals – Interventions</i> from page 46.</p>
91(2)(e)	<p><i>the number of human rights complaints made or referred to the commissioner</i></p> <p>The Commission received 130 complaints about human rights.</p> <p>For more information, see <i>Human rights enquiries and complaints – Human rights complaints snapshot</i> on pages 120-121.</p>
91(2)(f)	<p><i>the outcome of human rights complaints accepted by the commissioner for resolution by the commission, including whether or not the complaints were resolved by conciliation or otherwise</i></p> <p>Of the complaints accepted and finalised in the 2019-20 financial year:</p> <ul style="list-style-type: none"> <li>• 8 complaints were resolved.</li> <li>• 1 complaint was referred to Queensland Civil and Administrative Tribunal.</li> <li>• 1 complaint was referred to Queensland Industrial Relations Commission.</li> </ul> <p>For more information, see <i>Human rights enquiries and complaints – Outcomes of finalised complaints and Resolved complaint case studies</i>, from page 122.</p>

Section	Required information
91(2)(g)	<p><i>the number of human rights complaints resolved by the commission</i></p> <p>In the 2019-20 financial year: 8 complaints were resolved and finalised, comprising:</p> <ul style="list-style-type: none"> <li>• 5 human rights only complaints resolved and finalised by the Commission;<sup>4</sup> and</li> <li>• 3 combined claims<sup>5</sup> resolved and finalised by the Commission.</li> </ul> <p>For more information, see <i>Human rights enquiries and complaints – Human rights complaints snapshot</i> on pages 120-121.</p>
91(2)(h)	<p><i>the number of conciliation conferences conducted under this part</i></p> <p>8 conciliation conferences were conducted in the 2019-20 financial year. 7 were for combined claims and 1 was for a human rights only complaint.</p> <p>For more information, see <i>Human rights enquiries and complaints – Dispute resolution process: conciliation and early intervention</i> on page 131.</p>
91(2)(i)	<p><i>the number of public entities that were asked or directed to take part in a conciliation conference, and the</i></p>

<sup>4</sup> A 'human rights only' complaint is where the complaint was dealt with only under the *Human Rights Act 2019*.

<sup>5</sup> A 'combined claim' is where the complaint raises issues arising under the *Anti-Discrimination Act 1991* and the *Human Rights Act 2019*. The Commission may decide that a human rights complaint would be more appropriately dealt with by the Commission as a complaint under the *Anti-Discrimination Act 2019* as per section 75 of the Act.

Section	Required information
	<p><i>number that failed to comply with a direction to take part</i></p> <p>17 public entities were directed to take part in a conciliation conference scheduled on or before 30 June 2020. 8 of these were individuals.<sup>6</sup></p> <p>No public entities failed to comply with a direction to attend a conference in the 2019-20 financial year.</p> <p>For more information, see <i>Human rights enquiries and complaints – finalised complaints by entity type</i> on page 126.</p>
91(2)(j)	<p><i>the number of human rights complaints received by particular public entities decided by the commissioner</i></p> <p>This information is too detailed to reproduce in the report summary. See <i>Human rights enquiries and complaints - Internal complaints made to public entities</i> from page 105.</p>

Section 91(3) of the Act states that this report may include other information, including the names of public entities and details of actions recommended by the Commissioner following an unresolved conciliation (under section 88). However, no such reports were finalised in the period 2019-20.

<sup>6</sup> Note that complainants often name more than one respondent to a complaint. Some parties were directed to a conference to occur on or after 1 July 2020, and this will be reported in the 2020-21 annual report.

# Introduction to the *Human Rights Act 2019*

## What are human rights?

Human rights are rights inherent to all human beings.

By promoting respect for human rights, we recognise the dignity and worth of all people.

Human rights should only be limited in a way that can be justified in a free and democratic society based on human dignity, equality, freedom, and the rule of law.

## Modern human rights law

The modern idea of human rights derives from the *Universal Declaration of Human Rights* which was adopted by the United Nations General Assembly in 1948. Australia has shown its commitment to human rights by ratifying treaties, including the *International Covenant on Civil and political Rights* (ICCPR) and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR). However, a treaty only becomes a direct source of individual rights and obligations once it is incorporated into domestic legislation.

## The long road to the *Human Rights Act 2019*

The development of human rights law has had a long history in Queensland.

The first Bill to provide legislative protections for human rights was introduced by Premier Frank Nicklin in 1959, but lapsed with the election the following year.

Prior to the introduction of the current Act, some protections under Queensland law were in place to protect and promote human rights. Since 1991, the *Anti-Discrimination Act 1991* has recognised and supported Australia's obligations under international human rights instruments, and the need to protect and preserve the principles of dignity and equality for everyone. The *Anti-Discrimination Act* continues to protect people from unfair discrimination in many areas of public life and from sexual harassment and other objectionable conduct.

The *Fitzgerald Inquiry* report in 1989 recommended the establishment of the Electoral and Administrative Review Commission (EARC). In 1993, EARC recommended<sup>7</sup> a draft bill of rights for Queensland. But it was not until 2005 that a final recommendation was made not to adopt a bill of rights, with the government citing reasons including a likely:

‘... significant and inappropriate transfer of power from the Parliament to an unelected judiciary, increased public costs, and the prospect of increased litigation and challenges to legislation.’<sup>8</sup>

In October 2014 independent MP, Peter Wellington, spoke in parliament about the need for an act of parliament that enshrines rights and liberties, particularly vital in a state with a unicameral system.<sup>9</sup> The proposed Bill would include protections for equality before the law, freedom of expression, association, peaceful assembly, and the right to be deemed innocent until proven guilty – all of which would be subject to reasonable limitations that could be justified in a free and democratic society. On 31 January 2015, the Liberal National Party lost government, and Labor formed a minority government with the support of Peter Wellington, assuring him that Labor would seek advice from the Department of Justice and Attorney-General about the option of human rights legislation in Queensland.<sup>10</sup>

In 2015, a community campaign to lobby for human rights legislation in Queensland attracted support from 43 community organisations and thousands of Queenslanders.<sup>11</sup> The Rights for Queensland Alliance (‘the Alliance’), commonly known as the Campaign for a

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<sup>7</sup> Queensland Electoral and Administrative Review Commission, *Review of the Preservation and Enhancement of Individuals' Rights and Freedoms* (Report, August 1993).

<sup>8</sup> Final government Response from the Premier and Minister for Trade (Mr Beattie) to Legal, Constitutional and Administrative Review Committee Report No. 12 titled ‘The preservation and enhancement of individuals’ 19 May 2005.

<sup>9</sup> Queensland, *Parliamentary Debates*, Legislative Assembly, 29 October 2014, 3753 (Mr Wellington).

<sup>10</sup> Amy Remeikis, ‘Labor’s deals with Peter Wellington’ *Brisbane Times* (online, 5 February 2015) <<https://www.brisbanetimes.com.au/national/queensland/labors-deal-with-peter-wellington-20150205-136xj1.html>>

<sup>11</sup> Emma Phillips and Aimee McVeigh, ‘The grassroots campaign for a Human Rights Act in Queensland: A case study of modern Australian law reform’ (2020) 45(1) *Alternative Law Journal* 31.



Human Rights Act in Queensland, collected 28,000 signatures in support of a bill of rights.<sup>12</sup>

On 3 December 2015, the Legislative Assembly directed the Legal Affairs and Community Safety Committee to inquire into whether it was appropriate and desirable to legislate for a human rights Act in Queensland.<sup>13</sup> The Commission (at that time the Anti-Discrimination Commission Queensland) led by Kevin Cocks OAM conducted community consultations around the state, and the Committee received around 500 submissions. The Alliance was influenced by the recommendations made by Michael Brett Young in his review of the Victorian *Charter of Human Rights and Responsibilities*<sup>14</sup> and sought a complaints mechanism and direct course of action for the Queensland Act that was not available in Victoria. The Committee report was split down party lines, with government members in support and opposition members in opposition to the statement that it was 'appropriate and desirable to have a Human Rights Act in Queensland'.

In late November 2017, the Labor party was returned to government with a majority. On 31 October 2018, the Attorney-General introduced the Human Rights Bill 2018, which was referred to the Legal Affairs and Community Safety Committee. A total of 149 written submissions and 135 form submissions were received through the second inquiry process, with the vast majority of submissions in favour of the legislation. Submissions opposing the legislation cited concerns that the legislation might compromise parliamentary sovereignty by changing the role of the judiciary.<sup>15</sup> However, others commented that the dialogue model would address these concerns by ensuring that parliament retains the power to make laws, including, where necessary, to override human rights concerns.

On 4 February 2019, the Committee recommended that the Bill be passed. The Opposition members affirmed their commitment to protect the most vulnerable groups in our community, but raised concerns around potential misuse and frivolous complaints, along with the 'likely politicisation of litigation by embroiling the judiciary in political decision making'.<sup>16</sup> The Opposition members recommended that there be a timely review of the operation of the Act.

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<sup>12</sup> Ibid 34.

<sup>13</sup> Queensland, *Parliamentary Debates*, Legislative Assembly, 3 December 2015, 3155 (SJ Hinchliffe).

<sup>14</sup> Michael Brett Young, *From Commitment to Culture: The 2015 Review of the Charter of Human Rights and Responsibilities Act 2006* (State of Victoria, 2015).

<sup>15</sup> Legal Affairs and Community Safety Committee, Parliament of Queensland, *Human Rights Bill 2018* (Report No. 26, February 2019) 2.6.3.2 and 2.6.4.2.

<sup>16</sup> Ibid 137.

# About the *Human Rights Act 2019*

## Objects of the Act

The main objects of the Act are:

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

## Protected human rights

The Act consolidates and establishes statutory protections for certain rights recognised under international law, including those drawn from the ICCPR and the ICESCR.

The following human rights are protected under the Act:

- Right to recognition and equality before the law (section 15)
- Right to life (section 16)
- Right to protection from torture and cruel, inhuman or degrading treatment (section 17)
- Right to freedom from forced work (section 18)
- Right to freedom of movement (section 19)
- Right to freedom of thought, conscience, religion and belief (section 20)
- Right to freedom of expression (section 21)
- Right to peaceful assembly and freedom of association (section 22)
- Right to take part in public life (section 23)
- Property rights (section 24)
- Right to privacy and reputation (section 25)
- Protection of families and children (section 26)
- Cultural rights – generally (section 27)
- Cultural rights – Aboriginal peoples and Torres Strait Islander peoples (section 28)
- Right to liberty and security of person (section 29)
- Right to humane treatment when deprived of liberty (section 30)
- Right to a fair hearing (section 31)
- Rights in criminal proceedings (section 32)
- Rights of children in the criminal process (section 33)
- Right not to be tried or punished more than once (section 34)
- Retrospective criminal laws (section 35)
- Right to education (section 36)
- Right to health services (section 37)

## Government obligations

The Act places obligations on all three arms of government, the legislature, the judiciary and the executive. This means that:

**Parliament** (the legislature) must consider human rights when proposing and scrutinising new laws.

**Courts and tribunals** (the judiciary) so far as is possible to do so, must interpret legislation in a way that is compatible with human rights.

**Public entities** (the executive) – such as state government departments, local councils, state schools, the police and non-government organisations and businesses performing a public function must act compatibly with human rights.

The Act makes it clear that rights can be limited, but only where it is reasonable and justifiable.

This report contains sections reflecting the progress gained by all three arms of government towards the goals of the Act.

- For more information on parliament see *Human rights and the parliament*
- For more information on courts and tribunals see *Human rights in courts and tribunals*
- For more information on public entities see *Human rights and the public sector*

## The dialogue model

*Figure 1: Diagram of the dialogue model*



A dialogue model is aimed at prevention rather than litigation, and retains the sovereignty of Parliament.

It means that human rights are considered across the three arms of government – when the Parliament makes laws, when government applies laws, and when courts and tribunals interpret laws.

There is a mechanism for the court to inform the government if legislation is inconsistent with human rights, but it doesn't affect the validity of the legislation and Parliament has the final say.

It encourages people to talk to public entities if they feel their human rights have been unreasonably limited or not considered at all.

Under the Act, a complaint may be made to the Commission about human rights, provided a complaint has first been made to the public entity. The dispute resolution process is consistent with a dialogue model as it encourages resolution through discussion. The dialogue model is strengthened by the Commission's capacity to make recommendations for improvements to further human rights compatibility. Section 88 of the Act allows the Commission to prepare a report about a human rights complaint which includes recommendations of actions to be taken by public entities to ensure its acts and decisions are compatible with human rights.

## Public entities

Public entities have obligations to make decisions and act compatibly with human rights, and to give proper consideration to human rights when making decisions.

A public entity is an organisation or body performing a public function in and for Queensland.

There are two types of public entities, although the following terms are not used in the Act:

*Core public entities* are government entities. This includes:

- government agencies and departments
- public service employees
- the Queensland Police Service and other emergency services
- state government ministers
- public schools
- public health services, including hospitals
- local government, councillors, and council employees.

*Functional public entities* are only considered public entities when they are performing a function of a public nature on behalf of the state. Organisations funded by the government to provide public services

would fall under this category. Functional public entities could be non-government organisations (NGOs), private companies, or government owned corporations. A private company funded to run a prison, or an NGO providing a public housing service, would be considered a functional public entity.

## History of human rights in Queensland

To understand the significance of the passing of the *Human Rights Act 2019*, a review of Queensland's human rights record is needed.

The following timelines are a compilation of events that have impacted on the rights of people in Queensland (in ways both positive and negative).

The timelines represent a brief history of Queensland from six different perspectives, denoted by the following icons:



First Nations people



Civil liberties



The fight for equality



Children and families



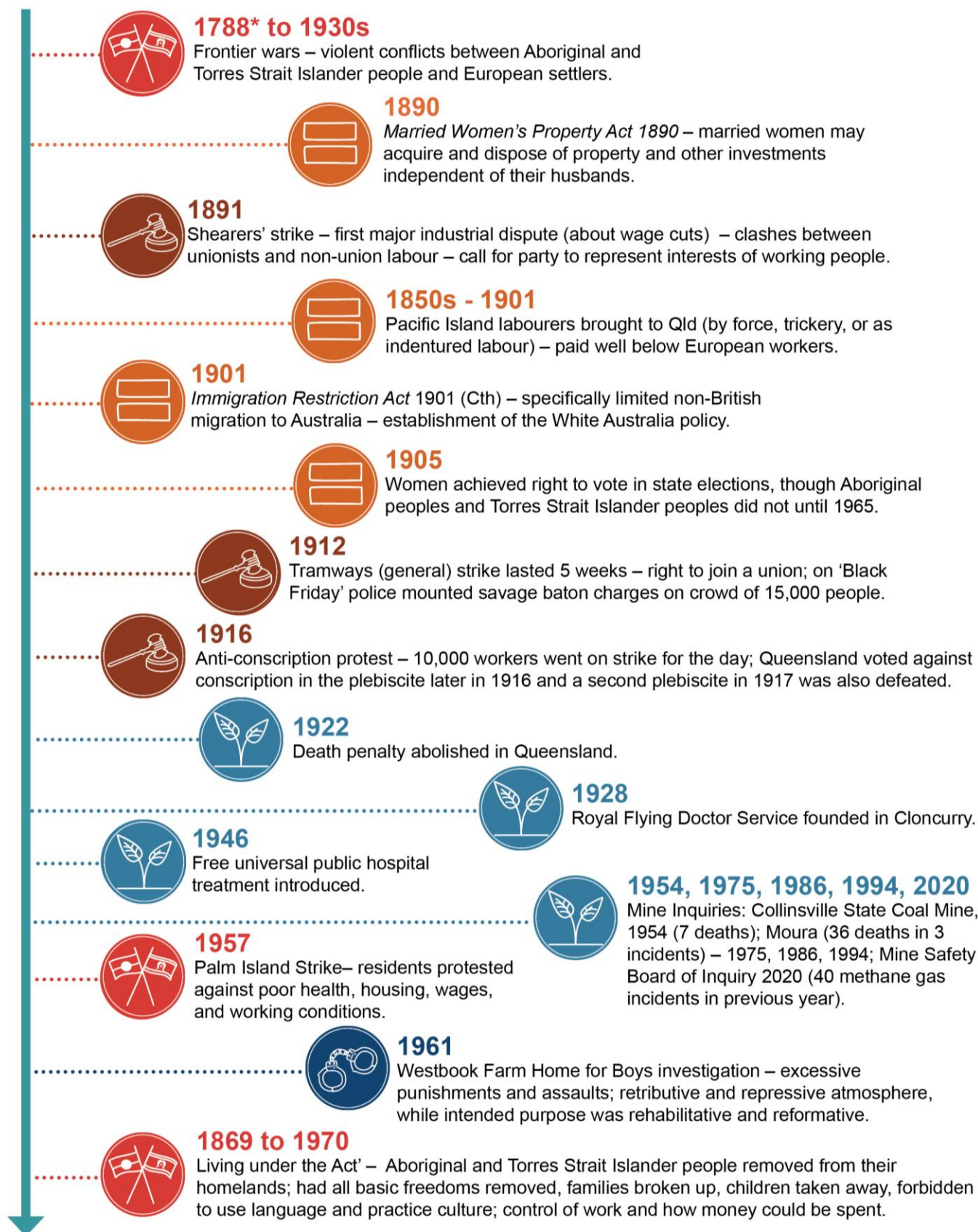
Life and health



Prisons and institutions

The timelines have been produced here to: acknowledge the human rights abuses and failings of the past; reinforce the need for the *Human Rights Act*; be a reminder that these are fragile freedoms; and that the lives of people are enhanced when human rights are respected.





*\*This timeline includes some of the major events in Queensland that have affected the human rights of Aboriginal and Torres Strait Islander peoples since first contact with European people. First Nations people lived on and were custodians of the lands now known as Queensland for 50-60,000 years prior to European arrival.*

**1967**

Referendum – Australia voted to amend the Constitution to allow the Commonwealth to make laws for Aboriginal people, and for them to be included in the Census.

**1967 to 1977**

Student marches and protests – time of social change; people from range of backgrounds prepared to defy authority (anti-conscription, anti-Vietnam, anti-uranium); ban on street marches; police arrests made under the *Traffic Act*.

**1970**

First 'moratoriums' (halt to business as usual) – protest against involvement in Vietnam war and conscription.

**1975**

*Racial Discrimination Act 1975* (Cth) – an instrument for holding people to account for acts of racial discrimination and vilification.

**1977**

Ban on street marches – invoked for anti-uranium mining protests.

**1969**

Ban on married women as permanent employees in Queensland public sector abolished.

**1971**

Springbok (South African rugby) tour – anti-Apartheid protests; Premier declared month-long state of emergency.

**1976**

Cedar Bay raid by police, narcotics, and customs – on 'hippie commune'; dwellings burnt down, food crops and clothing destroyed.

**1981**

UN International Year of the Disabled – emphasised rights of persons with disability; shift to a human rights-based focus on eliminating barriers, promoting social inclusion and civic participation.

**1983**

Australia ratified UN *Convention on the Elimination of all Forms of Discrimination Against Women* – established agenda for action on women's issues (equality, domestic violence, girls' equal participation, non-traditional occupations, reproductive rights).

**1983**

HIV epidemic reached Australia – stigma, discrimination, and marginalisation of people living with HIV prevalent.

**1987**

*Our Homeless Children* report – found large number of children denied adequate housing and protection from neglect, cruelty, and exploitation.

**1988**

Kennedy report on prison, probation, and parole reform – recommended doing away with Boggo Road prison, renaming prisons 'correctional centres', greater use of community corrections, home detention, and release to work programs, and to establish official visitors.

**1989**

Australia ratified UN *Convention Against Torture & Other Cruel, Inhuman or Degrading Treatment or Punishment*.

**1990**

Homosexuality decriminalised in Queensland.

**1990**

Australia ratified UN *Convention on the Rights of the Child*.

**1991**

*Anti-Discrimination Act 1991* (Queensland) provides wide-ranging anti-discrimination protection for people in Queensland.

**1991**

Royal Commission into Aboriginal Deaths in Custody – report investigated and made recommendations on 27 deaths in custody in Queensland between 1980 and 1989.

**1991**

Ward 10B inquiry – into care and treatment of patients in the psychiatric unit, Townsville General Hospital; found treatment was, in many respects, negligent, unsafe, unethical, and unlawful acts; 65 patients died in circumstances which justified close investigation.



**1992**

*Peaceful Assembly Act 1992* replaced police permits for street marches.

**1992**

Health Rights Commission established – now Office of the Health Ombudsman.

**1992**

*Freedom of Information Act 1992* – government required to make documents about a person available to them, and to ensure the information is accurate.

**1992**

*Mabo case* – High Court decision that overturned the concept of terra nullius.

**1994**

*Murrandoo Yanner case* – High Court recognised hunting, gathering, and fishing rights for Aboriginal and Torres Strait Islander people in Queensland by exercising native title rights.

**1994**

Compulsory age retirement effectively abolished under the *Anti-Discrimination Act*.

**1995**

Basil Stafford Centre (provided accommodation and care for intellectually disabled people) – Stewart report recommended closure; found assault, client abuse, and neglect linked to an 'insidious institutional culture'.

**1996**

*Wik case* – High Court held that statutory leases do not extinguish native title rights.

**1997**

*Bringing Them Home* – report on the separation of Aboriginal and Torres Strait Islander children from their families and community.

**1998 to 1999**

Forde Inquiry – into abuse mistreatment and neglect of children in Queensland institutions from 1911; found emotional, physical, sexual, and systems abuse; breaches re food, clothing, education, and corporal punishment.

**2002**

Family responsibilities added as ground for discrimination under the *Anti-Discrimination Act*.

**2002**

Gender identity added as a ground for discrimination under the *Anti-Discrimination Act*.

**2002**

Recognition of same-sex couples in Queensland legislation – de facto partners (regardless of sexual orientation) have rights and obligations consistent with married spouses.

**2002**

Queensland Government established Stolen Wages Reparation Scheme.

**2003**

*Aboriginal Cultural Heritage Act 2003* and *Torres Strait Cultural Heritage Act 2003* – required developers to make Cultural Heritage Management Plans.

**2004**

Protecting children – Crime and Misconduct Commission (now Crime and Corruption Commission) inquiry into abuse of children in foster care; recommendations for systemic change and child-focused protective services.

**2005**

Queensland Public Hospitals Commission of Inquiry – found conduct that appears to constitute criminal offences and a 'sustained path of injury and death at Bundaberg Base Hospital'.

**2008**

Apology to the Stolen Generations – Federal Government apologised to Aboriginal and Torres Strait Islander people for past laws, practices, and policies of forcible removal.

**2008**

Australia ratified UN *Convention for the Rights of Persons with Disabilities* – major advance for the disability rights movement.

**2011**

First national Paid Parental Leave scheme commenced.

**2012**

Apology for past forced adoption policies and practices by Queensland Parliament.

**2012**

Self-harm the leading cause of death among children 15 to 24 (ABS).

**2013**'Anti-bikie' laws (*Vicious Lawless Association Disestablishment Act 2013*) – created anti-association offences and mandatory sentencing provisions; replaced by *Serious Organised Crime Act 2016*.**2013**

Child Protection Commission of Inquiry reviewed progress and recommendations from Forde Inquiry.

**2016**

Same-sex couples and single people eligible to adopt.

**2016**

Lex Wotton High Court challenge – High Court ruled on acts of racial discrimination in the investigation of the death of Mulrunji Doomadgee.

**2017**Australia ratified UN *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)* – Australia agreed to establish an independent National Preventive Mechanism to conduct inspections of all places of detention and closed environments, and international inspections of places of detention by the United Nations Subcommittee on the Prevention of Torture.**2018***Modern slavery Act 2018* (Cth) – reporting requirements on business; address modern slavery risks (servitude, child labour, forced labour, human trafficking, debt bondage, slavery-like practices, forced marriage, deceptive recruiting).**2018**

Aboriginal children 8 times as likely to be in child protection system as non-Indigenous children (AIHW).

**2018**

17-year-olds dealt with in the youth justice system, rather than the adult system from 2018.

**2006 and 2019**

Women in Prison reports, 2006 and 2019, by ADCQ and QHRC – law, policy, and practices pertaining to the detention of women in prison examined against international human rights standards.

**2019**

Children detained for prolonged periods in Brisbane's maximum security police watch house attracted national condemnation.

**2020***Human Rights Act 2019* (Queensland) came into full effect – affording broad human rights protections to people in Queensland, including rights to education and to health services; specifically protects cultural rights of Aboriginal peoples and Torres Strait Islander peoples.**2020**

COVID-19 pandemic – declaration of a Public Health Emergency and Public Health Directions that severely restrict movement and other rights.

**2020***Meriba Omasker Kaziw Kazipa Act 2020* – provided legal recognition of Torres Strait Islander families' use of traditional child rearing practice.



# Human rights and the parliament

## The role of parliament

The Act requires parliament, the courts, and the executive to act compatibly with human rights. Parliament is responsible for making and passing laws, and under the dialogue model courts cannot overrule legislation because it is not compatible with human rights. Parliament therefore has a crucial role to ensure that legislation is compatible with human rights before it passes into law.

Parliament's obligation is to consider whether limitations on human rights are justified. This occurs through the tabling of statements of compatibility and human rights certificates, the committee process, and parliamentary debate.

While parliament may pass laws that are not consistent with human rights, during the period 2019-20 the parliament did not exercise its power to override the Act.

## Override declarations

The parliament may override the Act by declaring that new legislation has effect despite being incompatible with human rights. This provision is intended to be used only in exceptional circumstances including war, a state of emergency, or an exceptional crisis situation constituting a threat to public safety, health, or order.

Parliament has shown a strong commitment in the first year to ensuring compatibility with human rights rather than seeking to rely on override declarations during the COVID-19 emergency period.



## Statements of compatibility

The parliament must scrutinise all proposed laws for compatibility with human rights. From 1 January 2020, a member who introduces a Bill must table a statement of compatibility when introducing the Bill, and the responsible portfolio committees must consider the Bill and report to the Legislative Assembly about any incompatibility with human rights.

There were 39 Bills introduced during the 2019–20 financial year, of which 14 were introduced after 1 January 2020 and were accompanied by statements of compatibility.

Statements of compatibility must explain why any limitation of rights is demonstrably justifiable. [\*The Queensland Legislation Handbook\*<sup>17</sup>](#) provides guidance and a template for completion of the statement of compatibility by the relevant department. The statements set out the human rights issues, including which human rights are engaged or are of relevance. The statements then explain how the legislation meets the proportionality test in section 13 of the Act, which allows for rights to be subject to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality, and freedom.

## Human rights certificates

Human rights certificates must accompany new subordinate legislation and are drafted by the responsible Minister for the subordinate legislation. There were 251 new pieces of subordinate legislation tabled in the 2019–20 financial year. Of these, 110 were tabled after 1 January 2020 and were accompanied by human rights certificates.

The Commission has identified 23 pieces of subordinate legislation, accompanied by human rights certificates, specifically made to address issues arising under the COVID-19 pandemic, including:

- [Health Legislation \(COVID-19 Emergency Response\) Regulation 2020](#)
- [Residential Tenancies and Rooming Accommodation \(COVID-19 Emergency Response\) Regulation 2020](#)
- [Transport Legislation \(COVID-19 Emergency Response\) Regulation 2020](#)
- [Corrective Services \(COVID-19 Emergency Response\) Regulation 2020](#)

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<sup>17</sup> Queensland Government Department of the Premier and Cabinet, '3.5 Role of drafter', *Queensland Legislation Handbook* (Web Page, 16 January 2020).

The format and content of the human rights certificates is similar to that of the statements of compatibility described above.

## Portfolio committees

Parliamentary committees play an important role in Queensland's parliament by monitoring or investigating issues and scrutinising proposed laws. Unlike some other state and territory parliaments, the Queensland Parliament does not have a dedicated committee responsible for scrutinising all legislation against relevant standards, including international human rights.

There are 7 portfolio committees in the Queensland Parliament made up of members of parliament, and it is their job to enquire into proposed laws before they are debated by parliament. Under the Act, the portfolio committee responsible for examining a Bill must consider and report to the parliament about whether the Bill is not compatible with human rights, and consider and report to the parliament about the statement of compatibility tabled for the Bill.

An advantage of the Queensland parliamentary committee system is that committees generally invite submissions to aid in their consideration of a Bill and hold public hearings where evidence is heard. The Committees then report to parliament about the Bill and may make comments about the statement of compatibility.

These committees also consider subordinate legislation, such as regulations, including reporting on any issues identified by the committee in its consideration of the human rights certificates tabled with the subordinate legislation.

## Consultation with the Commission

The Commission is encouraged by the fact that some agencies have consulted with the Commission about the human rights implications of proposed Bills and subordinate legislation during the drafting stage. This consultative approach has been prompted, in part, by the requirement for a statement of compatibility or human rights certificate. The Commission is available to discuss human rights implications at an early stage to ensure compliance with the Act is achieved through collaborative engagement.

# Summary of the role of parliament in 2019-20

In the first 6 months of the Act's operation, statements of compatibility and human rights certificates carefully considered and justified limitations on rights in the majority of cases. The portfolio committee process also provided an opportunity for stakeholders, including the Commission, to comment on the statements. Committee reports included discussion of limitations on rights indicating a genuine commitment to incorporating human rights principles into their work.

In their reports, committees identified clauses that potentially raised human rights issues and brought these to the attention of the parliament. This assessment sometimes included a response from the relevant department to concerns raised by stakeholders or the committee. However, these reports did not generally include formal recommendations, and often merely noted that the statements of compatibility or human rights certificates provided sufficient detail.

Dialogue about human rights often occurred through the inquiry process (prior to the committee writing its report) during which departments held public briefings before the committee and responded to written submissions made by stakeholders. This approach has the advantage of including community and stakeholder consultation at an early stage to ensure new legislation is compatible with human rights.

An example of where the Act influenced the outcome of the Committee process follows below:

## Committee recommends changes to further human rights

[Electoral and Other Legislation \(Accountability, Integrity and Other Matters\) Amendment Bill 2019](#) and Inquiry into the feasibility of introducing expenditure caps for Queensland local government elections

*Following submissions from the community that addressed unreasonable limitations on rights in the Bill, the Electoral and Governance Committee recommended changes to the proposed Bill that were accepted by parliament. This demonstrates the effectiveness of a robust committee system in the context of dialogue.*

The Bill originally proposed changes to electoral laws, including further limits on political donations and expenditure. The Commission took the position that further evidence was needed to justify some of the limitations on rights, particularly the proposed caps on expenditure and gifts to 'third parties', which could have a disproportionate impact

on charitable and other small, non-government organisations. The Commission submitted that limitations on the right to take part in public life and the right to freedom of expression need to be proportionate to the objective of enhancing the democratic rights of all people in Queensland.

The Economics and Governance Committee subsequently recommended that the Attorney-General and Minister for Justice consider amending the Bill to address the concerns of small, not-for-profit, third party organisations about the regulatory burden of the political donation and electoral expenditure cap schemes.<sup>18</sup> The government accepted this recommendation and moved amendments to the Bill before it was passed.<sup>19</sup>

## Significant legislation 2019-20

A summary follows of legislation introduced in the 2019–20 financial year that has raised significant human rights issues.

### Limits on right to peaceful assembly

On 19 September 2019, the government introduced the [Summary Offences and Other Legislation Amendment Bill 2019](#). The Bill created new offences in response to the use of attachment devices at protests, and gave police additional powers of search, seizure, and disposal, as well as the option to issue penalty infringement notices for the new offences. While the Bill was introduced prior to the commencement of the obligation to provide a statement of compatibility, the Explanatory Notes discussed the right to peaceful assembly under the Act.

In its submission to the Legal Affairs and Community Safety Committee,<sup>20</sup> the Commission raised concerns that insufficient justification was provided for the use of dangerous attachment devices covered by the Bill. The Explanatory Notes to the Bill stated that ‘it has been reported some people have claimed that they have placed glass or aerosol [canisters] inside devices such as sleeping dragons and

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<sup>18</sup> Economics and Governance Committee, Queensland Parliament, *Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019* (Report No. 37, February 2020) viii.

<sup>19</sup> See Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019, Explanatory Notes for Amendments to be moved during consideration in detail by the Honourable Yvette D’Ath MP, 14: *The amendments to Chapter 2 relating to third parties were developed in response to the Economics and Governance Committee’s recommendation that consideration be given to amending the Bill to address the concerns of small, not-for-profit third party organisations regarding the regulatory burden of the political donation and electoral expenditure cap schemes in its report on the Bill.*

<sup>20</sup> Queensland Human Rights Commission, *Submission to the inquiry into the Summary Offences and Other Legislation Amendment Bill 2019* (Webpage, 2020). Available at: <https://www.qhrc.qld.gov.au/resources/submissions>

metal fragments have been used to lace the concrete found in dragon's dens', and 'a person could use material in constructing these devices that represent a danger to a person if that material is disturbed, such as asbestos'.

It is a fundamental principle that the necessity for legislation should be evidence-based rather than pre-emptive. In this case, the Commission was concerned there was a lack of publicly available evidence of the need for this legislation.

Further, in considering if limitations on rights were proportionate, the Commission agreed that the legitimate purpose of public safety may apply in relation to devices that contain dangerous substances or things or are constructed to cause injury. Nonetheless, it was unclear if a relevant connection existed between a legitimate purpose and other types of attachment devices, namely a sleeping dragon or a dragon's den, which are not inherently dangerous but would be deemed to be dangerous by virtue of the proposed new section 14B of the *Summary Offences Act 2005*.

It is in the very nature of some peaceful assemblies and expression of ideas that daily activities will be disrupted, including the exercise of the rights of others such as freedom of movement. Under international law, mere disruption is not normally ground for restrictions, and disruption must be tolerated unless it imposes an undue burden. To the extent that assemblies that cause disruption may create risks, they have to be managed within a human rights framework.

Further, the Explanatory Notes did not address any deficit in existing offences and police powers to address these potential issues, and it is noted that police appear to have effectively dealt with the protests that have occurred to date within their existing powers.

The Bill was passed with an amendment relating to reporting, and the new provisions took effect from 30 October 2019.

## COVID-19 legislation

The COVID-19 pandemic proved an early and significant test of the Act and the dialogue model. A series of Bills were introduced and passed quickly through parliament, without the usual opportunity for input through the committee system. The Commission understands that such unusual parliamentary processes may have been necessary in the early response to the pandemic, but is concerned this practice was ongoing.

The [Public Health \(Declared Public Health Emergencies\) Amendment Bill 2020](#), introduced in February 2020, was the first example of the

pandemic influencing parliamentary processes. It increased the maximum period that a declared public health emergency could be extended by regulation – from 7 days to up to 90 days. The Bill was introduced on 4 February 2020 and was passed on 6 February 2020.

In a further response to the pandemic, the government introduced the [Public Health and Other Legislation \(Public Health Emergency\) Amendment Bill 2020](#) on 18 March 2020, which was passed the same day. The purpose of the legislation was to ensure legal authority to make interventions necessary to mitigate the spread of COVID-19 in the community consistent with the obligation on the government to protect life.

The [Public Health and Other Legislation \(Public Health Emergency\) Amendment Act 2020](#) strengthens the powers of the Chief Health Officer (CHO) and emergency officers (EO) under the *Public Health Act 2005* to respond to the pandemic, as well as introducing penalties for breaches of Directions. The Bill was accompanied by a detailed compatibility statement that considered less restrictive measures, such as voluntary quarantine. However, it concluded that such measures were unlikely to achieve the purpose sought. The statement noted important safeguards in the Bill including that:

- the amendments expire in 12 months;
- the new powers require the CHO or an EO to have a reasonable belief that a Direction is necessary to assist in containing or responding to the spread of COVID-19; and
- that if such officers were satisfied that a Direction is no longer necessary to contain the spread of COVID-19, it must be revoked.

The Act provides a defence of reasonable excuse to any offence arising from a breach of a Direction.

### [Lack of committee scrutiny](#)

The [COVID-19 Emergency Response Bill 2020](#) was introduced and passed on 22 April 2020. The Explanatory Notes acknowledge that the Bill creates a series of ‘Henry VIII’ clauses, by providing that secondary legislation (such as a regulation) made by a minister could amend certain primary legislation. Such changes would ordinarily only be possible through amendments passed by parliament. The new Henry VIII clauses<sup>21</sup> were confined to certain areas in which the government suggested it was necessary for ministers to have ultimate discretion to take immediate executive action. Such action included to: mitigate the spread of COVID-19 in the community; facilitate the continued functioning of institutions and the economy; and allow for a

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<sup>21</sup> A Henry VIII clause is a clause of an Act of Parliament which enables the Act to be expressly or impliedly amended by subordinate legislation.



timely, targeted, and flexible response to COVID-19. Changes made under the Act expire on 31 December 2020. A further safeguard was that no extraordinary regulations or statutory instruments enacted under the modification framework are able to be exercised so as to amend or override the Act.

A further safeguard was that the powers to make subordinate legislation under the Bill are not able to be exercised to amend or override the HR Act, or any particular provision of the HR Act, thus preserving its important human rights protections

These Bills were passed with no human rights scrutiny by the relevant portfolio committee. While arguably necessary and reasonable, it was unfortunate the pandemic resulted in legislation not being subject to human rights scrutiny so soon after the commencement of the Act. As the Queensland dialogue model of human rights protection provides parliament with the final say on compatibility of laws, the scrutiny process is critical to human rights protection. This changed practice may have resulted in less urgent legislation also avoiding important committee scrutiny.

The [Justice and Other Legislation \(COVID-19 Emergency Response\) Amendment Bill 2020](#) was introduced on 19 May 2020 and passed on 25 May 2020. The Act makes temporary amendments to the *Disability Services Act 2006* to give immunity to service providers who lock gates, doors, or windows to ensure resident compliance with a Public Health Direction, and also to the *Forensic Disability Act 2011* clarifying the powers of the Forensic Disability Service to refuse visitors and suspend leave to the community.

The legislation was passed without consultation, with limited explanation of the purpose of the amendments in the Explanatory Notes, and neither an explanation of the urgency that would have justified dispensing with all forms of scrutiny, nor opportunity for feedback. Following the passing of the Bill, the Commission, the Public Advocate, and the Public Guardian were given the opportunity to consult with relevant department teams about concerns, and had the opportunity to contribute to the development of the locked gates, doors, and windows policy underpinning the *Disability Services Act* amendments. While the Commission appreciates the swift response from departmental teams, the confusion about the purpose of the amendments and concerns about the implementation of restrictive practices could have been avoided by better communication and consultation at the outset.

The Commission encourages the government to exercise caution in the urgent passing of legislation during a crisis, so that this does not lead to a more permanent erosion of parliamentary processes.



## Youth bail amendments made late and without scrutiny

While not a response to the pandemic, on 17 June 2020 significant amendments were made on the floor of parliament to the [Community Services Industry \(Portable Long Service Leave\) Bill 2019](#) that were unrelated to the primary purpose of the Bill.

This included significant changes to the assessment of bail for young people, with the Bill passing on the same day the amendments were made. It is not clear to the Commission why such comprehensive changes could not have been introduced through a standalone Bill, subject to normal parliamentary scrutiny processes, including the relevant committee reporting on its assessment of the Bill.

The purpose of the amendments, to protect community safety, was an important and legitimate purpose to be achieved. However, the Commission is concerned that the amendments will ultimately not achieve this purpose and will lead to an increase in the incarceration of more children and young people particularly Aboriginal children and Torres Strait Islander children. There is little evidence that such increased institutionalization of children and young people will reduce offending and therefore protect the community.

While a statement of compatibility was tabled with the amendments, this statement did not provide adequate justification for all limitations on rights. In particular, the statement did not consider the presumption of innocence and the obligation to act in the best interests of the child (see sections 32(1), 26(2) and 33). Further, while the rights in criminal proceedings protected in section 32 were discussed in general, the compatibility statement did not appear to justify the specific limitation on the protection in section 32(3), which requires that a child charged with a criminal offence has the right to a procedure that takes account of the children's age and the desirability of promoting the child's rehabilitation.

The amendments were also inconsistent with the Queensland Government's Youth Justice Strategy 2019-2023, in particular Pillar 3: 'Keep children out of custody'.

## National schemes

The [Co-operatives National Law Bill 2020](#) (CNL) was introduced on 4 February 2020 and passed on 16 June 2020. It applies the Co-operatives National Law, which is an appendix to a NSW Act, as a law of Queensland.

The 2015 Review of the Victorian *Charter of Rights and Responsibilities Act 2006*<sup>22</sup> noted that various legal mechanisms are used to establish national schemes like this one. Adopting nationally agreed legislation may alter the application of Act.

The CNL was subject to the usual Queensland parliamentary scrutiny process, including the tabling of a statement of compatibility and an inquiry by the Legal Affairs and Community Safety Committee which assessed its compatibility with human rights. After a detailed consideration of the human rights limited by the CNL, the committee agreed with the conclusions set out in the statement of compatibility.

Nonetheless, the CNL is a law of New South Wales, and it is unclear how the *Human Rights Act 2019* (Qld) will apply to it, including in its interpretation and whether public entities making decisions under it will be subject to the obligation to act and make decisions compatibly with human rights.<sup>23</sup>

The 2015 Victorian Charter Report recommended that the Victorian Government adopt a whole-of-government policy that, in developing a national scheme, the Charter should apply to the scheme in Victoria to the fullest extent possible. The Commission will continue to monitor this issue in Queensland.

## Cultural rights and development of renewable energy

The [\*Forest Wind Farm Development Act 2020\*](#) enables the establishment and operation of a wind farm within the Toolara, Tuan, and Neerdie State forests. The statement of compatibility acknowledged that the Bill limited several rights, including the cultural rights of Aboriginal peoples and Torres Strait Islander peoples under section 28 of the Act.

The Butchulla people's native title rights and interests to part of the project area are recognised in a native title determination made by the Federal Court of Australia. A native title determination for the Kabi Kabi people is currently before the Federal Court. The project would limit access to parts of the project area and change the physical landscape. The statement of compatibility noted that the core value underpinning section 28 is recognition and respect for Aboriginal peoples' and Torres Strait Islander peoples' identity, both as individuals and in common with their communities.

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<sup>22</sup> Michael Brett Young, *From Commitment to Culture* (n 14) 203.

<sup>23</sup> Part 2 of the *Co-operatives National Law Act 2020* (Qld) explicitly applies and removes various legislation from applying to the CNL. For example, the *Queensland Acts Interpretation Act 1954*, the *Legislative Standards Act 1992*, and the *Statutory Instruments Act 1992* have limited application. The Act is silent on the application of the Act. Section 4 states the CNL applies as if it were an Act of Queensland.

Justifications for limiting this right included that if native title exists in relation to part of the agreement area under the development agreement, an Indigenous Land Use Agreement (ILUA) in relation to the project must be registered under the *Native Title Act 1993* (Cth), and in effect for the relevant part of the agreement area. This ILUA requirement would ensure that the project could not proceed without the free and informed consent of these individuals and communities. It would also enable them to negotiate the terms on which that consent is given.

The statement acknowledged that there may be Aboriginal peoples and Torres Strait Islander peoples who do not have or claim native title rights and interests in relation to the project area, but who nevertheless have cultural rights under section 28. The Government sought to identify such Aboriginal or Torres Strait Islander persons prior to introducing the Bill, but had not identified any such people. The project proponent also reported not identifying any concerns about cultural rights of Aboriginal peoples or Torres Strait Islander peoples.

In considering the Bill, the State Development, Tourism, Innovation and Manufacturing Committee commented that assessing the Bill against section 28(2)(d) of the Act required knowledge about what the spiritual relationship of Indigenous people is to the project area as defined in the Bill. While ILUAs would assist those parties who have either obtained or are claiming native title, this may not cover all Indigenous persons who have a spiritual connection with the land in the project area. In balancing all relevant factors, the committee concluded that the limitation on section 28 was reasonable and justifiable.

## Road camera enforcement and digital drivers licence

The [\*Transport and Other Legislation \(Road Safety, Technology and Others Matters\) Amendment Act 2020\*](#) facilitates camera enforcement of seatbelt and mobile phone offences. It provides for images to be taken of vehicles including inside the vehicle cabin (mostly the front cabin). These images are processed by an automated computer process that involves applying an algorithm to identify illegal use of mobile phones, or if an occupant is not wearing a seatbelt.

The statement of compatibility acknowledges that collection of images from every vehicle that passes the camera, irrespective of whether an offence is being committed, may limit a person's right to privacy and reputation. The statement acknowledged that some may consider the

cabin of a vehicle a private space, even when using a public road network.

Justification for this limitation included that effective measures to address unsafe driving (thereby reducing road death and trauma) is consistent with the state's positive obligation to protect life.

Addressing unsafe driving also upholds the right to liberty and security by keeping people safe. A further justification was that as the initial assessment of the photographs would be undertaken by artificial intelligence, images or video that did not contain evidence of an offence would be deleted by the system and not used or transferred to a human.

The Transport and Public Works Committee supported the policy intention of the Bill in its report, but noted that stakeholders have expressed a range of concerns about aspects of the proposed amendments, including concerns relevant to human rights:

- reverse onus of proof
- privacy
- accuracy of technology
- contractual arrangements with third parties, including the destruction of images in the shortest possible time frame
- proscribing offences in subordinate legislation.

The committee suggested that the department revisits the issues raised by stakeholders and considers if, and where, additional operational improvements can be made to fully address stakeholders' concerns.

# Human rights in courts and tribunals

## The role of courts and tribunals

The separation of powers as outlined in the *Constitution of Queensland 2001* requires the separation of the legal and political processes. However, the *Human Rights Act 2019* imposes certain requirements on courts and tribunals that may be categorised as:

- ‘direct’ application;
- acting administratively; and
- interpreting legislation.

### Direct application

The Act applies to courts and tribunals when they are performing functions that are relevant to the rights protected under the Act. This includes both the judicial and administrative functions.

The rights that are engaged when performing judicial functions include:

- equality before the law
- fair hearing
- privacy
- rights in criminal proceedings.

Other rights may be found to apply directly to court functions, for example cultural rights.

### Acting in an administrative capacity

When courts and tribunals are acting in an administrative capacity, under the Act they are public entities and are required:

- to act and make decisions in a way that is compatible with human rights

- when making a decision, to give proper consideration to human rights relevant to the decision.

Examples of when courts and tribunals may be acting in an administrative capacity include:

- registry functions (including managing records, receiving and processing appeals, and listing cases)
- appointing guardians and administrators
- disciplinary proceedings
- reviewing involuntary treatment orders
- reviewing administrative decisions.

During the 2019–20 financial year, the Queensland Civil and Administrative Tribunal (QCAT) considered that it was acting in an administrative capacity when undertaking a merits review of an earlier decision made by a public entity. In [\*SSJ v Director-General, Department of Justice and Attorney-General\* \[2020\] QCAT 252](#), the tribunal considered it was acting administratively in reviewing a decision of the Director-General of the Department of Justice and Attorney-General to refuse to issue the applicant a blue card, thereby preventing the applicant engaging in child-related employment.

## Interpreting legislation

The Act requires that all legislation is interpreted in a way that is compatible with human rights, to the extent that is consistent with the purpose of the legislation.

If legislation cannot be interpreted in a way that is compatible with human rights, it is to be interpreted in a way that is *most* compatible with human rights, to the extent that is consistent with the purpose of the legislation.

‘Compatible with human rights’ means the provision does not limit a human right, or limits a human right only to the extent that it is reasonable and demonstrably justifiable in a free and democratic society based on human dignity, equality, and freedom. The Act sets out factors that may be relevant in deciding whether a limit on a human right is reasonable and justifiable.

## Declarations of incompatibility

The Supreme Court or the Court of Appeal may make a declaration of incompatibility, if the court considers that legislation cannot be interpreted in a way that is compatible with human rights. The courts did not exercise this power in the 2019–20 financial year.

## Referrals to Supreme Court

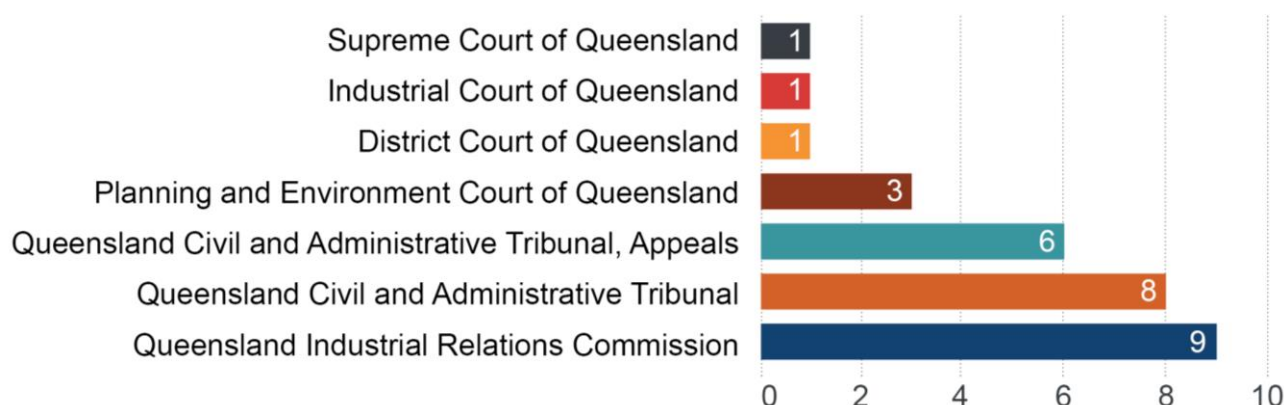
If a question of law arises in a court or tribunal proceeding about the application of the Human Rights Act, or statutory interpretation in accordance with the Act, it may be referred to the Supreme Court of Queensland.

The Commission is not aware of any such referrals occurring in the financial year.

## Queensland cases that have considered or mentioned the Act

In the financial year ended 30 June 2020, Queensland courts and tribunals considered or mentioned the Act in 29 matters. A full list of cases that considered or mentioned the Act is contained in *Appendix A* to this report.

**Figure 2: Courts and tribunals which considered or mentioned the Human Rights Act in 2019-20**



## Arguments raised in courts and tribunals

Instances of human rights arguments being raised in courts, tribunals, and other proceedings have been provided to the Commission by legal advocates.

### Unreasonable delay led to charges being dismissed

'Legal Aid Queensland (LAQ) used the *Human Rights Act* in what was one of the agency's very first successes in making submissions in court using the Act. The LAQ client was appearing in the Thursday Island Magistrates Court for summary trial. The prosecution brought



the matter on for mention and sought an adjournment of the trial because they did not have two of their witnesses.

The LAQ lawyer was instructed to oppose the adjournment application and did so including a submission that the granting of the prosecution's application would offend s 32(2)(c) of the *Human Rights Act* (the right to be tried without unreasonable delay). The prosecution's application was refused, and as a result the prosecution offered no evidence on the charges and the Court dismissed them. This was a good outcome for the client who was understandably very happy with the result and grateful for the assistance of LAQ.'

## Bail applications

Advocates at Caxton Legal Centre and Youth and Family Services Ltd (YFS Ltd) have reported that the Act is being regularly raised and considered in bail application proceedings:

'Caxton Legal Centre operates a bail support program at a number of prisons in South-East Queensland and regularly raises the *Human Rights Act* in bail applications.'; and

'Earlier this year, one of the solicitors at YFS Ltd advocated for a 16-year-old boy to be granted bail. He had been in custody during the COVID-19 lockdown. The solicitor argued there was delay in bringing him to trial. She quoted the *Human Rights Act*, which determines a young person must be brought to trial as quickly as possible and should be a consideration for bail. The solicitor also quoted the Act when arguing the boy had a right to a safe and stable living arrangement. The boy, who has Aboriginal heritage, had limited involvement with his family and didn't have a connection to culture. The solicitor referred him to an Elder to assist with community connections and kinship ties. Aboriginal cultural rights are protected by the Act under section 28.'

## Coroners Court

Advocates have also raised human rights arguments in the Coroners Court:

'Caxton Legal Centre operates the Queensland Coronial Legal Services which provides legal advice and representation to families at any stage of the coronial process, including in inquests. Caxton Legal Centre has raised the *Human Rights Act* in a number of inquests, including to argue that the police, the Coroners Court (in its administrative function), and Queensland Health should have regard to the specific cultural rights of Aboriginal and Torres Strait Islander peoples when notifying family of sudden and unexpected deaths. Caxton has also made arguments in an inquest that a coroner should make recommendations taking into account the *Human Rights Act*, specifically in relation to the access of prisoners to appropriate health care and cultural rights of Aboriginal and Torres Strait Islander peoples while in custody.'

## Less restrictive conditions in mental health tribunal

Queensland Advocacy Incorporated (QAI) have reported to the Commission that the Act is making a real difference for people with a mental health condition appearing before the Mental Health Review Tribunal (the Tribunal), noting that:

‘The Tribunal is leading the way in incorporating human rights into their everyday business, and as a result, people on forensic orders and involuntary treatment orders are experiencing less restrictive conditions that are more tailored to their individual needs and circumstances.

QAI has noted that:

- Whereas forensic orders previously contained a set of standard conditions, such as the requirement not to drink alcohol or use drugs, or not drive a vehicle, the Tribunal is now more inclined to look at whether these conditions are relevant to the individual’s offending behavior and necessary to ensure their health and public safety.
- There is greater procedural fairness being afforded to their clients, such as allowing for an adjournment where instructions have not yet been provided to their advocate or where insufficient evidence is before the Tribunal to warrant proceeding with the hearing.
- Requests for expert witnesses to attend the hearing are now more likely to be approved allowing for greater transparency and a fairer hearing.
- There is now more monitoring and oversight of involuntary treatments, such as electroconvulsive therapy (ECT), where the number of treatments being sought have been reduced enabling greater oversight by the Tribunal for matters where regular applications for ECT are being made.
- Greater consideration is being given to freedom of movement and property rights of their clients, with fewer restrictions on where a person can reside or visit, unless reasonable, necessary and proportionate.

In one case the President of the Tribunal raised the human rights matters before the parties had made submissions, which is an indicator of her positive and proactive leadership in creating a culture of human rights in the Tribunal.’

The Tribunal’s commitment to creating and maintaining a culture that respects human rights is reflected in their [policy statement](#). In their 2019–20 annual report, the Tribunal described additional activities undertaken to incorporate human rights into their work:

- undertook a comprehensive review of the sections of the Act applicable to Tribunal's operations in light of the requirements of the Act
- undertook a review of the Tribunal's notices, policies and procedures, updating them where appropriate
- met with the Queensland Human Rights Commissioner and the Office of the Chief Psychiatrist regarding the Tribunal's proposed practices
- prepared and carried out staff training
- prepared and carried out member training using a variety of delivery methods
- prepared a number of guidelines, information sheets and decision guides for members to assist in their decision making.<sup>24</sup>

## Key cases

Cases across Queensland courts have considered the *Human Rights Act*.

- In [Volkers v R \[2020\] QDC 25](#), the District Court considered the rights of an accused, including to a fair hearing, in granting a permanent stay of indictment due to delay.
- A number of cases considered the relevance of human rights to criminal proceedings affected by the COVID-19 pandemic. In [R v Mitchell \[2020\] QDC 89](#) and [R v Logan \[2020\] QDCPR 67](#), the District Court considered the accused's right to be tried without unreasonable delay, in finding it was in the interests of justice for the applicant to be tried by a judge alone, due to jury trials being suspended because of the pandemic. In *R v Logan*, the court also confirmed that in making such orders it is acting in a judicial, not administrative capacity, and so was not a public entity for the purposes of the Act.
- [Re JMT \[2020\] QSC 72](#) concerned an application for bail where the accused argued the COVID-19 pandemic was a relevant consideration. While arguments about the Act had not been made by the parties, the court suggested that the obligations placed on the executive by the Act may be relevant to future applications.
- [NN and IN v Department of Child Safety, Youth and Women \[2020\] QCAT 146](#) concerned an application to vary contact arrangements between a child in the temporary care of the Chief Executive of the Department of Child Safety and the child's former foster family. The Tribunal considered the

<sup>24</sup> Mental Health Review Tribunal, *2019–2020 Annual Report* (2020) 13–14.

authorities that have given the term ‘family’ a broad interpretation.

The Commission acknowledges the work of the University of Queensland’s Human Rights Case Law Project<sup>25</sup> that has compiled case notes of human rights cases in Queensland for the benefit of legal practitioners and students.

## Interventions

The Attorney-General and the Queensland Human Rights Commission have the right to intervene in proceedings in courts and tribunals where there is a question of law about the application of the Act, or the interpretation of legislation in the way the Act requires.

### Commission intervention

The Commission has published a [guideline](#)<sup>26</sup> about when the Commission might intervene in proceedings.

In *The Australian Institute for Progress Ltd v The Electoral Commission of Queensland* [2020] QSC 54, the Commission and the Attorney-General intervened in a Supreme Court case considering the coverage of Queensland’s electoral donation laws. The case involved an application by a company described as a political think tank for a declaration relating to the interpretation of certain provisions of the *Electoral Act 1992* that prohibit donations from ‘prohibited donors’ for electoral expenditure.

The Commission made submissions about how the interpretation requirement in section 48 of the Act should be applied.

The Court considered that the prohibition in the *Electoral Act 1992* is capable of limiting freedom of expression and the right of individuals to take part in public life. The Court considered the factors set out in section 13 of the Act in determining that the prohibition on certain political donations is compatible with human rights. Balancing the importance of the human rights with the important purpose of reducing corruption and enhancing our democratic society, the Court concluded that the limitation on human rights is reasonable and justified.

### Attorney-General interventions

The Attorney-General intervened in two matters involving the Act:

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<sup>25</sup> Human Rights Case Law Project, ‘Reported cases referring to the Human Rights Act 2019 (Qld)’, The University of Queensland School of Law (Web Page).

<sup>26</sup> Queensland Human Rights Commission, ‘Intervention guidelines’ (Webpage, 2020).

- The Australian Institute for Progress Ltd v The Electoral Commission of Queensland [2020] QSC 54. For more information see section Commission intervention above; and
- Innes v Electoral Commission of Queensland & Anor (No 2) [2020] QSC 293, in which the Supreme Court sat as the Court of Disputed Returns. The Court heard an application from an unsuccessful candidate for mayor of the Sunshine Coast Regional Council.

The Attorney-General may have made submissions in relation to human rights without intervening, where she was already a party to the proceedings.

## Leadership in the legal profession

The legal profession has an important leadership role to play in identifying and advocating for human rights on behalf of clients. The Commission is encouraged that both the Queensland Law Society and the Bar Association of Queensland have established human rights committees that have been active in promoting awareness of the Act's potential application.

# Human rights and the public sector

## Obligations on public entities

Public entities have obligations to act and make decisions in a way that is compatible with human rights.

This section highlights some achievements, as well as areas of improvement identified by the Commission, in state government, local government, and functional public entities.

## Public sector training

In 2019–20, the Commission trained public sector entities, large and small, in all parts of the state to ensure that they understand their obligations under the Act.

The Commission's training was available online, face-to-face, and through webinars. The demand was high, and the Commission saw a 35% increase in training sessions, and a 55% increase in participants from the previous year. In most cases, organisations requested training tailored to their business needs, and Commission trainers worked with them to devise real life scenarios that could be workshopped by participants in order to make the Act relevant to their particular environments.

Over 18,000 participants completed the Commission's online training for public entities. This sector generated the greatest increase in demand for training during 2019–2020.

Some public sector agencies developed their own staff training about the Act or received training from the Human Rights Unit in the Department of Justice and Attorney-General (see next section below), or ensured that staff could access Commission resources.

# The Human Rights Unit<sup>27</sup>

In May 2019, the Department of Justice and Attorney-General established a Human Rights Unit (HRU) to help prepare Queensland Government departments to embed human rights into their business as usual by providing leadership, coordination and support.

The HRU convened a Human Rights Inter-Departmental Committee (HRIDC) with a representative from each Queensland Government department to support capacity-building, collaboration and culture change across Queensland Government. This included discussing implementation activities, sharing lessons across departments and government functions, and facilitating the distribution of information and resources. The HRIDC first met in May 2019 and held a total of 11 meetings through to 30 June 2020.

A key ongoing resource for communication and education about human rights for Queensland Public Service employees is the Human Rights Portal at <http://www.forgov.qld.gov.au/humanrights>. The Portal is a series of six web pages developed and maintained by the HRU covering the following topics:

- Understand human rights
- Apply human rights to your work
- Human rights complaints
- Human rights training
- Human rights resources
- Human rights policy and legislation.

During 2019-20 the Portal had nearly 70,000 page views and over 85,000 clicks to available resources. The Portal includes detailed guides, factsheets, posters, presentations and video resources.

From July-December 2019, the HRU also delivered:

- 27 one-hour, face-to-face “Human Rights 101” sessions to more than 850 staff, including over 300 staff in regional locations. A further 800 staff members accessed a recording of the session. These sessions provided Queensland Government employees with an introduction to the Human Rights Act 2019 (HR Act).
- 33 three-hour, face-to-face training sessions for more than 560 policy and legislation officers across Queensland Government departments. These sessions used tailored scenarios relevant to each department’s functions to explain the changes to policy and legislation processes made by the HR Act.

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<sup>27</sup> The information in this section was contributed by the Department of Justice and Attorney-General’s Human Rights Unit.



The HRU provided a central unit of human rights expertise to officers within Queensland Government departments to support them in developing policy and legislation that is compatible with human rights. This included providing detailed advice on the preparation of statements of compatibility and human rights certificates for legislation. The HRU also provided detailed advice and information to government departments on human rights implementation activities, including reviewing policies and procedures, identifying and responding to human rights complaints and understanding reporting obligations under the HR Act.

In 2020-21, the HRU will support work across Queensland Government departments to respect, protect and promote human rights by continuing to develop and share human rights information and expertise, and support the operation of the HRIDC.

The Commission has greatly valued the HRU's work in providing practical and expert advice and assistance to public entities. As an independent statutory authority with an impartial complaint handling function, the Commission must necessarily have a less hands-on role than the HRU. The experience in Victoria has highlighted the value and importance of a dedicated unit such as HRU in ensuring that public entities have a coordinated and considered approach to implementing the Act.

## Developing a human rights culture

One object of the Act is to build a culture in the Queensland public sector that respects and promotes human rights. This raises a number of questions:

- What is a human rights culture?
- How do we build it?
- How do we know when we've built it?

In her second reading speech on the Human Rights Bill, the Honourable Yvette D'Ath, then Attorney-General and Minister for Justice, provided some insight into what was intended by this object. She said:

'This Human Rights Bill is about changing the culture of the public sector by putting people first in all that we do. This is about a modern Queensland, a fair Queensland and a responsive Queensland.'<sup>28</sup>

A 'culture' of human rights signifies that more is required than mere compliance with the Act.

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<sup>28</sup> Queensland, *Parliamentary Debates*, Legislative Assembly, 31 October 2018, 3184 (YM D'Ath, Attorney-General).

The concept of ‘building’ a culture acknowledges that it will take time; there will be progress and setbacks.

The dialogue model, which prioritises discussion, awareness-raising, and education over an enforcement and compliance model, supports this goal of building gradually towards a human rights culture.

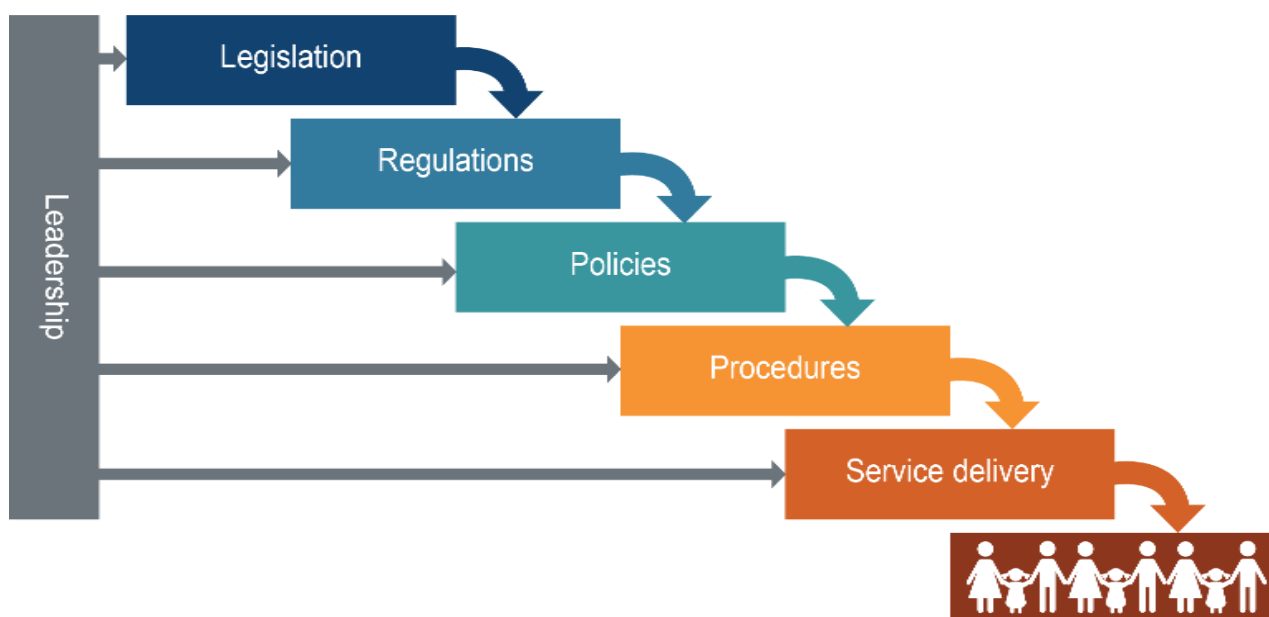
While public entities may start in compliance mode, the aim is for the public sector to move towards a culture in which protecting and promoting human rights – rights of clients, stakeholders, and staff – becomes part of everyday business. As the Attorney-General expressed it, ‘putting people first in all that we do.’

So how can the Act help build a culture in the Queensland public sector that respects and promotes human rights?

## Cascading culture change model

The Commission has adopted the cascading culture change model, where human rights culture starts with legislation and flows down through regulations, policies, procedures and services through to the individual.

*Figure 3: Cascading culture change model*



The model recognises that unless the legislation and regulations are human rights compatible, there will be limited benefit in changing policies and procedures. Similarly, service delivery is unlikely to improve if policies and procedures are not human rights compliant. For a human rights culture to develop, strong leadership needs to be present at every stage: at the strategic, operational levels and among individual public sector workers on the front line.

The Commission has already noted the positive impact of the Act on new legislation and regulations through the preparation of statements of compatibility and human rights certificates.

Many public entities have either commenced or completed an initial policy review to identify and update policies that are incompatible with human rights, with a few early changes being made to further human rights compatibility.

It will likely take many years for changes to meaningfully and consistently influence service delivery, and ultimately the experience of individuals in Queensland.

## Indicators of a human rights culture

A human rights culture is more than rhetoric, and must be demonstrated through actions.

The Commission has developed a set of 7 indicators that identify actions that may further the development of a human rights culture, reflecting the Cascading culture change model:

**Indicator 1:** Education and staff development

**Indicator 2:** Community consultation and engagement about human rights

**Indicator 3:** Awareness raising and support for related entities (including functional public entities engaged by the public entities i.e. contractors)

**Indicator 4:** Reviews and development of legislation or subordinate legislation / local laws or subordinate local laws

**Indicator 5:** Review of policies and procedures

**Indicator 6:** Implementation of internal complaint management for human rights complaints

**Indicator 7:** Future plans to further the goals of the Act

See *Appendix B* from page 150 of this report for the full *Indicators of a Developing Human Rights Culture*.

We used the Indicators to survey 9 state government public entities that were selected because of the relevance of their work to the human rights of people in Queensland. These agencies provided responses to questions about the Indicators:

- Department of Communities, Disability Services and Seniors (DCDSS)
- Queensland Health (QH)
- Department of Child Safety, Youth and Women (DCSYW)
- Department of Youth Justice (DYJ)
- Queensland Police Service (QPS)
- Queensland Corrective Services (QCS)
- Department of Education (DoE)
- Department of Housing and Public Works (DHPW)
- Queensland Civil and Administrative Tribunal (QCAT).

To broaden the survey, we sought responses from a small cross-section of metropolitan, regional, and remote local governments. Responses to questions about the Indicators were provided by the following councils:

- Livingstone Shire Council
- Redland City Council
- Western Downs Regional Council
- Ipswich City Council
- Noosa Shire Council
- Brisbane City Council
- Torres Shire Council
- Tablelands Regional Council.

The full responses from the public entities are not provided below, but rather this section contains a general summary and highlights from the information provided to the Commission, furnished with examples.

## State public entities

### Indicator 1: Education and staff development

The Queensland government employs over 230,000 people, 73% of whom work in education and health services.<sup>29</sup> The Act contains a right to education, and a right to health services.

To gauge the extent of staff development and education about the Act, the Commission asked state public entities what they had done so far, including numbers of people trained, mode of training, and how the training will be incorporated in induction of new staff and ongoing professional development. Here is a summary of the information supplied.

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<sup>29</sup> 'Queensland public service workforce statistics', *Queensland Government: For Government* (Web Page, 7 September 2020).

**Table 2: Staff training completed by key state government entities, 2019-20**

<b>State government entity</b>	<b>Staff training completed</b>
Department of Communities, Disability Services and Seniors (DCDSS)	<p>86.43% completed online training.</p> <p>70% residential care officers completed self-paced workbook training.</p> <p>21 staff in Strategic Policy and Legislation received face-to-face training.</p>
Department of Child Safety Youth and Women (DCSYW)	<p>90% of staff have received online or face-to-face training, many completing both.</p> <p>1900 staff received face-to-face training.</p> <p>2570 staff had completed online training.</p> <p>Extra targeted sessions were delivered to relevant policy units.</p>
Department of Housing and Public Works (DHPW)	<p>Incorporated training into DHPW learning management systems, available to all staff, and mandatory for key business areas.</p> <p>Smart Service Queensland managers and team leaders received face-to-face training.</p> <p>Training for 850 Housing Service Delivery workforce personnel is in process of implementation.</p>
Queensland Corrective Services (QCS)	<p>93% of staff have completed online training.</p> <p>The other training options that have been developed are:</p> <ul style="list-style-type: none"> <li>• a face-to-face training as a train-the-trainer model with on-delivery.</li> <li>• a full day human rights and critical decision-making workshop embedded into the custodial officer entry program,</li> </ul>



State government entity	Staff training completed
	<p>and leadership development programs which commenced in March 2020.</p> <p>Due to COVID-19, the train-the-trainer model training was rescheduled for the second half of 2020.</p>
Queensland Civil and Administrative Tribunal (QCAT)	<p>All registry staff were asked to enrol in face-to-face training delivered by the HRU.</p> <p>QCAT registry staff also received 'lunch-box' introductory sessions.</p> <p>90% of registry staff attended detailed and tailored training delivered by the HRU over several sessions.</p> <p>QCAT members and representatives of the registry Management Team attended dedicated training from Victorian lawyers with significant experience working with the <i>Charter of Human Rights and Responsibilities Act 2006</i> (Vic).</p> <p>QCAT's Hearing Support Officers have received extensive training in dealing with clients who have disabilities or are vulnerable, including a recent online Disability Awareness Training program providing dedicated insight and understanding into the difficulties clients with disabilities face.</p>
Department of Education (DoE)	<p>3-hour face-to-face workshops were developed to provide an introduction to the Act, workshopping specific examples.</p> <p>Training has been delivered to 170 central office staff and 230 regional staff.</p> <p>Additional face-to-face information and support sessions were delivered to 340 central and regional office staff.</p>

State government entity	Staff training completed
Department of Youth Justice (DYJ)	<p>350 human resources staff received targeted face-to-face training.</p> <p>Face-to-face training for school principals was postponed due to COVID-19.</p> <p>67,000 staff completed the all-staff training program, which now incorporates human rights information.</p> <p>More than 80% of staff have received face-to-face or online training, with many completing both.</p> <p>47 face-to-face training sessions were delivered to 483 staff across the state.</p> <p>1,229 staff completed online training.</p> <p>COVID-19 paused face-to-face training plans in April 2020.</p>
Queensland Police Service (QPS)	<p>15,307 members of the QPS completed the human rights online learning product, which is mandatory for all staff and police ranks including Directors and Chief Superintendents.</p> <p>Human rights has been embedded in all training including:</p> <ul style="list-style-type: none"> <li>• initial training (e.g. police recruit training; staff member orientation)</li> <li>• specialist training (e.g. detective training)</li> <li>• mandatory, ongoing training (e.g. Operational Skills Training).</li> </ul> <p>Over 40 face-to-face human rights awareness sessions were delivered to 800 members, and a recording was also made available to those unable to attend in person.</p> <p>Human rights champions with representatives across the service and throughout Queensland attended a full day workshop, including</p>

State government entity	Staff training completed
	<p>strategies for how to foster a human rights culture in their respective areas, drawing on the expertise of Victorian police members and the Queensland Human Rights Commissioner.</p>
Queensland Health (QH)	<p>The Queensland Health portfolio is vast and includes Department of Health and 16 Hospital and Health Services (HHSs). It is difficult to estimate the percentage overall of staff who have received training, as there have been varying approaches:</p> <ul style="list-style-type: none"> <li>• 300 Department of Health staff completed online training.</li> <li>• Health Support Leadership Team's leadership were advised of the responsibilities under the Act and 66 of their staff have completed online training</li> <li>• Prevention Division conducted several staff human rights awareness and orientation sessions face-to-face</li> <li>• Aboriginal and Torres Strait Islander (A&amp;TSI) Health Division held a face-to-face training session for members of the executive and leadership teams with the Commission.</li> <li>• Some HHSs are making human rights training mandatory for all staff, including Wide Bay, Torres and Cape, South West, and Gold Coast HHS. Other HHSs also provided additional and targeted training to staff who were identified as potential enablers in the development of human rights or who worked in</li> </ul>

State government entity	Staff training completed
	<p>patient facing roles. For example 80% of Mackay HHS staff have received face-to-face training from Senior Leaders.</p> <ul style="list-style-type: none"> <li>• HHS internal Legal Services Units have also supplied human rights training and advice. Metro North HHS Legal Services has presented over 20 professional development training sessions on the HR Act to staff. The Cairns and Hinterland HHS Executive Leadership Committee and Service Management teams were provided face-to-face training on <i>'Preparing for Queensland's Human Rights Act'</i>.</li> <li>• At Children's Health Queensland, the Queensland Paediatric Rehabilitation Service and Surgery Connect received specific human rights training in-house and the Patient Experience team received a three-hour training session focused on identifying and resolving human rights complaints</li> <li>• The Sunshine Coast HHS Mental Health and Addiction Service inpatient and community teams received training on how the HR Act interacts with the <i>Mental Health Act</i>. Metro South HHS Patient Safety Officers and Board members also participated in further human rights training.</li> </ul>

## Education and staff development summary

The uptake of staff training in these 9 key public sector entities has been high, with many reporting around 80 to 90% of staff receiving at least some form of training. At this early stage, the smaller public entities have delivered training to a higher proportion of staff. The most common form of delivery has been online training. While a significant number of staff have received face-to-face training, more sessions would have been held if not for social distancing requirements resulting from the COVID-19 pandemic.

The response to training has been mostly positive. DCSYW reported that:

‘Feedback from face-to-face sessions was very positive with staff indicating greater awareness and high confidence in being able to apply human rights in daily decision making.’

DHPW reported that:

‘97% of staff that have completed the post training evaluation have indicated they feel equipped to apply the human rights legislation within their decision-making framework.’

Many state government entities focused on awareness-raising and offered a general introduction to the Act in 2019-20, with plans for a more targeted and tailored approach in the future.

State government entities have generally identified that one-off, general training on the Act is not sufficient. A number said that they plan to integrate human rights into staff induction and ongoing professional development. At DCDSS, all new employees must complete training face-to-face, or through the self-paced workbook, or the online module. DYJ and DCSYW online modules will continue to be mandatory for new starters. DHPW has incorporated human rights into staff induction and orientation programs.

Several state government entities commented that training using examples from the day-to-day tasks of public servants is the most valuable. DYJ noted that further work is planned for 2020–21 after reflecting on the initial sessions with staff:

‘Our experiences from the training sessions to date indicate that staff especially appreciate working through real-world examples. The content in the training catalogue will include scenarios that were identified during the state-wide engagement with staff to date.’

Aside from formal training, some state government entities have used other methods, such as written or video communications from executive staff, newsletters, Yammer, and through intranets. For example, the QPS:

‘...developed a ‘5 Minute Intensive Learning Experience’ (5MILE) product, launched on 30 April 2020, that seeks to confirm understanding of HRA considerations by highlighting key points for fast learning in a manner that is entertaining and digestible.’; and

‘....published a series of articles in the journal-style *QPS Police Bulletin* internal magazine. These articles outlined activities that were underway to prepare the QPS for the commencement of the obligations under the HRA.’

Human Rights Month in November 2019 was an important focal point for many agencies, with several holding events to raise awareness of the Act. QCS reported the:

‘QCS Research and Evaluation Group focused on human rights publications to celebrate International Human Rights Day and the end of Human Rights Month. Recognition of Human Rights Day was also celebrated with a morning tea on 10 December 2019. The High Risk Offender Management Unit in North Queensland added a Christmas theme to their Human Rights Day morning tea with a gingerbread house and Christmas cookies.’

Some state government entities created a network of Human Rights Champions:

‘To support communication, engagement and awareness across the QPS, a network of Human Rights Champions (HRCs) was created. This community of practice network comprises representatives of each Region, District, Command, Group, Division and Branch, throughout Queensland. HRCs serve as a key point of contact for QPS members and are vital to Service-wide communication and awareness in relation to the HRA. The HRCs utilise a range of mechanisms, such as group emails, developing resources specific to their work areas, and meeting with senior leaders, to raise local awareness of the Act and the obligations it places on them.’; and

‘QCS undertook significant work to create awareness, engage and inform staff of the HR Act and relevant obligations. This included creation of a QCS Champions Network made up of 110 Champion Network members with in depth knowledge of human rights and the interface with the correctional environment. The development of this network has been an effective tool in providing two-way communication with the field, including information to inform QCS specific frequently asked questions.’

## Indicator 2: Community consultation and engagement

The Commission asked state public entities about the extent to which they have provided information to the community about human rights and consulted relevant sectors of the community when developing legislation and policies.



## Community engagement

While some agencies have started to promote human rights in the community, in most cases the state government implementation activities had an internal focus in the first year. Most agencies still appear to be developing their understanding of how the Act applies to them, and the focus has been on training staff and ensuring complaint management systems are ready to receive human rights complaints.

Some state government entities promoted human rights to stakeholders through their website or on social media:

‘The Department (of Education) used social media platforms to share information about the commencement of the Act and to direct the public to information as resources; and to promote human rights during key public awareness events such as Law Week and Human Rights Day.’; and

‘The DHPW webpage and social media pages were updated to include information on the Act and how it applies to departmental business’; and

‘The DCSYW website contains information and relevant links about making a complaint about human rights and the Guide to Making Complaints has been updated to include information about human rights.’

Other state government entities made fact sheets, posters, and guides available. The DHPW:

‘...provided Housing Service Centres across the state with communication collateral, including posters and fact sheets, to promote and raise awareness of the Act.’

QCS worked in collaboration with the Commission to develop and distribute information on human rights to prisoners, and the Commission’s phone number was added to the Prisoner Telephone System in February 2020.

An example of engagement with stakeholders about the Act came from the Office of the Chief Psychiatrist, Mental Health, Alcohol and Other Drugs Branch, Clinical Excellence Queensland:

‘This office engaged with clinicians across the Queensland Health system who play a part in providing involuntary treatment to patients with a mental illness. A resource has been developed specifically for this cohort to provide information on the Act, its intersection with the *Mental Health Act 2016*, general guidance on human rights, and further contacts.’

## Community consultation

At this early stage, the Act did not appear to be having a significant impact on community consultation prior to new legislation or policies

being developed. Not all of the public entities had legislation or subordinate legislation before parliament in the reporting period, and others commented that they had already consulted broadly with the community prior to the Act's commencement.

The DCDSS reported on two instances of engaging with stakeholders around human rights issues:

'Stakeholder consultation was undertaken by DCDSS on the Disability Services and Other Legislation (Worker Screening) Amendment Bill 2020, which introduces a strengthened disability worker screening framework and engages human rights. A comprehensive statement of compatibility was prepared and tabled with the Bill. Community consultation confirmed that human rights were engaged by the proposed legislative changes and provided clarification that the impacts on human rights were proportionate, reasonable and justified.'; and

'Positive Behaviour Support and Restrictive Practices, Disability Connect Queensland, recently consulted widely before the introduction of a COVID-19 policy and procedure on the locking of gates, doors and windows which has clear implications for human rights. Organisations consulted included the Commission, Office of the Public Advocate, Queenslanders with Disability Network, and Office of the Public Guardian. Advice received from stakeholders informed the final policy and procedure that was published.'

QH also reported a number of instances of engaging with community stakeholders to improve service delivery, including:

'Metro South HHS partnered with consumers including multicultural and disability advocates to co-design the consumer feedback procedure for greater protection and promotion of human rights. Involving these key stakeholders in the design of the updated procedure resulted in an improved patient-centred approach highlighting patient's human rights for handling compliments and complaints.'

### Indicator 3: Awareness-raising and support for related entities

The Commission asked state government entities what awareness raising they had done to ensure that contractors or providers engaged by them act compatibly with human rights.

State government entities that engage significant numbers of external service providers worked quickly and proactively to raise awareness of the Act with providers and contractors. Some state government entities went a step further and added the Act's obligations as contractual obligations for providers.

For example, the DYJ, DCSYW, DHPW, DCDSS, and the Commission worked in partnership to deliver 22 human rights sessions across the state for non-government organisations. This approach was adopted because of the significant overlap between community organisations that are engaged by these departments.

Joint Directors-General messages (DYJ and DCSYW) were sent to funded service providers to inform them of their obligations as public entities under the Act, and to encourage them to access available training and resources.

The DYJ and CSYW human rights implementation teams met regularly with the Queensland Council of Social Service (QCOSS) and peak bodies to share information and identify challenges and opportunities.

The DCDSS made use of an existing opportunity to spread the word:

'In late 2019, the Executive Director, Restrictive Practices and Specialist Disability Programs, DCQ, DCDSS, and representatives from Positive Behaviour Support & Restrictive Practices, DCQ, DCDSS, participated in a statewide 'roadshow' with the NDIS Quality and Safeguards Commission regarding restrictive practices. The department took this opportunity to include advice to service providers about the requirements for public entities under the Act.'

The DCDSS also updated the Human Services Quality Framework (HSQF) and User Guide about the requirements of the Act.

Organisations and certification bodies were given a six-month lead time to implement changes related to the Act, with a continuous improvement approach being taken for the first six months. This included any required updates to policies, procedures, forms, and staff training. The CSYW reports having also worked closely and productively with DCDSS to incorporate human rights into the HSQF.

Prior to the commencement of the Act, the DHPW created a ready reckoner to assist in determining which entities funded or engaged by the department might be public entities under the Act, and sent information to 6 key statutory bodies. Further information has since been provided on the requirement to report on human rights in annual reports. Information was sent to approximately 170 sport administrators/organisations. Targeted information has also been sent to over 300 housing and homelessness providers, funded under the *Housing Act 2003* and the *Community Services Act 2007*, to raise awareness and enhance understanding of the obligations under the Act.

QH reported significant awareness-raising activities that were reinforced by embedding human rights in funding and service agreements, including these examples:

‘The Department of Health has sent letters to funded non-government and community organisations identified as a possible ‘public entity’ advising them of their responsibilities under the Act. For public entities that have a current service agreement with the Department, there is a contractual requirement to comply with all relevant laws, including the Act. The Department considers compliance with the Act as part of any funding or contractual arrangement. The Department is working across Government on development of standard clause inclusions to NGO service agreements for social services agencies.’; and

‘Prevention Division identified all relevant, functional public entities with obligations under the HR Act and completed a mail-out to advise them of their obligations under the Act. Prevention Division has also conducted targeted, community consultation and engagement about human rights with key stakeholders, primarily with functional public entities. In addition, obligations under the Act is a standing agenda item in Prevention Division contract management meetings (e.g. contracted aeromedical service providers such as Royal Flying Doctor Service).’; and

‘Hospital and Health Services (HHSs) are ensuring the legal requirement for entities to comply with the HR Act are embedded in service and funding agreements by reviewing their relevant documents. Townsville HHS updated their Procurement Standard Tender Documents to include on the requirement to comply with human rights obligations. Sunshine Coast HHS added a clause to all their new contracts to ensure compatibility with the HR Act. Gold Coast HHS has developed standard clauses for relevant contracts and information resources specifically designed for contractors/providers that highlight potential impacts for their area of service delivery.’

QCS provided the Parole Board Queensland with information about the Act and informed members of the Board and Secretariat of human rights training opportunities available.

QCAT is aware that that DJAG has delivered training and resources to Justices of the Peace about the operation of the HR Act and the obligations of Justices of the Peace as public entities. This includes a [short guide for Justices of the Peace<sup>30</sup>](#) on thinking about human rights when making decisions.

QPS worked with portfolio entities, such as the Prostitution Licencing Authority, to ensure they understood the need to prepare for the Act.

The DoE contacted funded non-government organisations, including research organisations, to inform them about the Act and to advise them of resources and Commission training available to them.

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<sup>30</sup> Queensland Government, ‘Human Rights in Decision Making Guide for JPs and Cdecs’ (Webpage, 2020)

## Indicator 4: Review and development of legislation

The Commission asked state public entities what processes they have put in place to review human rights compatibility in legislation or subordinate legislation they administer, and if possible for them to give an example of legislation introduced that works to respect, protect, or promote rights.

### Review of internal processes for review and development of legislation

Around 500 legislation and policy staff were trained by DJAG HRU. This has resulted in a high degree of preparedness in the key state government entities' legislation and policy teams. All state government entities reported that their legislation and policies teams have completed an update of their internal processes to ensure that human rights considerations are incorporated when reviewing or developing legislation and subordinate legislation.

Some teams also developed tools to assist with ensuring new legislation is compatible with human rights. The DHPWf:

‘...developed a human rights legislation review tool. The intention of the tool was to provide guidance and ensure consistency in the assessment of the compatibility of legislation and subordinate legislation with the Act.’

### Progress of reviews

Reports on the initial review of existing legislation and subordinate legislation for incompatibility indicate that very few provisions, if any, have been identified as requiring amendment or repeal because of incompatibility with the Act.

In compiling this section, the Commission recognises that information that could cause Cabinet in Confidence issues may not have been supplied by the state government entities.

The Department of Health has:

‘...finalised the review of all Queensland Health portfolio legislation and has concluded that all legislation is largely compatible with human rights. Some opportunities have been identified to make some minor amendments to demonstrate Queensland Health's commitment to the protection and promotion of human rights. These are subject to Cabinet approval at the appropriate time.’

The QPS has undertaken a thorough review of legislation and subordinate legislation and not sought any amendments at this stage:

‘As part of its preparation for the commencement of the HRA, the QPS undertook a review of all legislation within the portfolio responsibility of the Minister for Police and administered by the QPS. This involved an assessment of 13 Acts and subordinate instruments of legislation. Although some police powers may appear incompatible with a human right, they were assessed as necessary and justifiable when exercised appropriately in the policing environment.’

The CSYW reviewed administered legislation in 2019 and commented that:

‘No incompatibles or required amendments were identified. It became clear that most compatibility considerations would need to be made at the policy and practice level, which is where the bulk of implementation efforts have been targeted through training and consultation.’

DYJ also reported that their review has been completed, and no incompatibilities or need for amendments were identified.

The DHPW has also reviewed all legislation and subordinate legislation, but did not comment specifically on the outcome of the review.

Ensuring that legislation and subordinate legislation is compatible with rights is an ongoing process. While a first scan of administered legislation and subordinate legislation may not have revealed incompatibilities, these may emerge in the future. Incompatible provisions may be highlighted through complaints made about human rights.

## Laws that promote human rights

Some state government entities provided examples of legislation introduced in the reporting period that work to respect, protect, or promote human rights.

The DCSS provided an example of legislation that was introduced into parliament in June 2020:

‘The Honourable Coralee O’Rourke MP, Minister for Communities and Minister for Disability Services and Seniors, introduced the Disability Services and Other Legislation (Worker Screening) Amendment Bill 2020 (the Bill). The Bill supports the implementation of a nationally consistent approach to worker screening, strengthening existing safeguards and streamlining the legislative framework for disability worker screening in Queensland. The paramount consideration in making decisions under the worker screening provisions of the Bill is the right of people with disability to live lives free from abuse, violence, neglect or exploitation, including financial abuse or exploitation.’

The QCS also provided an example of legislation that promotes certain rights for offenders and their families:



'The *Community Based Sentences (Interstate Transfer) Act 2020* (the Act) was reviewed against the yet to commence HR Act, prior to its introduction into Parliament on 21 August 2019. The Act supports a person's freedom of movement by providing an opportunity for community-based offenders to formally relocate interstate. In turn, this can support an offender's rehabilitation and right to education, health services and family, depending on the reasons for the transfer. The Act was passed on 20 February 2020 and received assent on 26 February 2020.'

The DHPW pointed out changes made to regulations during the COVID-19 pandemic that engage and promote rights:

'In April 2020, DHPW implemented the Residential Tenancies and Rooming Accommodation (COVID-19 Emergency Response) Regulation 2020 to implement the National Cabinet agreed moratorium on evictions and other measures designed to support the residential rental sector to manage the impacts of COVID-19 on residential leases. The Regulation makes several changes to residential tenancy protections, rights and obligations for the duration of COVID-19 emergency period. Several key renting issues are impacted including ending tenancies, rent, bond, entry and dispute resolution processes. In implementing the regulation, the department has promoted several human rights including Right to Life, Protection of families and children and Retrospective criminal laws.'

The DoE also considered human rights when developing legislation during the pandemic:

'The Department considered human rights impacts when developing the Education Legislation (COVID-19 Emergency Response) Regulation 2020 (the Regulation). The purpose of the Regulation was to modify certain statutory requirements in education legislation to facilitate the continuance of public administration and protect the health, safety, and welfare of persons affected by the COVID-19 public health emergency.

The human rights impact assessment of the Regulation concluded the proposed statutory modifications would strengthen the right to education (section 36 of the Act) by ensuring educational administrators and other persons are able to effectively perform their roles and duties to deliver high quality education during the COVID-19 pandemic without causing risk to the health and safety of Queenslanders. Also, the amendment to allow the Queensland College of Teachers to require alternate options to respond to Notices to Produce/Attend broadened the right to freedom of movement (section 19 of the Act), allowing persons to meet their obligation under the said Notices in a more flexible and appropriate way. In addition, the Regulation enhanced the right to life (section 16 of the Act) and the right for protection of families and children (section 26 of the Act) to allow for compliance with social distancing requirements and mitigate infection through reducing community exposure.'

## Indicator 5: Review of policies and procedures

The Commission asked state public entities about reviews of policies and procedures and development of guides or tools to support decision-making, as well as any changes to service delivery.

Widespread changes to policies or procedures have not been identified by the agencies surveyed as being necessary to ensure human rights compatibility.

### Progress of policy and procedure review

The DHPW, DCDSS, DoE, DCSYW and DYJ reported having commenced reviews of policies, procedures and service delivery models. Both DCSYW and DYJ reported having completed 90% of this work. Many areas of Queensland Health have completed reviews including the Department of Health and Prevention Division and the Hospital and Health Services have either completed or in the process of finalising reviews.

QPS reported that after reviewing over 2000 policy and procedure documents amendments were made to support compatibility.

DCSYW stated that after reviewing more than 250 policies, procedures and decision-making frameworks that:

‘None are considered to be contrary to human rights, however about 18% have been assessed as requiring some amendment to be more compatible with human rights and are being progressively updated.’

Overall, state public entities found that their policies and procedures were compatible with human rights but took the opportunity embed human rights into existing policies, for example:

‘The opportunity has been taken (by the Department of Health) to strengthen the protection and promotion of human rights by amending some documents to specifically mention individual human rights and the department’s obligations under the Act.’

Some state public entities commented that the review process provided a timely reminder of the need to respect particular rights, even in cases where the policies and procedures were found to be compatible with the Act. For example, DCSYW used the review to highlight the human rights and individual dignity of people, and the necessity (and benefits) of finding the least-restrictive solution for each person, taking account of their circumstances. At QCAT, while the internal policies for storage and security of personal information were found to be compatible with rights, the review process was used to remind staff of their privacy obligations.

## Example of procedural change: Department of Education

The DoE provided an example of a procedural update following the Department's review of policies and procedures:

'The DoE identified possible human rights limitations in two procedures involving health management for students:

- *Supporting students with asthma and/or at risk of anaphylaxis at school procedures; and*
- *Managing student's health support needs at school procedure.*

The limitation in both procedures related to providing emergency life-saving intervention when informed consent could not be obtained from a student or parent. Following consideration of potential impacts, the limitation was considered to be justified as the principal has a duty of care in emergency and life-saving situations. It was identified that the *Managing students' health support needs at school* procedure required more explicit information included about gaining informed consent for the implementation of health procedures. The procedure updates were published in July 2020.'

## Examples of policy and procedural changes: Queensland Health

QH advised that policies and procedures have changed in HHS policies and procedures, in particular:

'...uniform standards for allied health staff, criteria and referral pathways for specialised dental treatment and management of aggressive behaviour.'

## Update of staff manuals and guidance

Several state government entities have updated manuals. The DCSYW added a human rights statement of principles in the Child Safety Practice Manual (the Manual) to guide staff when working through all other sections. Procedures throughout the Manual are progressively being reviewed and amended. From examples elicited in state-wide training sessions, DCYSW will incorporate scenarios in the Manual and Child Safety officer training material to 'take human rights to the next level of sophistication within the department'.

The QPS advised that the Operational Procedural Manual (OPM) was updated to include an overarching policy statement:

'It was determined that this would be the most effective way to initially integrate human rights considerations into all Service operational policies and procedures. The statement outlines the aims and principles of the HRA; the rights protected under the HRA; the obligations the HRA creates for QPS members; and a method for assessing whether decisions or actions are compatible with human rights.'

The DYJ Youth Detention Centre Operations Manual now reflects human rights, and a new policy and procedure was introduced in Youth Justice Service Centres that outlines essential considerations for compatible decision-making.

The Commission has noted that the publicly available Custodial Operations Practice Directives published by QCS contain a reference to human rights on the first page of each directive, with a clear statement that prisoners' human rights should only be limited to the extent that is reasonably and demonstrably justified. This approach ensures that the reader considers human rights in relation to each practice area and is a preferred approach over a standalone policy.

## Tools and resources

Some public entities developed and published intranet resources to assist their staff in making decisions compatible with human rights.

The Department of Justice and Attorney-General intranet, which is accessed by QCAT registry staff:

‘...provides access to guides, videos, and resources on human rights, including a Human Rights Act Manager’s Toolkit designed to support managers to help their teams understand and apply human rights to their work.’

In some cases, departments have developed decision-making frameworks to aid complex decision-making. The DoE noted that:

‘The decision to suspend or exclude a student from school is a complex activity that has always required principals to balance the rights of an individual student with the need of the school to provide a safe environment for all members of the school community. The ongoing revision of all student discipline procedures, including the introduction of decision-making flowcharts and checklists, is designed to help ensure that schools understand and meet their legislative obligations, assist decision-making and ensure documentation in line with these obligations.’

Many state government entities have created their own tools to assist in assessing an action or decision for human rights compatibility:

‘The QCS undertook significant work to create awareness, engage and inform staff of the HR Act and relevant obligations. This included development and introduction of a RAPID test for human rights compatible decision making (Relevant rights; Authorisation; Proportionality and purpose; Individual and impartial, and Document), to assist staff to make human rights compatible decisions on a daily basis. The RAPID test is a five step process for decision making, which includes applying proportionality tests to assist staff to make compatible decisions. The test enables staff to work through scenarios to apply human rights, particularly where there is a need to justify and document where a human right may need to be limited in a

correctional context. The RAPID test has been communicated across QCS, including via a short video. It has been well received across the agency with evidence of staff applying it to their work.’; and

‘The Department (of Education) developed a Human Rights Impact Assessment Table. This tool is designed to assist policy and project officers to review existing policy, procedures, guidelines and decision-making frameworks for compatibility with the Act and to identify any changes that may be needed.’; and

‘To support departmental officers (at DHPW) to identify, consider and record human rights assessments, the following resources have been developed to guide and record human rights decision making activities to promote consistency and accountability across the department:

- Human Rights Decision Making Guide;
- Human Rights Impact Assessment Report;
- Human Rights Communications Plans;
- Human Rights Policy Review Tool; and
- Human Rights Complaints Management Review Tool.’

## Impacts on service delivery

One of the stated benefits of human rights legislation is improved public sector accountability and decision-making.

Some agencies were confident that the Act, although still new, was making a positive impact on service delivery. Several concrete examples have been provided that indicate that service provision has been improved by the Act.

The DCSYW commented that it is:

‘...confident that staff in policy units and service centres are well aware of and committed to the need to keep human rights live in practice discussions and reach for less-restrictive options where possible in their respective localities.’

QH stated that the review of policies and procedures has resulted in positive changes to service delivery for most Health and Hospital Services, for example:

‘Feedback from Metro North HHS staff is that the Act (and dialogue about its impact on their health service) has assisted them to better understand the rights of patients, consumers, and themselves, and respect, protect, and promote human rights.’

On the other hand, the QPS commented that:

‘The very nature of the role the QPS performs means that members need to limit the rights of some to protect the rights of others. Legislative, process and procedural controls ensure QPS members act ethically and appropriately when their actions limit an individual’s rights. Therefore, reviews and policies and procedures for compatibility

with the HRA have not resulted in significant changes to service delivery.'

In some instances, a review of policies and procedures has improved outcomes for individuals:

'The review of QCAT's procedures for providing access to interpreter services for QCAT clients is an example of where an internal review led to a change of service delivery which improved QCAT's compatibility with human rights. The review of the accessibility of these services was conducted following the resolution of a client complaint. As a result of the review, QCAT strengthened efforts to ensure clients were aware of interpreter services, including through increased signage in the registry.'

The QCS reported a change to procedure relating to visitors' access to a corrective services facility which has a direct impact on service delivery:

'Human rights are promoted when making decisions about visitors' access to a corrective services facility. Prior to the commencement of the Act, if a visitor was not dressed appropriately and did not meet the standard set out in the appropriate dress standards notice, their visit with a prisoner would likely be cancelled. However, the custodial operations practice directive visits process has been amended to reinforce human rights considerations when refusing, suspending or revoking access to a visitor. Rather than a blanket approach, there is greater emphasis on the individual circumstances of both the prisoner and the visitor, for example, how far the visitor has travelled, and how long it has been since the prisoner last had a visit, prior to making a decision about the visit.'

QH provided an excellent example of how their procedures at Metro South HHS have become more flexible to take account of human rights:

'The Redland Hospital previously prohibited the use of electric scooters, however, to ensure freedom of movement (section 19) is protected and promoted for people requiring scooters at the hospital, this procedure has been modified. Proper consideration will be taken of the circumstances to determine what options are available to allow people to move freely within the hospital, whilst balancing the rights of others within the hospital.'

The Commission anticipates that the work being conducted by QPS Ethical Standards Command (ESC) in auditing watch houses and developing custody principles will improve the experience of people in police custody:

'The QPS Ethical Standards Command (ESC) represents the QPS on an interdepartmental working group preparing Queensland for Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman



or Degrading Treatment or Punishment (OPCAT), implementation of which overlaps with HRA considerations. ESC audited physical and policy/procedural aspects of watchhouse custody of 63 watchhouses (where people may be detained for more than 24 hours).

In addition to this audit of watchhouses, Organisational Capability Command (OCC) conducted a complementary physical audit of QPS holding cells (where people may be detained for less than 24 hours). The information obtained from both audits was used to inform a report and recommendations responses to identified risk. The OCC has also started developing custody principles to outline standards for the treatment of people in police custody in accordance with the Act and OPCAT.’

## Indicator 6: Internal complaints<sup>31</sup>

The Commission asked state government entities how they have incorporated human rights into complaint handling processes. All of the state government entities reported having incorporated human rights into their existing complaints management systems, or are in the process of doing so. Several entities including DYJ, DoE and QH reported promoting the human rights complaints option on their websites. Complaint resolution record systems have been updated to ensure that human rights complaints are captured for reporting purposes.

The state government entities appear to be consistently taking the approach that whether a person specifically frames an issue around human rights or not, a decision-maker nonetheless needs to identify and record human rights in every complaint received. For example:

‘The Department (of Education)’s customer complaints management framework, policy and procedure have been updated, online training resources developed and relevant enhancements to the Client Complaints Management System have occurred..... Complaints officers must document their assessment and decision-making process for human rights complaints. Most customer complaints are managed and resolved through early resolution at the school, regional or divisional level...There is now targeted guidance for staff who manage customer complaints to consider whether a complaint may have engaged a human right.’; and

‘DCSYW revised its complaints policy for human rights compatibility in 2019. Complaints are now being proactively analysed and categorised according to the human right engaged, whether the complainant knows it is a human rights issue or not. Client outcome advices now contain information about recourse to the Commission.’

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<sup>31</sup> See the *Human rights complaints and enquiries – internal complaints made to public entities* section of this report for the number and outcome of complaints received by the 9 key state government entities.

Several state government entities have systems in place where human rights complaints are quickly escalated:

‘Where a complaint (about DHPW) contains a human rights component, the procedure requires it to be referred immediately to the department’s Human Rights Complaint Advisory Panel (HRCAP), which is comprised of human rights subject matter experts from across the department. The HRCAP is responsible for providing advice to officers responsible for responding to complaints on whether the complaint includes a human right component. It is also responsible for providing advice on strategies for managing complaints which contain a human rights component and ensuring complaints with a human right component are correctly recorded on the department’s complaints management register.’; and

‘Currently, any complaint (about QCAT) which cites a breach of human rights, or is assessed as potentially raising a human rights concern, is escalated to the Deputy Principal Registrar to manage. This process ensures consistent consideration of complaints for human rights issues until such time that human rights are further embedded in QCAT’s business-as-usual complaints procedures.’; and

‘At Torres and Cape HHS if a complaint is assessed as a human rights complaint, it will automatically progress to a formal grievance and Human Resource Services would be immediately engaged.’

While the goal is to incorporate human rights into complaint handling, the Commission also heard about instances where a complaint process review has led to general improvements to complaint handling policies, procedures and practices. For example, QCS has identified that in the cases where a human rights complaint has been partially substantiated, improvements can be made to how the initial decision-making process was conducted and documented, commenting that:

‘While this would not have necessarily resulted in a different outcome, it may have prevented the initial complaint. As a result, improvements have been made to processes and staff understanding of the importance of documenting the decision-making process.’

## Indicator 7: Future plans

The Commission asked state public entities what future plans they had to achieve the objects of the Act, which are:

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

The responses indicate a strong willingness to remain engaged with the Act, and work towards its objectives once implementation activities

(such as initial policy review) have been completed. The goal of embedding human rights obligations as 'business-as-usual' or 'everyday business' was mentioned by several entities.

Although their formal implementation project finished on 30 June 2020, the DCSYW will be:

- working with policy and training units to finalise reviews and practice scenarios for staff
- analysing root causes and trends arising from client complaints
- developing further communiques to staff and NGOs to highlight human rights issues and training resources
- developing and implementing a plan and engaging with Executive leaders to embed human rights as business as usual
- partnering with peak agencies to identify further opportunities to embed human rights into the culture and process of the Department and its non-government sector partners.'

DYJ described its future plans as to:

- commence a human rights Community of Practice to guide ongoing implementation of human rights as business as usual
- finalise the review and amendment (where necessary) of policies and procedures
- embed human rights in the training catalogue including practice scenarios for staff to help continue build staff capability
- continue communiques to staff and funded NGOs to highlight human rights issues and training opportunities
- develop and distribute communication material for young people regarding their rights
- identify and share case studies about the impact of human rights on services delivered to young people and their families to showcase department advances
- continue to improve complaints management systems and explore opportunities for using complaints to inform ongoing improvement to policies and procedures and service delivery.'

The DoE described the challenge of a relatively short implementation time for a large and geographically dispersed organisation, which has necessitated a staged approach:

'The next phase will focus on strengthening and sustaining organisational engagement and commitment to a human rights culture and embedding consideration of human rights in business-as-usual processes. Key priorities will be developing a sustainable capability development program for all staff, ongoing stakeholder communication and engagement and ongoing reporting, monitoring and oversight

arrangements of the Department's progress towards embedding a human rights culture.'

QPS said:

'The need to continue to strengthen and enhance a culture which promotes and respects human rights within the QPS is acknowledged as a continuous incremental process to embed human rights considerations as central business-as-usual policing. To that end, the QPS is committed to a sustained human rights education and training effort and investment. Human rights are now a feature of the QPS *Our People Matter Strategy*, delivered through a steering committee chaired by a Deputy Commissioner and comprised of senior executives, union representatives, work unit representatives and workplace champions.'

DCDSS said:

'The DCDSS will strive for 100 per cent of staff to have completed their mandatory online training and face-to-face training for RCOs will be prioritised. Over the next 18–24 months, DCDSS business areas will promote the Human Rights framework. Regular communication will continue to be distributed to all staff through DG newsletters, Intranet updates and Yammer. DCDSS will continue to participate in Human Rights month as an ongoing event each year.'

QH committed to significant further training and the developing resources to assist decision-making. A few examples of the plans across the QH portfolio include:

'The Department of Health will develop an Executive Decision-Maker course in consultation with the QHRC.'; and

'Children's Health Queensland is planning on developing an age appropriate children's guide to human rights to assist patients and families in understanding their human rights.'; and

'Gold Coast HHS is considering a train-the-trainers model where the Legal Services Unit would work with each division to create a network of instructors and influencers who are equipped to respond to human rights questions for their areas and lead activities that reinforce a culture of compliance with the Act.'

Future commitments are reflected in some strategic plans, for example:

'Metro North HHS 2020-24 Strategic Plan states 'through the directions of this Plan, MNHHS will continue to have an ongoing commitment to respect, protect and promote human rights for everyone, everywhere, every day.'; and

'The Department's (of Housing and Public Works) commitment to promoting and protecting the rights of all Queenslanders has been reflected in a number of DHPW strategic documents, including:

- 2019-20 Annual Report
- 2020-2024 Strategic Plan;

- 2020-2024 HPW People Strategy; and
- DHPW Disability Service Plan (DSP).’

The DHPW described having undertaken extensive foundational work and that they have now:

‘...reached the embedding phase, which will focus on ensuring human rights is incorporated into DHPW culture and business-as-usual activities.’

Some of the actions planned at DHPW include implementing support to front-line Housing Service Delivery staff through changes to the online staff support tool ‘Housing Online for Me’, holding virtual training sessions and establishing a community of practice. DHPW will evaluate staff understanding and application of human rights in late 2020. A DHPW video is currently being developed to promote and raise awareness around the work undertaken across the department to protect and promote human rights. In addition, subject matter experts from Housing and Homelessness are currently working with Crown Law to develop a tailored training program for Housing and Homelessness staff.

To support the objects of the Act, QCS will:

‘...continue to review policies and procedures, implement cultural change across the agency (including complaints management, training and communications, RAPID framework and Champions Network), and ensure the ongoing consideration of human rights in policy and legislative development.’

QCAT has planned:

‘...awareness raising activities for the future, to promote a dialogue about human rights among staff. This includes promoting the Human Rights Policy and Legislation Network (established by the DJAG Human Rights Unit to share human rights information and insights with officers across Queensland Government departments) by sharing newsletters to staff and invitations to future events.’

## Local government public entities

### Indicator 1: Education and staff development

The Commission asked councils about the education and training provided to staff, including the number of people trained, mode of training, and how the training will be incorporated in induction of new staff and ongoing professional development. Here is a summary of the responses.

**Table 3: Staff training completed by key local government entities, 2019-20**

<b>Council</b>	<b>Staff training completed</b>
Western Downs Regional Council	<p>The Council's governance team attended a face-to-face introduction session delivered by the Commission.</p> <p>An online module has been developed for the Council's Learning Management System.</p>
Torres Shire Council	<p>The Torres Shire Council has included the Act in council induction and Code of Conduct training.</p> <p>Council ran approximately 12 sessions face-to-face involving group work.</p>
Noosa Shire Council	<p>All employees have received general online training.</p> <p>Training modules will be repeated throughout the year.</p> <p>Noosa Shire Council's Executive and Management Group (approximately 30 staff) was provided training by the Commission and tailored to include specific local government work examples so that staff could get a better understanding of how the <i>Human Rights Act 2019</i> worked on a practical level within their work environment.</p>
Ipswich City Council	<p>As of 30 June 2020, 434 of 965 office staff have enrolled and completed the module, with 631 having completed it by August 2020.</p> <p>Training for field staff was delayed due to COVID-19, but has since commenced from August 2020 in the form of 'tool box talks' providing practical examples.</p> <p>Human rights has been included in the corporate induction program.</p>



Council	Staff training completed
Brisbane City Council	<p>Council has updated the HRP040 Code of Conduct to explicitly address human rights and the Act. Training on the Code of Conduct is mandatory for all those who work for Council, including staff and contractors.</p> <p>Council has developed a human rights training pack and plans to deliver face-to-face sessions with key areas across the organisation. The impact of COVID-19 has delayed the delivery of these sessions. However, this will be an area of focus as staff return to office-based working arrangements. Council will consider digital delivery of the training if off-site working arrangements are extended.</p>
Livingstone Shire Council	<p>In January 2020, face-to-face human rights training was provided by the Commission.</p> <p>All of the Councillors, Executive Leadership Team, staff in supervisory positions, and those who may interact with the public attended. Approximately 130 staff attended face-to-face training and a number of other staff completed online training.</p>
Redland City Council	<p>Staff from the Corporate Governance Unit General Counsel's office, People and Culture Group, Procurement, Compliance and Internal Audit received a briefing on the Act and its application to local government from Gadens Lawyers.</p> <p>Delivery of the training to the broader Council staff has not been possible due to the restrictions on the number of people allowed in a meeting room.</p>

Council	Staff training completed
	Redland City Council are in the process of updating the employee code of conduct to include obligations in relation to human rights, which will then inform induction training received by new employees.
Tablelands Regional Council	Human rights has been included in the staff induction program and the Organisational Leadership Team has received training. Training has been delivered face-to-face and online.  Code of conduct mandatory training will be completed for all staff by 2021.

Compared with state public entities, councils are less advanced with the rollout of staff training. In some councils, only senior staff have received training on the Act in the 2019–20 period. To an extent, this may be explained by councils not having the benefit of DJAG’s HRU to guide and support implementation. The process was also delayed because of the March 2020 council elections, as it was difficult to implement a significant new policy agenda in the months preceding the election, and then there was the settling phase of new councils.

Similar to the experience of state public entities, some councils have identified that beyond completion of a general human rights module, specific training using real-life scenarios, tailored to particular work groups, is needed to make the Act relevant to the work of councils.

For example, Ipswich City Council reported that:

‘Feedback on the Online Module has identified that further specific training is required in relation to how to consider and apply the Human Rights Act 2019 (Qld) when acting and making decisions in a local government context. It is intended to provide ‘department specific’ training in the 2020/2021 financial year, using frequently undertaken acts/decisions as examples. Training will be tailored to the audience (eg. what does a Level 2 Officer need to know compared to a Manager).’

In addition to formal training, some councils advised that they also sent resources out to staff, developed intranet pages, displayed posters, and published articles in staff newsletters or bulletins.

Livingstone Shire Council provided all staff with Commission and 'For Gov' web resources, ongoing information will be provided in the quarterly Council eBulletin, and refresher presentations will be conducted on an annual basis.

Ipswich City Council created an internal human rights working group (with representatives from each department) charged with aligning council's processes, procedures, and decision-making with the objects and requirements of the Act, and reporting to the Executive Leadership Team on the progress of the HR Project Plan. Council also commenced a rolling process for the nomination of staff members as 'human rights champions' within each department.

In the case of Torres Shire Council, training on the Act has been a catalyst to discuss and unpack issues of importance to the community:

'The most common question asked by participants at recent induction sessions is: "Why hasn't the right to shelter/housing been included in these rights, given the overcrowding in our communities and in the Shire, as this is a basic human right?" Conversations about competing rights have also been illuminating – such as the rights of children and cultural rights so as to understand that certain rights can be limited depending on the context. Competing rights such as the rights of women and primogeniture will require respectful conversations located in their cultural context.'

## Indicator 2: Community consultation and engagement

The Commission asked councils about the extent to which they have provided information to the community about human rights and consulted with relevant sectors of the community.

A number of councils have made concerted efforts to ensure that their constituents know about the Act, understand they have human rights, and inform about the option of complaining about council services.

Some councils have conducted engagements that are framed around human rights, but community engagement has been difficult due to COVID-19 restrictions on holding public meetings.

### Community engagement and information

Many councils have provided information on human rights to the community through their websites.

Livingstone Shire Council website has a dedicated page on human rights that informs the community of their rights and the complaint management process, should an individual feel that their human rights

have been breached. To further this, Council has implemented a Human Rights Policy.

Western Downs Regional Council has provided information on the Act on its website with links to the Commission website, and information on how to make a complaint about Council's decisions.

In addition to information on how to make a human rights complaint to the council, Noosa Shire Council has published a Human Rights Policy that outlines to the community:

- Noosa Shire Council's commitment to protecting and promoting human rights
- the protected human rights
- Council's decision-making and application of the *Human Rights Act 2019*; and
- the complaints management process for human rights.

Ipswich City Council has a human rights page on its website, with information about Council's obligations under the Act, how a human rights complaint can be made, links to the publicly available Human Rights Policy, and other human rights resources.

A noteworthy innovation by Ipswich City Council is the development of human rights scripting to be played to call centre customers during the 'welcome to Council' message, and on a loop with music when on hold. The scripting includes a statement about the council's commitment to human rights, and details of where to get more information. While there is no legislative requirement to report on the Act in the Council's annual report, Ipswich City Council intends to do so as best practice.

## Community consultation

The Tablelands Regional Council reported that they have:

'worked with the local Indigenous community to develop a Reconciliation Action Plan, Disability Access and Inclusion Policy and committee (which is now known as the Inclusion Committee), and they are currently developing an aging strategy, all of which reflect the intent of the *Human Rights Act 2019*. Disaster Management Training also refers to the Human Rights Act in terms of a disaster and recovery. Council's Libraries and Tourism, Culture and Events teams consider human rights in all service delivery.'

Torres Shire Council's new town planning scheme integrates cultural and other human rights. Community consultation is integral to the scheme and respect for human rights is a necessary prerequisite for any development application in the shire:

‘Respect for Aboriginal and Torres Strait Islander knowledge, culture, and tradition is a foundation of the scheme and is reflected in the strategic outcomes.’

Ipswich City Council reports that between August and November 2019, they:

‘...conducted extensive community consultation to shape Council’s new (public) Children, Young People and Families Policy (CYPF Policy) (which was adopted by Council on 27 August 2020). Children, young people and families are central to Ipswich’s identity, growth and success. Council is responsible for engaging with children, young people and families on matters that affect them. A human rights impact assessment using a draft checklist was conducted during the development of the CYPF Policy and identified that several human rights may be impacted (positively), including:

- taking part in public life;
- protection of families and children;
- peaceful assembly and freedom of association;
- freedom of expression; and
- cultural rights.’

While not consulting with the community directly on human rights, Brisbane City Council consulted widely across the organisation and in particular with business areas that engage closely with the community, including transport and community services. Their input was used to develop the response to the Act and updates to Council’s policies and practices. Brisbane City Council is monitoring community feedback, including any complaints managed through complaints procedures. This feedback will be considered when processes are reviewed.

### Indicator 3: Awareness-raising and support for related entities

The Commission asked councils about what steps they have taken to raise awareness of the Act with contractors or service providers engaged by them.

#### Awareness-raising

Substantial progress has been made by councils in advising related entities about their duties under the Act. Some councils have created specific factsheets or changed contracts to reflect the Act’s requirements.

Tablelands Regional Council provides an induction to various functional public entities whose services they engage. The material outlines their obligations, rights, legislative requirements aligned with

council's policies, and procedures which include human rights obligations.

The Brisbane City Council requires everyone who works for them, including consultants and contractors, to complete the HRP040 Code of Conduct, and will continue to provide support to related entities.

Torres Shire Council includes contractors in their human rights training program including conducting a session on Thursday Island for the contractor responsible for the new water filtration system, but noted the need to continue liaising with contractors as it 'will take time to navigate the various ramifications of the legislation, but a start has been made.'

Redland City Council issued its Procurement Transformation Newsletter to all suppliers and contractors – there were 3,222 unique subscribers:

'This newsletter included a section on Human Rights and that organisations doing work for local governments must uphold the 23 Human Rights protected by the Act when making decisions and providing services. The newsletter includes a link to the State Government website pages on understanding Human Rights. Over 41% of recipients have opened the email which is well above the market average of 25%. Of that 41% of opened emails, 23.5% have clicked the link through to the State Government's web page.'

Ipswich City Council reports that they have:

'...raised awareness of human rights with contractors/providers engaged by Council (and grant recipients) during the relevant period by developing the Contractors and Grant Recipients of Council – Obligations under the Human Rights Act fact sheet (Fact Sheet). The Fact Sheet provides information on what responsibilities contractors/providers and grant recipients may have under the HRA.'

Livingstone Shire Council had changed contractual obligations in response to the Act. To raise awareness with contractors/providers engaged by Council, 'Supplier Obligations' in Council contracts have been adapted so that human rights are taken into consideration when services are being delivered in adherence to the *Human Rights Act 2019*.

Some councils had not yet commenced this work, but showed an intention to do so in the near future. Awareness-raising with related entities is a focus for Noosa Shire Council for the next financial year:

'Further work with Council's contractors and suppliers will be undertaken with Council planning to develop a multi-tiered communication strategy which includes factsheets and contact points for suppliers if they have questions. Additionally, Council will consider variations to contracts / terms and conditions in consideration of



human rights principles across relevant and identified procurement activities.'

Ipswich City Council had also given extensive consideration to further activities in relation to this Indicator.

'During the 2020/2021 financial year, it is intended that Council will send a letter to all contractors/providers of Council advising them of the commencement of the HRA and enclosing the Fact Sheet. Further potential activities regarding this indicator have been identified and will be investigated in the 2020/2021 financial year, including:

- Identifying which human rights are most likely to be affected in the procurement space.
- Identify which type of contracts/leases have a significant potential to impact on human rights (eg. delivery of services direct to the public such as pools, the pound, home assist services etc.) and give consideration to (a) including a human rights in tender documents and/or evaluative criteria and (b) including human rights reporting in future/current supplier reporting requirements (eg. require a human rights impact assessment for the services or a register of decisions where human rights have been impacted).
- Amending procurement planning documents/governance documents/work instructions etc. to reflect Council's commitment to human rights and incorporate the matters above.
- Reviewing grant application processes (including policies, procedures and forms) to incorporate human rights into grant criteria and to provide information for grant recipients who may be bound by the HRA.
- Considering whether specific training sessions, information packs etc. are required for contractors/providers of Council and grant applicants/recipients.'

## Indicator 4: Reviews and development of laws

The Commission asked councils whether they have created a process for development of new local laws or subordinate local laws, or for reviewing local laws or subordinate local laws. The councils were also asked to provide details of any local laws (or subordinate local laws) that have been introduced that work to respect, protect, or promote human rights.

Under the *Local Government Act 2009* a local government must ensure its local laws are drafted in compliance with the guidelines issued by the Parliamentary Counsel under the *Legislative Standards Act 1992*, section 9 for local laws and subordinate local laws. The *City of Brisbane Act 2010* makes equivalent provision for the Brisbane City

Council. The Commission was unable to identify a more recent guideline for drafting of local and subordinate local laws aside from [guidance published in 2016](#).<sup>32</sup> Further guidance for councils may need to be developed at a systemic level to ensure consistency.

Many councils reported that no local or subordinate local laws were introduced in the relevant period, possibly due to the March 2020 local government elections. They did, however, appear well prepared, having procedures in place for developing new laws that give full consideration to the Act.

Some councils had commenced a review of current local or subordinate laws, but most were at the planning or preliminary stage of this process. Few, if any, laws have been identified as requiring amendment to date.

Redland City Council's Strategy and Governance Unit updated internal procedures to ensure that the human rights assessment is incorporated into the process for the making of local laws, including both new laws and amendments to existing laws.

Western Downs Regional Council has confirmed that processes are in place to ensure that human rights are properly considered during the review, development, and application of local laws and subordinate local laws. However, no new laws were introduced in the relevant period.

Noosa Shire Council's Governance team have developed and implemented an internal Guideline document that outlines the decision-making process and considerations to be included when developing policies and local laws.

'Council will focus in the next financial year on reviewing its local laws and subordinate local laws for compatibility with human rights contained in the *Human Rights Act 2019*. Any local laws that are found to be incompatible with human rights will be considered, through communication and consultation, for change or repealing the law, if applicable.'

Ipswich City Council is reviewing local laws and subordinate local laws policies and procedures:

'No new laws were introduced since commencement of the Act, and the council commenced a review of its local laws during the relevant period to consider compatibility with human rights. The review was completed during August 2020 and the requirement for some minor amendments were identified. Implementation of those amendments will occur during the 2020/2021 financial year.'

Tablelands Regional Council reported that they are:

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<sup>32</sup> Office of the Queensland Parliamentary Counsel, *Guidelines for Drafting Local Laws* (Webpage, 2016)

‘...reviewing existing local laws to identify any compatibility with human rights, but that generally local laws adopted by Council do not contain provisions that are incompatible with the Act. Following the review, Council will consider any issues that arise as result of this review and make decisions as appropriate. In particular, Tablelands Regional Council is considering amending Part 4 of Council’s LL1 to allow for external review of Council decisions relating to individual land and property rights by a Magistrate in the Local Court.’

Livingstone Shire Council has initiated a project to review its current local laws and subordinate local laws. It is anticipated that this project will take 12-18 months to complete. Community consultation will also form part of the scope for the review process.

Redland City Council plans to assess all 31 local and subordinate local laws for human rights compatibility, and will amend or repeal those local laws where the assessment determines that the limitation on a human rights is not reasonable:

‘Council is in the process of conducting a comprehensive audit of all its local laws, in light of the new Town Planning Scheme and the Human Rights Act. To date the audit has not identified any non-compliance. Council is elected by the community to represent the community and hence their involvement in amending the Administrative Complaints policy by including the provisions of the Human Rights Act is another example of where consultation has occurred.’

Brisbane City Council noted that they had not identified any changes required to local laws at this time. Council will consider human rights, the Act, Council’s AP253 Human Rights Policy, and other relevant material when reviewing and developing local laws.

## Indicator 5: Review of policies and procedures

The Commission asked councils about reviews of policies and procedures and development of guides or tools to support decision-making, as well as any changes to service delivery.

Several councils have adopted a standalone human rights policy as a strong indicator to staff and the community of the importance of the Act, and their intention to integrate it into everyday business. However, many councils were still in the preliminary stages of reviewing existing policies and procedures for human rights compatibility.

The detailed work of assessing all existing policies and procedures takes substantial time and resources and in many cases this work has commenced but not been completed at the time of writing.

## Review of policies and procedures

Noosa Shire Council has created a standalone policy and also conducted an audit of existing policies for compliance with the Act:

‘The audit revealed that for the most part, the content of the policies appears to be compatible with human rights and only a few policies require specific amendment to achieve compatibility. As such, Council’s lawyers have recommended that most policies are amended to include a statement of compatibility and also a requirement on the relevant individual to give consideration to human rights issues when acting / making decisions under the policy. These policy amendments will be considered by Council for adoption in the near future. Importantly, the *Human Rights Act 2019* will continue to be considered when policies are being developed or reviewed. The Council also introduced and adopted a new Human Rights Policy which outlines to the community:

- Noosa Shire Council’s commitment to protecting and promoting human rights;
- the protected human rights;
- Council’s decision-making and application of the *Human Rights Act 2019*; and,
- the complaints management process for human rights.’

The Brisbane City Council:

‘... identified a number of key policies and procedures relevant to the Act during review and consultation. Actions taken included establishing a human rights policy, updating the Code of Conduct to refer to human rights, establishing an interim human rights complaints procedure. In addition, Council reviewed and updated relevant procedures in key areas such as human resources. Finally, Council has prepared human rights information for inclusion in relevant policies and procedures during their normal review cycle.’

Tablelands Regional Council reviewed its policies and procedures, and updated its Anti-Discrimination and Prevention of Harassment Policy to incorporate reference to the Act.

The Ipswich City Council reported that:

‘The council adopted a Human Rights Policy that sets out Council’s commitment to human rights and building a culture that respects and promotes human rights and also outlines the roles and responsibilities of Councillors, staff generally and staff dealing with human rights complaints. A number of other policies and procedures have been updated to include a reference to the Act while not yet being the subject of a formal human rights impact assessment. The review of policies, procedures etc. for compatibility will be completed during the 2020/2021 financial year.’

The Livingstone Shire Council said that:

‘... policies and procedures that have been or are currently under revision are being reviewed for compatibility with human rights. A Human Rights Policy has been developed to assist all areas of Council to meet human rights obligations. Livingstone Shire Council has made procedural changes to the structure of reports submitted to Council meetings to incorporate that human rights have been considered, and any recommendations are compatible with human rights. It is anticipated that over the coming 12 months Council will audit its policies and procedures to ensure compatibility with human rights.’

Redland City Council has developed a draft Policy and Guideline that confirms their commitment to protecting human rights by ensuring that all policies, guidelines and decisions of Council are made with consideration of the 23 human rights outlined in the Act.

Torres Shire Council has resolved an amended administrative complaints policy and it references the Act. The policy is posted on the website. Council also updated its Employee Code of Conduct to include the Act and much work was done in this regard in industrial relations and business continuity policies and guidance documents during COVID-19.

## Tools and guidance

A number of councils have developed checklists and guidance for staff to assist with making decisions that are compatible with the Act.

Brisbane City Council created the Human Rights Decision-Making Guideline to support staff with making decisions that are compatible with human rights, and to ensure proper consideration is given to human rights throughout the decision-making process.

Livingstone Shire Council, Redland City Council and Ipswich City Council created human rights checklists that identify rights and limitations and consider whether a particular decision or action is proportionate.

## Indicator 6: Internal complaints

The Commission asked councils if they have incorporated human rights complaints into existing complaints mechanisms, and for examples in which a matter has been successfully resolved through the process, as well as the outcome achieved.

Most councils have updated their complaints processes to incorporate human rights, but few human rights complaints have been received. Several councils demonstrated their commitment to equitable access to their complaint service by providing different means of making a complaint (including by phone, email, or in writing) and ensuring that adequate internal appeal processes are available. It was unclear from

responses whether councils intend to take the same approach as state government entities in categorising a complaint as a human rights complaint, even if the complainant does not identify this explicitly.

#### The Ipswich City Council's Human Rights Complaints Procedure:

'...prompts staff to consider whether a particular complaint involves a limitation of human rights (express or implied) and to refer such a complaints to the Complaints Management Unit (which is responsible for dealing with human rights complaints) within a specific time-frame. The HR Procedure sets out a detailed process for identifying, assessing, considering and responding to human rights complaints. It also includes a number of supporting forms, flow-charts and checklists for use by the Complaints Management Unit. It also provides guidance in relation to complaints made by an agent, information privacy, review rights and reporting. Council has yet to receive a human rights complaint so the opportunity to identify policy changes or business improvements as a result of such a complaint has not yet arisen.'

The Brisbane City Council to date has received a low volume of complaints through the human rights complaints procedure. An interim procedure was instigated at the end of 2019 in readiness for commencement of the Act in January 2020. The final version is being finalised, but will address:

- how to identify if a complaint is specifically human rights related;
- how to determine if an act or decision that is the subject of a complaint was made in compliance with
- human rights;
- if the limit that an act or decision has on a human right is reasonable and justifiable; and
- the timelines for complaints being made to the Queensland Human Rights Commission, as described in the Act.'

Complaints can now be made through a new Complaint Form or over the phone to Noosa Shire Council but during the financial year they did not receive any yet. Additionally, Noosa Shire Council:

'...has incorporated human rights complaints into its existing complaint processes online by providing the community with information on how to make a human right complaint; Council's complaints management workflow process; and, importantly what a complainant can expect from Council throughout the process. To support the complaint management process, an internal Guideline has recently been launched which addresses the complaints management process from start to finish; the steps staff are required to undertake; and, useful tools and templates for responding to complainants.'

Livingstone Shire Council has:



‘...adopted a Human Rights Policy which incorporates the objectives of the Act, the 23 fundamental human rights, acting compatibly with human rights, assessing the compatibility of decisions or policies and the human rights complaint management process. Human rights principles have been taken into consideration with the complaint process allowing individuals to make complaints verbally, either by phone or in person or in writing by mail or email.’

Redland City Council has:

‘...recently undergone an external audit of the complaints process and as a result will be making amendments to the procedures associated with management of frontline complaints, including consideration of natural justice and procedural fairness and the right to a fair hearing and foundational considerations in all complaint reviews and responses. Council will ensure the pathway for members of the public to appeal where they are not satisfied with their initial response is clear and accessible.

Tablelands Regional Council reported that they have not yet received complaints about human rights. Council’s policy and processes are currently being reviewed and will include reference to human rights.

## Indicator 7: Future plans

The Commission asked councils about their future plans to achieve the objects of the Act. The responses indicated a strong commitment to finalising planned activities to embed the Act into council business.

The Western Downs Regional Council has an implementation plan which includes the following activities:

- ‘ • Training for Councillors and staff
- Review of strategic and operational plans
- Review of local laws, policies and procedures
- Incorporating the Act into Councils Staff Code of Conduct
- Review of service delivery protocols
- Assessment of community engagement activities and protocols
- Review and monitoring complaints management processes
- Incorporating requirements of the Act into contracts and procurement processes.’

Noosa Shire Council provided details of their future plans as well as recent activities that have already occurred early in the 2020–21 financial year.

‘Noosa Shire Council will provide more targeted training to particular areas and incorporate human rights in staff inductions in the next financial year. Further work with Council’s contractors and suppliers

will be undertaken with Council planning to develop a multi-tiered communication strategy which includes factsheets and contact points for suppliers if they have questions. Additionally, Council will consider variations to contracts / terms and conditions in consideration of human rights principles across relevant and identified procurement activities.

Council will be offering additional online training for all staff on human rights, including an online questionnaire in order to gauge staff knowledge and awareness. In the future, Council will also include human rights awareness in its online induction training. The key objective for Council's Governance team is to promote Council's human rights obligations through training, guidance and discussion.

In August 2020 Council's Governance team published a new internal Organisational Guideline on decision-making and complaints management for human rights. This procedural document has considered best practice from QLD and Victoria and has also been reviewed by Council's lawyers. The Guideline includes practical tools and templates to assist staff to act and make decisions that are compatible with human rights, including the preparation of appropriate statements. The Guideline has already proven to be useful for some teams who are currently applying the tools and analysis to their work projects and decision-making processes.'

Ipswich City Council has a number of activities identified in its Human Rights Project Plan to further the objects of the Act in future including:

- ‘ • further training for staff, contractors and grant recipients
- including human rights in position descriptions so compliance with human rights becomes a key performance indicator;
- the development of activities that involve engaging with the community on human rights;
- developing a 'short-form' version of the Checklist for 'on the spot' decisions made by staff, for example, the issue of infringement
- notice or compliance notices;
- developing a reference guide for staff that explains each of the rights and provides examples
- relevant to local government; and
- encourage a discussion of human rights at team meetings.’

Brisbane City Council has identified a number of longer term and ongoing activities related to human rights. These include:

- ‘ • ongoing communication and provision of training on human rights governance framework;
- conduct a one-year evaluation of human rights culture and compliance; and

- monitor performance of the human rights processes and procedures and continually improve them over time.’

Redland City Council described a creative way to promote human rights in the Council:

‘Council plans to celebrate Human rights Day on 10 December 2020 by setting up an expression wall in their main administration building and at their depots. The wall will have a blank canvass and staff will be encouraged to write about what human rights means to them. Council will hold a morning tea where the CEO will speak of Council’s commitment to human rights and invite others to speak about their experiences.’

## Impact of COVID-19

The Commission acknowledges that the COVID-19 pandemic has meant a challenging time for most public entities, particularly for those who provide front line services to the community. The many competing priorities faced by all public entities include ensuring safe working environments for staff and maintaining service provision, while protecting public health.

Large government departments have invested heavily in activities such as policy review and training, since they have the most staff to train and policies and legislation to review. On the other end of the spectrum, councils (and in particular regional and remote councils) have significantly less resources and support and also experienced disruptions from the March 2020 local government elections and COVID-19. The efforts made as reflected in the summary above are truly commendable in these circumstances.

The effects of COVID-19 have slowed down the pace of planned human rights implementation activities, and resources have been diverted to emergency response measures. Nonetheless, state public entities and councils, even those with few resources, are adapting well to the challenges posed by the pandemic. A number of public entities continued with training, but moved it to an online delivery model. Many training and policy review projects have now resumed, or are planned to resume in the near future.

Some public entities, such as QH, commented that consideration of human rights has necessitated increased focus on human rights during COVID-19.

‘Metro North HHS reported that their efforts to comply with human rights obligations increased rather than decreased during the COVID-19 pandemic, i.e. protect the right of individuals to access health care (section 37) and protect the ‘right to life’ of all individuals in

Queensland (section 16) by implementing new ways that health services are provided to individuals whilst in quarantine.’; and

‘Metro South HHS... delivered more services via telehealth and resumed elective surgery as soon as it was safe and manageable to do so to comply with the ‘right to health services’ (section 37).’; and

‘The Cairns and Hinterland HHS Pandemic Coronavirus Plan V5.0 includes human rights and reminds staff that during the response to the COVID-19 pandemic it is important for all staff to be conscious of their obligations under the Act.’

A number of state government entities described taking a human rights approach when responding to issues arising under COVID-19, with the right to life being of paramount importance in the time of the pandemic.

For example, QH noted that:

‘The right to life is protected under section 16 of the HR Act. The right to life places a positive obligation on the State to take all necessary steps to protect the lives of individuals in a health emergency. This right is an absolute right which must be realised and outweighs the potential impacts on any one individual’s rights. The Department (of Health) considered the potential impacts on individual human rights balanced against the need to protect the health and safety of the broader Queensland community. On balance, it was determined that each public health direction was necessary and proportionate in relation to the potential human rights impacts and the need to protect public health.’

The QPS acknowledged:

‘...its involvement in the whole-of-government response to COVID-19 may be considered to restrict some human rights such as freedom of movement and peaceful assembly and freedom of association. However, the temporary limitations of these rights were lawful, necessary and proportionate to prevent transmission of the coronavirus. The public health measures implemented in response to the COVID-19 pandemic and the associated compliance activities including self-isolation and social distancing were balanced against the critical need to promote and protect the right to life. The QPS philosophy of ‘communication, compassion and compliance’ in enforcing the public health directions provided a practical framework to ensure human rights were appropriately considered in delivering the health emergency controls.’

The DoE describes how it:

‘...promoted the right to education by ensuring that schools and Queensland community kindergartens remained open and accessible for children of essential workers and vulnerable children during the learning at home period. The Department promoted the right to equality before the law by building a collection of inclusive resources to support children with a disability during the learning at home period.

With the shift to learning at home, gaps in student access to the technology became more evident. Schools moved to provide devices and/or internet access for students who had no or limited access to online learning materials.'

Some councils commented that they had strived to uphold human rights when responding to COVID-19. For example, Ipswich City Council described a number of actions taken that promote human rights, for example the COVID-19 Human Society & Economic Recovery Working Group which is identifying and monitoring the social and economic impacts of COVID-19 in Ipswich – this activity engages the rights to property, protection of families and children and liberty and security of person.

In addition, Livingstone Shire Council considered human rights of staff when making urgent changes to human resources policies. The Council created a Pandemic Leave Management Plan and Pandemic Leave Directive. The Council says that these documents:

'...were created fairly and in a way that promotes human rights, with no limitations being placed on individuals in respect to staff who may have been vulnerable/high risk, required to isolate or work from home.'

Public entities have started to see the benefits of the rights-based decision-making framework that the Act provides to assist in making difficult decisions. Human rights considerations formed a part of the Department of Child Safety Youth and Women's Decision-Making Framework during COVID-19:

*'Human Rights during COVID-19*

We developed a decision-making framework for our frontline staff to continue our delivery of supports and critical services during COVID-19, while also being compatible with Human Rights. This framework was designed to assist staff decision-making about family contact arrangements as well as other essential services, by requiring staff to filter a situation through a number of factors. This tool outlines which services are considered as critical and essential and provides guiding principles to underpin how staff interact with vulnerable children and young people, their families and carers.

The framework steps out the six key considerations of how staff can make decisions, recommending that they must consider a number of factors, particularly legal requirements that impact and determine a decision. Through the framework staff must give consideration to whether there is a relevant legislative requirement; what is proportionate from a human rights perspective; and is the decision reviewable. In addition to considering legal requirements, the framework also requires staff to carefully consider factors, for example: the public health consideration; immediate danger; risk; communication requirements; and what other alternatives may be

available if face-to-face is not the safest method (i.e. Skype; Facetime).<sup>33</sup>

Torres Shire Council identified the benefits of the Act in furthering the outcomes they were seeking to achieve for the community during COVID-19:

'The Torres Shire Council's COVID-19 Industrial Relations Sub-Plan of Council's COVID-19 Continuity Management Plan provides flexibility so as to respect various rights (rights of children and families, cultural rights, rights of women etc). The Sub-Plan also has an associated cultural protocols document as part of it. Council's Isolation and Quarantine facility guidelines, supported by the Qld Government, enshrine human rights. Council ensured that during the isolation and quarantine period in various facilities on the islands, there were cultural chaperones, the rights of families and children were observed as were the rights of women. Respect for these rights formed the basis of Council's advocacy with Queensland's Chief Health Officer to have isolation and quarantining facilities in the Shire to repatriate stranded families on the mainland. Put simply, for much of this year, Council's efforts with the community and its staff have been ensuring service delivery is integrated with respect for human rights.

This has resulted, on occasion, in Council having to prosecute its arguments strenuously on behalf of families, children, women and our Torres Strait and Aboriginal culture with other levels of government and other local governments. The practical outcome of the review and integration of HRA obligations has been our integration of human rights into our advocacy, our service delivery, and our support for our communities.'

At times the challenge of responding to the COVID-19 pandemic led to agencies considering and implementing new ways of doing things. The human rights legislation is a helpful framework to ensure that changes to service delivery are the least restrictive option to achieve the organisation's purpose:

'When responding to issues arising during the COVID-19 pandemic emergency period, Noosa Shire Council has considered the *Human Rights Act 2019* in its decision-making process. For example, Council's meetings are generally open to the public which aligns with the protected right for individuals to take part in public life. Due to the pandemic Council meetings were temporarily closed. However, Council has offered its community members the option to watch live streamed meetings on our website, therefore offering a different way to participate in public life.'; and

'In response to the pandemic, QCAT's President issued new practice directions which promote flexibility with the running of QCAT proceedings whilst ensuring rights to a fair hearing continued to be protected. This was to ensure proceedings could continue in a manner

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<sup>33</sup> Department of Child Safety, Youth and Women, *2019–2020 annual report* (2020) 36.



which protected public health and safety. To support these approaches, technological solutions were developed and implemented to facilitate virtual court and tribunal attendance where appropriate. This allowed proceedings to be conducted through cloud-based video conferences, and QCAT clients could proceed with their hearing via video conference. QCAT Hearing Support Officers within QCAT's Operations Support Team were required to very quickly embrace a change to virtual hearings and in doing so use innovative and agile thinking to ensure timely transition and the delivery of essential justice services to QCAT clients, including those requiring assistance through the National Relay Service or the use of interpreters and translators.'; and

'QCS took action and made decisions, which protected the right to life, the right to health services, and the right to humane treatment while deprived of liberty. In protecting these rights other human rights at times were limited such as decisions to restrict and limit movements throughout the correctional system, and by imposing the use of isolation at times to detect, prevent and stop the spread of COVID-19 in corrective services facilities.'

The Commission notes that the QCS took positive steps to promote the right to protection of families and children and freedom of expression through a new virtual personal visit program. The program was already planned, but the advent of COVID-19 has sped up its delivery. This has allowed prisoners to keep in contact with family and friends during the COVID-19 pandemic. The program gives prisoners access to computer terminals in prisons and they can speak via video link to their family and friends while they are unable to receive visitors.<sup>34</sup>

## Progress towards a human rights culture

The Commission commends the work of the public entities who have started to build a human rights culture in Queensland in which people are put first.

While there is still much work to be done, the future commitments made by public entities indicate a clear vision and determination to make the Act part of everyday business.

We sincerely thank the 9 state public entities and 8 councils for their enthusiastic and thorough contributions to this report.

While these 17 public entities represent only a sample of state and local government, their reports have provided us with some important

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<sup>34</sup> 'QCS launches virtual personal visits', Queensland Corrective Services (Web page, 7 May 2020).

insights into the progress made towards building a human rights culture in Queensland. Some of these insights are:

- Substantial training has already occurred, but in many cases has been introductory training. Further specific training tailored to the business of the particular public entity (or business unit) may be required to cement knowledge and embed human rights-based practice.
- Reviews of legislation, local laws, policy, and procedures have not caused public entities to identify much need for change or amendment. However, the Commission anticipates that human rights complaints may highlight some deficiencies with legislation or policies that may lead to constructive and positive change.
- Public entities, and in particular councils, need proper resourcing and ongoing support from an entity such as the DJAG HRU to continue the vital work that has been started.

## Functional public entities

Prior to the commencement of the Act, many non-government organisations carrying out work for the state of Queensland had taken a rights-based approach to client service.

The Human Services Quality Framework (HSQF), which was developed by the Queensland Government in collaboration with the non-government sector to increase consistency in service quality, demonstrates this. While it already had a strong focus on the rights of individuals, the HSQF has been updated to incorporate the requirements of the Act.

The HSQF now strongly entrenches the Act's requirements, such as by suggesting that an agency demonstrates adherence to the framework by considering and recording how they have limited rights in a way that is consistent with section 13 of the Act.

Non-government entities have enthusiastically embraced the new legislation, particularly as it provides a useful decision-making framework that is complementary to the rights-based approach that has underpinned organisations' approaches for many years.

Community sector organisations are seeking more information on how it will apply in their particular environments.

PeakCare (the child protection peak body) reported to us that:

'Our experience is that there has been a huge amount of interest in learning about the Act and its application in the child protection and family support context.'

Here is a summary of PeakCare's implementation activities:

'In May and June 2020, PeakCare and the Commission worked together to provide a series of workshops on human rights tailored for the child protection sector. Interest and demand was high, with a total of 97 participants from diverse organisations within the non-government community services sector including peak bodies and representative groups, Aboriginal and Torres Strait Islander community controlled organisations, those delivering services such as foster and kinship care, residential care, family support, legal services, housing support, counselling, youth services, and child care services. In addition to the non-government workforce, participants came from government departments and agencies, universities and private practice.

Using material from the above training and QHRC website, PeakCare (in consultation with the Commission) developed a resource for organisations to use when making decisions to ensure compatibility with human rights and to facilitate the appropriate documentation of such. The resource was distributed to some thousands of PeakCare eNews subscribers.'

Youth and Family Services Ltd (YFS Ltd) has also shown a strong commitment to implementing the Act, and seen some early benefits for their clients:

'All staff and Board Directors at the Logan-based community services organisation YFS got up to speed with the Human Rights Act 2019 through training sessions conducted by the Queensland Human Rights Commission. Since the training, the organisation has:

- added information about the Human Rights Act to its governance and management processes
- adapted its service delivery to encompass the essence of the Act through case note requirements and operational manual processes
- updated its service delivery and related processes to ensure services are provided in ways that uphold people's human rights and give people the right to make choices about the services they receive
- reflected the essence of the Act in its feedback, complaints and appeals processes
- ensured its human resource systems, including grievances and disputes, are consistent with the Act
- facilitated training in the Act for new and existing staff.'

After undertaking training in the Act, solicitors at Logan's community legal service, YFS Legal, have used their newfound understanding in ways that have a real impact on the livelihoods of young people facing criminal law matters.

Community legal advocates, supported by the efforts of the Community Legal Centres Queensland (CLCQ), have also identified the potential of the Act to improve outcomes for their clients:

‘CLCQ held a day of Human Rights training in March 2019, presented by human rights consultant, Ben Schokman. The training was aimed at front-line workers and focused on how the new laws can be used as an advocacy tool for clients and communities. The information included in the session and references to the source material can be found below, along with other human rights resources. CLCQ created an implementation toolkit ‘[Using the Human rights Act in your CLC](#)’ using and held a number of webinars regarding human rights including on topics such as identifying human rights cases, the right to education, assisting people under involuntary orders and advocating for clients with a disability.’

The Benevolent Society has shown a strong commitment to respecting, protecting, and promoting the human rights all people. The Benevolent Society stated that:

‘We are building a human rights culture where overarching human rights principles of participation, accountability, non-discrimination and equality, empowerment, legality and safeguarding give guidance at a practical level on how we can give effect to human rights in policies, practices and decision making.’

The Benevolent Society created a Road Map to implementing the Act. The following stages have been completed, with further planned activities in 2020-21:

#### *April 2020*

From 2 April 2020, internal training provided to QLD leadership team as well as most of QLD staff. These sessions were supported by external training provided by the QHRC and PeakCare.

We amended job descriptions to reaffirm our commitment to human rights publicly.

#### *May 2020*

Our Board set the organisational tone by incorporating 'human rights' as a criteria for decision making in our Board Charter.

Established a framework for human rights decision making including customised human rights decision making tool with the consent of the QHRC.

#### *June 2020*

Our Board considered Human Rights decision making.

From June 2020, we strengthened many of our organisational policies to be explicit on human rights.’

Further activities contained in the Benevolent Society’s Road Map (some of which have already been completed) include an intranet

page making human rights more widely available internally, a discussion forum on human rights and incorporating consideration of human rights into due diligence and contracts with suppliers and community partners.

Queensland Council of Social Service (QCROSS) has worked to build familiarity and confidence in the Act throughout the Queensland social service sector:

‘This work has included developing resources such as policy templates on human rights for use by community organisations in their compliance with the Human Services Quality Framework. A dedicated web portal on resources for social service sector contains descriptive information about the Act, and useful links to training for the sector. During the reporting period, QCROSS also put in plans to launch *Human Rights in Action*, a webinar series designed to increase sector literacy about human rights, and to provide the tools for organisations to participate in law-making processes such as by writing law reform submissions.’

## Bric Housing: a model for a human rights-focused organisational review

The Commission has a function to review public entities’ policies, programs, procedures, practices and services for compatibility with human rights.

In late 2019 the Commission commenced an organisational review of community housing provider, Bric Housing. Bric Housing (Bric) is a ‘functional’ public entity that manages tenancies, properties, and maintenance services for low income and/or disadvantaged families and single people.

### Human rights workshops

The review received support from the Bric CEO and Board of Directors and a commitment to embed a culture of human rights in their work.

The first stage was for the Commission to provide training on the *Human Rights Act* to all Bric staff. Next, the two organisations worked collaboratively to run 4 workshops on key topics that reflect the Bric client experience – from applying for housing to leaving a tenancy.

### Decision-making flowchart

Practical, real-life challenges that staff encounter were used in the workshops, complemented by a human rights decision-making flowchart developed by the Commission.

The flowchart assisted Bric to assess how compatible their decision-making is in relation to human rights. The Bric team commented on how helpful the flowchart is in ensuring that sound decisions are made in often challenging circumstances.

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graph TD; Q1[What is the objective of the policy, plan, procedure, decision or action? What are you trying to achieve?]; Q2[Will the proposed policy, plan, procedure, decision or action limit, restrict or interfere with any of the rights contained in the Act? (Refer to the list of rights and consider each one)]; Q3[Is it lawful? What law or regulation allows you to limit a person's rights?]; Q4[Is there a purpose? What is the aim of the limitation? Does it achieve a legitimate purpose?]; Q5[Is it rational? Will what you are doing effectively achieve your purpose?]; Q6[Is it necessary? Is this the least restrictive way to achieve your purpose?]; Q7[Is it fair and balanced? Do the benefits outweigh the harm caused by the limitation?]; Q8[The proposed policy, plan, procedure or decision is likely to be compatible with human rights (seek legal advice if you are in doubt)]; Q9[The policy, plan procedure or decision is unlikely to be compatible with human rights]; Q2 -- NO --> Q8; Q2 -- YES --> Q3; Q3 -- NO --> Q9; Q3 -- YES --> Q4; Q4 -- NO --> Q9; Q4 -- YES --> Q5; Q5 -- NO --> Q9; Q5 -- YES --> Q6; Q6 -- NO --> Q9; Q6 -- YES --> Q7; Q7 -- NO --> Q9; Q7 -- YES --> Q8;
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**What is the objective of the policy, plan, procedure, decision or action? What are you trying to achieve?**

Will the proposed policy, plan, procedure, decision or action limit, restrict or interfere with any of the rights contained in the Act?  
(Refer to the list of rights and consider each one)

**NO** → The proposed policy, plan, procedure or decision is **likely to be compatible with human rights** (seek legal advice if you are in doubt)

**YES** →

**Is it lawful?**  
What law or regulation allows you to limit a person's rights?

**NO** → The policy, plan procedure or decision is **unlikely to be compatible with human rights**

**YES** →

**Is there a purpose?**  
What is the aim of the limitation?  
Does it achieve a legitimate purpose?

**NO** → The policy, plan procedure or decision is **unlikely to be compatible with human rights**

**YES** →

**Is it rational?**  
Will what you are doing effectively achieve your purpose?

**NO** → The policy, plan procedure or decision is **unlikely to be compatible with human rights**

**YES** →

**Is it necessary?**  
Is this the least restrictive way to achieve your purpose?

**NO** → The policy, plan procedure or decision is **unlikely to be compatible with human rights**

**YES** →

**Is it fair and balanced?**  
Do the benefits outweigh the harm caused by the limitation?

**NO** → The policy, plan procedure or decision is **unlikely to be compatible with human rights**

**YES** → The proposed policy, plan, procedure or decision is **likely to be compatible with human rights** (seek legal advice if you are in doubt)

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Housing decisions have the potential to impact on a number of human rights, including the right to privacy and home, and the protection of families and children. While ensuring compatibility with human rights is the aim, having a clear framework for making decisions that may have an impact on a person's human rights takes the pressure off staff who are making these difficult decisions every day.

When the COVID-19 pandemic hit, the Bric team realised they would have to tighten house rules in their boarding accommodation. They used the decision-making flowchart to come up with options that would be least restrictive of human rights, while still maintaining health and safety for their clients and the public.

### Bric example

The Bric team has shown a commitment beyond merely complying with the Act, and is embedding human rights in their everyday work.

A tenant being supported by Bric was sentenced to a prison term. Bric discovered that the tenant's young child was being cared for by a family member in the property without a formal tenancy arrangement. Under law, Bric could terminate the tenancy because of the extended absence of the mother and rent arrears that would accrue. But staff were particularly aware of the tenant's human rights as well as those of her child, and instead of terminating the tenancy, the woman was connected with a support service while inside, and everyone involved worked together to find a solution.

Other family members temporarily covered the rent so that the property would be there for the mother when she was released from prison, and her child had stability and care.

This is one example of how an awareness and willingness to consider human rights in service delivery can lead to what are potentially life-changing outcomes. Many women who leave prison find themselves homeless, even though most are incarcerated for less than three months.

### Feedback from staff

The following comments come from Bric staff who attended the workshops. They commented positively on how the workshops have helped in their day-to-day work with supporting tenants.

I only attended two workshops towards the end of the project, but found them very thought provoking. It was reassuring to find that in many ways Bric Housing is on the right track in following this new legislation, and the changes that we will implement are more than just a fine tuning of what we already have in place. I have found that with written correspondence I am asking for feedback from colleagues before sending letters to tenants, particularly ones giving entry notices for maintenance work or inspections.

- Kristy, Asset Services Team Leader, Bric Housing

I was fortunate enough to attend three of the QHRC Human Rights Policy Practice Review workshops held jointly with Bric Housing. I felt the sessions were very constructive and thought-provoking, leaving me to reflect on how human rights should form part of our everyday lives, not only at work, but in our personal lives as well. Following attendance at these workshops, I now take extra time to consider these fundamental human rights in decisions that I make relating to our clients.

- Steven, Tenant Services Manager, Bric Housing

In the next stage of the Project Bric will finalise the review of their organisational policies and procedures, and the Commission will provide feedback on the reviewed documents early in 2021.

# Human rights enquiries and complaints

## Introduction to human rights complaints

For the first time in Queensland, individuals may make human rights complaints through the Commission's dedicated human rights complaint resolution service. In the ACT and Victoria human rights legislation can only be raised in courts and tribunals. While this has led to remedies for individuals on a wide range of issues including access to justice, housing inequity, and mental health in ACT and Victoria, a significant challenge has been inaccessibility of court and tribunal processes for unrepresented people.

The Commission's processes aim to be accessible to everyone. Any person can make a complaint to the Commission about a public entity in Queensland which they believe has not acted or made decisions in a way that is compatible with their human rights.

## Internal complaints made to public entities

The Act allows a person to make a human rights complaint only after 45 business days have elapsed since the person has made an internal complaint to the relevant public entity. This process encourages direct resolution of complaints at the earliest possible stage.

Public entities must ensure an appropriate complaint handling procedure is in place for early resolution of complaints.<sup>35</sup>

Section 91(j) of the Act requires the commissioner to report on human rights complaints made to particular entities, and allows the

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<sup>35</sup> Explanatory Notes, Human Rights Bill 2018 37.

commissioner discretion to decide which public entities' complaints that it will report on.

The Commission has selected the same 9 public entities who responded to the Indicators in the previous section. The annual reports of state government public entities and information provided to the Commission under section 98 of the Act have been used to compile the following information about complaint numbers and outcomes:

**Table 4: Internal human rights complaints made to public entities, 2019-20**

Public entity	Number of complaints	Outcomes
Department of Education	10 <sup>36</sup>	Managed in accordance with customer complaint management framework. <sup>37</sup>
Department of Housing and Public Works	10	<p>2 complaints were assessed as not limiting human rights.</p> <p>4 complaints were assessed as limiting human rights, however the limitation/s were found to be reasonable and justifiable.</p> <p>One complaint was assessed as limiting human rights and resolution was reached between the customer and department.</p> <p>2 complaints were referred to the Queensland Human Rights Commission for conciliation.</p> <p>One complaint is yet to be finalised.</p>
Queensland Police Service	244 <sup>38</sup>	<p>99 of the 244 complaints had been finalised:</p> <ul style="list-style-type: none"> <li>14 (of 99) complaints were considered to be minor and resulted in management action as a human right was assessed as infringed.</li> </ul>

<sup>36</sup> Refers to complaints that were 'upheld/substantiated (either in full, or in part) and an action or decision found to be incompatible with human rights.' – Department of Education, *2019-2020 Annual Report* 36.

<sup>37</sup> Options in the framework include overturning a decision, giving an apology, changing a practice or process, providing a service not previously provided or addressing or referring the issue for system improvement.

<sup>38</sup> Where one or more human rights were alleged to have been unreasonably limited.

Public entity	Number of complaints	Outcomes
		<p>The officer/s involved received additional training and guidance;</p> <ul style="list-style-type: none"> <li>• 85 finalised complaints were unfounded or had no adverse human rights implications;</li> <li>• 145 of the 244 complaints are yet to be finalised.</li> </ul>
Department of Youth Justice	2 formal complaints <sup>39</sup> 23 incidents <sup>40</sup>	<p>No formal complaints have been finalised.</p> <p>Of the 23 incidents identified in detention centres, 12 were referred to the department's Professional Standards Unit, one was referred to the Queensland Police Service for consideration, and the remainder were considered suitable to be responded to locally. As at 30 June 2020, 12 of the detention centre incidents had been investigated and closed.</p> <p>While there were no substantiated breaches of human rights opportunities were taken by management to reflect on actions taken and reinforce good practice with staff.</p>
Queensland Corrective Services	73 <sup>41</sup>	<p>None of the complaints were 'substantiated', but 8 complaints were 'partially substantiated'.</p> <p>One complaint was mediated/conciliated.</p>

<sup>39</sup> One complaint was made by a young person and one by a staff member.

<sup>40</sup> Through the analysis of complaints received, the department identified 23 alleged incidents in youth detention centres which included actions from staff that were potentially incompatible with human rights.

<sup>41</sup> 13 complaints raised a combination of standard and human rights issues, 60 were human rights complaints. Queensland Corrective Services, *QCS Annual Client Complaints Report 2019-20* (2020) 4. The majority of complaints were about offender management (58.1%) 9.

Public entity	Number of complaints	Outcomes
		<p>4 were referred to another agency.</p> <p>2 had an 'other' outcome.</p> <p>One complainant was unable to be contacted.</p> <p>One complainant withdrew the complaint.</p> <p>One complaint is still ongoing.<sup>42</sup></p>
Department of Child Safety, Youth and Women	51	<p>77 allegations were contained in the 51 complaints.</p> <p>40 allegations are closed, and of these:</p> <ul style="list-style-type: none"> <li>• 9 were found not to involve a limitation of rights.</li> <li>• 31 involved a limitation that was found to be justified and reasonable.</li> <li>• 37 allegations are active with no finding yet.</li> </ul> <p>No complaints were referred/progressed to the Queensland Human Rights Commission.<sup>43</sup></p>
Department of Communities, Disability Services and Seniors	1	<p>An apology was made to the complainant.</p> <p>The department is not aware of any matter having progressed to Queensland Human Rights Commission.<sup>44</sup></p>
Queensland Civil and Administrative Tribunal	1	<p>Resolved internally with a review of policy and change of service delivery.</p>
Queensland Health	Unknown	<p>The annual reports for Department of Health and the</p>

<sup>42</sup> Queensland Corrective Services, *QCS Annual Client Complaints Report 2019-20* (2020) 10.

<sup>43</sup> Department of Child Safety, Youth and Women, *2019-2020 Annual report* (2020) 37.

<sup>44</sup> Department of Communities, Disability Services and Seniors, *2019-2020 Annual report* (2020) 31.



Public entity	Number of complaints	Outcomes
		HHSs had not been tabled at the time of publication.

The approach to recording complaints varies significantly between the agencies, as demonstrated by the table above.

In future years, more detailed information on the outcomes of complaints beyond general indications such as ‘substantiated’ or ‘finalised’ would provide a clearer picture of how internal complaints processes are working to resolve human rights complaints. In particular, the Commission encourages agencies to follow the guidance in the [Human Rights Guide: Planning and reporting for human rights](#) developed by the Department of Justice and Attorney-General’s Human Rights Unit, which suggests that agencies report the outcome of complaints received, such as:

- explanation
- change original decision
- apology
- business improvement (such as review or development of policy or procedure; staff training or education; service improvement; modifications to improve accessibility).
- disciplinary action.<sup>45</sup>

In responding to a request for information about human rights culture, the Department of Education provided 2 case studies to demonstrate how their internal complaints process has incorporated human rights, and how they resolved 2 matters at an early stage prior to the Commission becoming involved:

#### *‘Dress Code*

The human rights complaint was managed through the Department’s customer complaints management framework. The region conducted an internal review of a school’s decision regarding uniform and dress code. As an outcome of the internal review, the region and the school Principal reviewed current dress code arrangements and continued a dress code exemption for the student. School staff also continued to work with the student to provide a health plan to ensure appropriate supports are in place.’

#### *‘Cultural Rights*

The complaint was managed through the Department’s customer complaints management framework. The complaint was received at the region, which worked with the school to manage and resolve the matter. The complaint was regarding Aboriginal and Torres Strait

<sup>45</sup> Queensland Government, *Planning and Reporting for Human Rights* (Webpage, 2020) 11.

Islander significant dates and events not being celebrated at a school. As an outcome of the complaint, the school communicated with the complainant and provided information about the learning resources that were shared with all staff to augment and continue discussions with classes for National Sorry Day and National Reconciliation Week.’

Queensland Health also provided the Commission with case studies for resolved internal complaints, including:

- ‘Gold Coast HHS addressed a complaint where a consumer felt the service offerings available did not provide a culturally considerate or appropriate option for their circumstances. The complaint was resolved internally, and a suitable option was found for that individual consumer, with consideration of their rights and needs. From a wider perspective, an option/exception was added as available within the possible service offerings, to ensure such rights and needs were catered for.’
- ‘Townsville HHS reported two anonymous complaints in relation to Acute Mental Health Services. The complaints identified an issue of voluntary patients being unable to leave the inpatient unit freely due to the building security measures in place. The review refocused attention on the need for a least restrictive environment and practices for all consumers and highlighted the importance of access to leave for consumers (particularly for patients who are not involuntary patients).’
- ‘Earlier this year Metro North HHS received a human rights complaint from an individual in hotel quarantine who found his mental illness was being exacerbated due to the circumstances and without appropriate access to mental health services. In response, Metro North HHS arranged mental health services to be available via telehealth to preserve the right of the individual and others while in quarantine to have appropriate access to health services while balancing the need to protect the public health and safety.’

## Early resolution

The Commission heard from public entities and advocates that some matters are resolving through internal complaint processes in which the individual and public entity negotiate an outcome prior to bringing a complaint to the Commission. This indicates that the internal resolution model is having early success in encouraging direct resolution of human rights matters.

The Townsville Community Legal Centre (TCLC) reported to us that ‘where the entity is willing to engage on the issues some matters are being resolved’. There has been a broad range of issues that the TCLC has assisted with, including:

- breaches of rights under the Act for those dealing with police
- consideration of human rights by public entities when intersecting with clients experiencing family violence or abuse and neglect of older persons
- consideration of human rights in public housing
- consideration of human rights in courts and tribunals
- consideration of human rights in employment by public entities
- intersection of rights under the Act and COVID-19 developments.'

In one instance, the TCLC was able to assist a client to spend time with their family:

'Townsville Community Law argued that the entity had failed to consider the client's rights under section 25 & 26 of the Human Rights Act (privacy & reputation and protection of families & children). After engaging with the entity, the entity recognised the importance of these rights to their client and facilitated time between their client and their family.'

The Act has been raised by advocates assisting their clients during COVID-19 in relation to the many restrictions placed on movement in the community through the Public Health Directions. Caxton Legal Centre (Caxton) reported to that:

'Throughout the Covid-19 period (March 2020 onwards) Caxton Legal Centre clients were able to use the Human Rights Act 2019 to support submissions and applications relating to various public health measures, including for compassionate variations to quarantine rules, and reviewing/withdrawing fines for non-compliance.'

The Act was also used by Caxton to advocate for people in closed environments during COVID-19:

'When the COVID-19 restrictions commenced in March 2020 conditions in prison became very difficult. All personal visits and legal visits ceased, prisoners were often locked in their cells for 22 or 24 hours per day with no access to outdoor activities, and there was very limited telephone or video conference availability for lawyers to speak to their clients. Caxton also received reports from prisoners that they were not receiving their medication at the right time or in the correct dosage and that requests for medical or mental health care were not being met.

On a number of occasions Caxton used arguments under the *Human Rights Act* to gain telephone conference bookings with clients held on remand (s.32). In correspondence with Queensland Corrective Services and Queensland Health Caxton also argued that:

- The failure to facilitate people in prison having telephone or video conference contact with their family was a breach of the

protection of families and children under the Human Rights Act (s. 26);

- The failure to provide adequate health care to prisoners in isolate was a breach of the right to access health services without discrimination (s. 37); and
- The use of solitary confinement as a result of COVID-19 isolations procedures was could amount to cruel, inhumane and degrading treatment and/or prisoners not being treated humanely (s. 17 and s. 30).'

Tenants Queensland also reported to us a number of situations in which the Act was used to successfully resolve matters for their clients where their client was facing eviction and at risk of homelessness:

'Tenants Queensland assisted a tenant who was a single mother and a victim of domestic violence. Her housing provider had sought to terminate for a serious breaches caused by her ex-partner who refused to leave the premises. The tenant sought support and obtained a protection order against her ex-partner. The tenant wanted to remain in her premises to enable her to reunite with her son, a termination would most likely render her homeless or only allow her to obtain unstable housing in share houses which would not assist in her reunification plan with child safety. Tenants Queensland assisted the tenant to draft a letter of complaint under the Human Rights Act and submissions in response to the application for termination. The matter did not proceed to a full hearing as QCAT permitted an adjournment which allowed the parties to negotiate a transfer of tenancy. The housing provider withdrew the application for termination.'

In another matter, the tenant was to be evicted for objectionable behaviour until TQ's intervention using the Act:

'The tenant had been renting from a community housing provider for the past 5 years and faced a termination of tenancy due to objectionable behaviour. The tenant had a mental health condition and high anxiety which resulted in lodging numerous complaints with the housing provider over the condition of the common areas, these complaints escalated over time. Due to the language used by the tenant in various emails the community housing provider sought to terminate the tenancy rather than address the tenant's disability and mental health issues and provide an alternative method of addressing concerns. Tenants Queensland assisted the tenant in drafting a Human Rights complaint as the housing provider should have taken the tenants disability into account and afforded him an alternative way of communicating with the provider rather than seek to terminate the tenancy. After ongoing negotiations with the community housing provider and the public health restrictions brought on by COVID-19 the provider withdrew their application to terminate.'

A pregnant woman who was facing eviction was also able to stay in her home after TQ's assistance:

'Tenants Queensland assisted a single mother, who was 7 months pregnant, respond to an application for termination brought against her due to a serious breach which was based on the conducted of her ex-partner who was involved in alleged illegal activity. The tenant filed a Human Rights complaint as she had obtained a protection order against the ex-partner, who remained incarcerated due to a domestic violence incident, and the termination order was not required as the behaviours had ceased. The housing provider had failed to respond to the tenants Human Rights complaint therefore the complaint was escalated QHRC. The tenant sought mediation of the issues surrounding the complaint however the QHRC refused the complaint as the matter was before QCAT and set down for a second hearing regarding the termination. The final hearing did not proceed as the Department of Housing had withdrawn their application for termination just prior to the hearing. The tenant remains in same the rental premises.'

On another occasion, a tenant was evicted from her tenancy by QCAT, but TQ raised relevant human rights issues and was able to support the tenant's ongoing communications with the housing provider to prevent her becoming homeless:

'Tenants Queensland assisted a tenant respond to an application for termination due to objectionable behaviour. The tenant had ongoing mental health and behavioural issues over multiple tenancies and sought to sustain her current tenancy to enable her remain in stable housing whilst she sought support for the various issues that caused disruption to her tenancy history. Tenants Queensland assisted the tenant in her initial response to the Departments application and sought an adjournment to allow concerns raised in the Human Rights complaint to be addressed. The adjournment did not result in a successful discussion with the housing provider to the extensive nature of the breaches. QCAT then proceeded to terminate the tenancy. The housing provider offered to assist the tenant access services so that she was not placed into homelessness.'

The Office of the Public Guardian (OPG) have been using the Act in providing services and advocating for their clients. The OPG have noted that the Act is relatively new and that their team's understanding of the Act is still maturing. In one case, they assisted a client to raise human rights arguments:

'Until recently, two siblings had resided in a family-based placement. One sibling remained in the placement and the other was moved to an alternate placement.

After speaking with both children, the Community Visitor became aware that the siblings were not having regular family contact. The lack of regular family contact is contrary to s26(1) of the HRA – families are the fundamental group unit of society and are entitled to be protected by society and the State.

The Community Visitor advocated to the Child Safety Service Centre for the lack of family contact to be promptly rectified. Unable to achieve a local resolution, a formal complaint was lodged with the Department. The formal complaint highlighted the lack of family contact was contrary to s26(1) of the HRA.'

Queensland Advocacy Incorporated (QAI) has reported using the Act in:

- matters involving the education of students with disability
- matters involving access to health services
- submissions to QCAT in guardianship and administration and blue card appeal matters
- submissions to the MHRT, to ensure restrictive conditions imposed are relevant and necessary, to ensure procedural fairness is afforded to their clients and to call for greater monitoring and oversight of involuntary treatment such as electroconvulsive therapy (ECT).'

QAI are 'gratified to see it making a real difference in the lives of people with disability and mental illness in Queensland.'

The Benevolent Society has assisted vulnerable and disadvantaged clients to use the framework of the Act to achieve a significant outcome:

'The Family Intervention Service used the foundations of the Human Rights Act to advocate for the right of a couple with disabilities to avoid being subject to discrimination. The Support worker advocated for the parents to be treated and evaluated fairly in regards to their ability to raise a child. The family were supported to build practical and parenting skills, and the child was not removed from the family.'

In another instance, the Benevolent Society assisted a woman and child who had been been recently placed:

'...in public housing in an unsafe area with significant documented violence. The Family support worker advocated on the mother's behalf to obtain additional security for the premises, and an eventual transfer to a safer property and area. The service argued that financial hardship should not translate to a young family being exposed to more trauma. The mother and child were able to enjoy their right to a safe home without threat to their physical and mental well-being.'

Rights in Action Inc. (RIN) advocates on behalf of people with disabilities. They shared a case study with the Commission of how they advocated for a client's human rights:

'RIN assisted a man who was blinded as the result of an assault and who had experienced serious neglect over a period of 11 years. After being discharged from hospital rehabilitation, he was placed into an over 55s village which was completely unsuitable for his needs. Due to social isolation in his residence, he had lost the ability to communicate.'



The service used the human rights contained in the Convention on the Rights of Persons with a Disability to advocate for the man. As a result of the advocate's intervention he now receives increased support and domestic assistance. The service was also able to advocate on behalf of the client to receive better health treatment and dental care – important rights that are protected by the right to health services. The man has submitted his story to the Disability Royal Commission in the hope that others do not experience the same neglect in future. This case is an example of how people with disabilities can often 'fall through the cracks' in receiving government services, and highlights the need for strong human rights protections to ensure the dignity and worth of everyone in Queensland.'

While RIN did not rely specifically on the Act as the situation pre-dated the commencement of the Act, it is illustrative of how raising concerns through a human rights framework might assist people who are vulnerable to neglect.

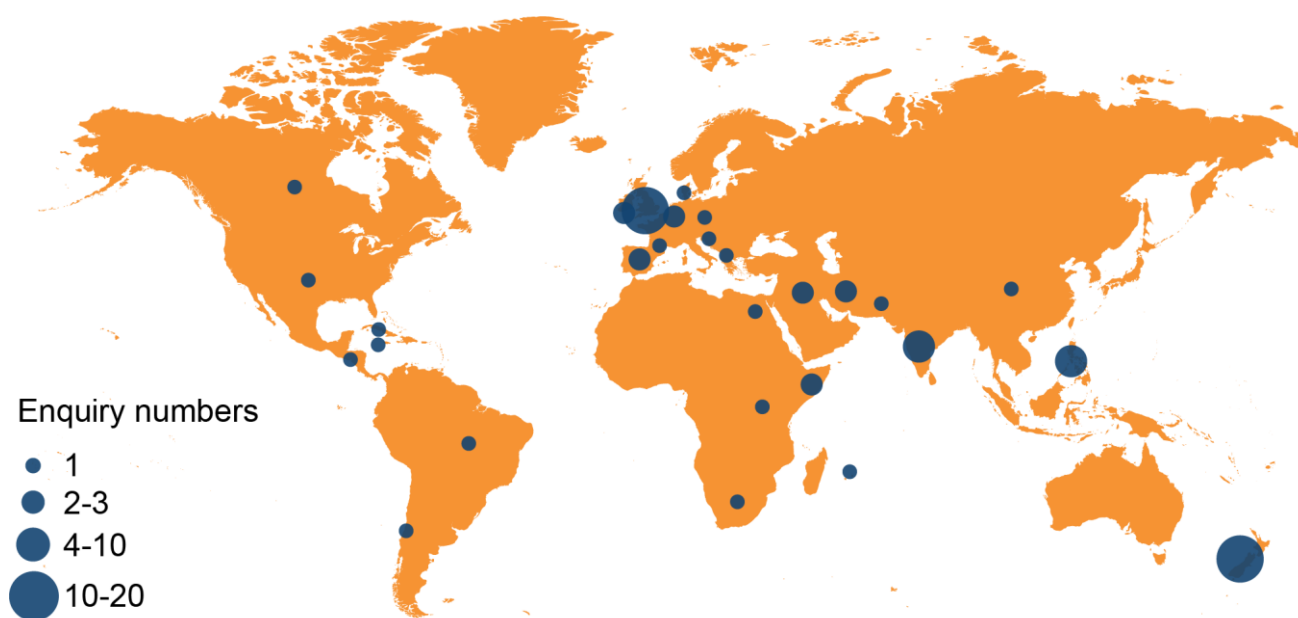
# Enquiries to the Commission

The Commission received 655 enquiries that were identified as being about human rights. This represented 23.62% of enquiries received by the Commission for the financial year, where the topic of the enquiry was collected. However, enquiries about discrimination predominated (37.59%).

The Commission has not collected demographic data for every enquiry. Enquirers may be potential complainants, lawyers, support persons or from public sector entities.

While most enquirers were born in Australia, we had contact from people who came from almost every part of the world. Around 20% of enquirers were born outside of Australia.

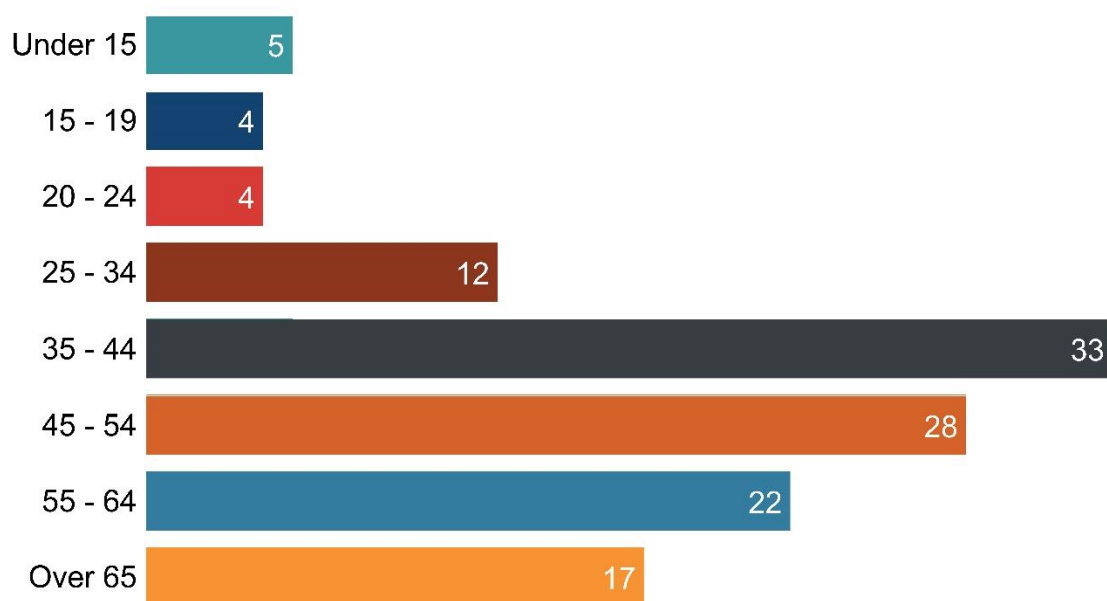
**Figure 5: Country of birth of enquirers born outside of Australia, 2019-20<sup>46</sup>**



Most of the people who enquired about human rights were in the age brackets of 35 to 44 (25.98%) and 45 to 54 (22.04%).

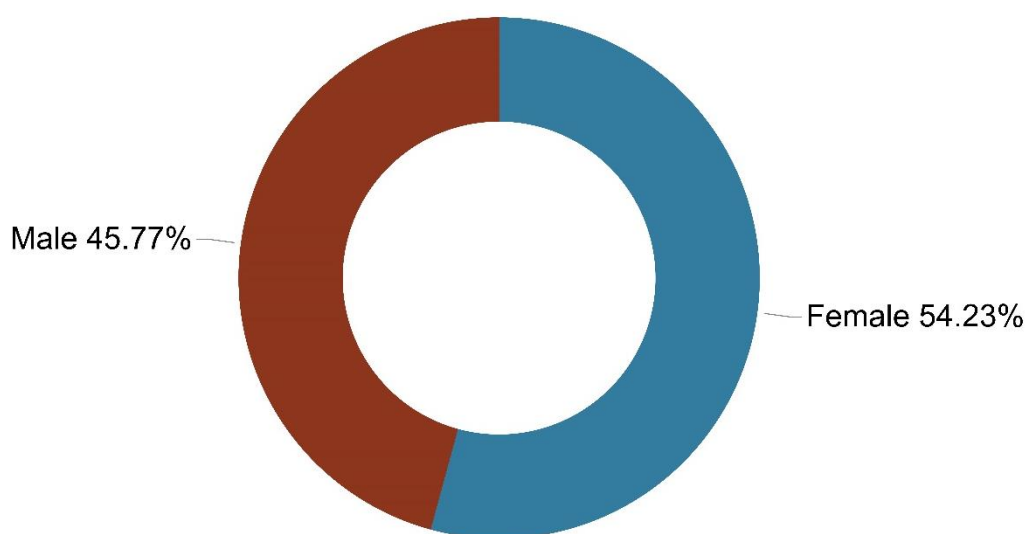
<sup>46</sup> This data is also shown in Table 13 in Appendix C, from page 153 of this report.

**Figure 6: Human rights enquiries to the Commission by age bracket, 2019-20<sup>47</sup>**



More women (54.23%) than men (45.77%) enquired at the Commission about human rights.

**Figure 7: Human rights enquiries to the Commission by gender, 2019-20**



Of particular note were large numbers of enquiries (43) from people of Aboriginal and Torres Strait Islander descent; most of whom were Aboriginal (36), with some identifying as both Aboriginal and Torres Strait Islander (4), and a small number of Torres Strait Islander people (3). As well as contacting the Commission's general phone or email, people can call directly and speak with a staff member from the Commission's Aboriginal and Torres Strait Islander Unit.

<sup>47</sup> This data is also shown in Table 14 in Appendix C, from page 153 of this report.

# Complaints to the Commission

The following section will provide information about complaints about human rights made to the Commission in the 2019-20 period.

The complaints data for the first financial year is based on a small numbers of complaints. This is because the complaints process was only available from 1 January 2020 (for the last 6 months of the financial year). Secondly, unless there are exceptional circumstances a complainant must first complain to the public entity and wait 9 weeks prior to complaining to the Commission. The Act is not retrospective so the allegations must have occurred from 1 January 2020. Even if the complainant lodged a complaint internally in early January 2020, they would not be eligible to complain to the Commission until early March. Therefore, there was less than 4 months of the 2019-20 year in which complaints could be dealt with by the Commission unless the matter was dealt with urgently due to there being exceptional circumstances.

A substantial number of complaints (27%) made in the 2019–20 financial year were not accepted because the complainant had not first complained to the public entity and waited 45 business days before lodging with the Commission – a requirement under the Act.<sup>48</sup>

## What is a combined claim? And what is a human rights only complaint?

This section will use the language of ‘combined claims’ and ‘human rights only’ complaints.

A ‘combined claim’ is where the complainant has a complaint that falls under the *Anti-Discrimination Act 1991* (such as for discrimination) but the complaint also raises human rights issues the *Human Rights Act 2019*. Under section 75 of the *Human Rights Act 2019*, the Commission can deal with such a complaint under the *Anti-Discrimination Act 1991* as if it were a contravention of the *Anti-Discrimination Act 1991*. This can occur where a primary claim of discrimination exists, but the respondent is also a public entity. The complaint parties proceed through conciliation for these matters and the complainant has the option of referring their complaint to the tribunal, should it not resolve. If a complaint is human rights only complaint, there is no right of referral and no right to compensation.

Conciliation conferences, in which an impartial conciliator assists the parties to resolve the complaint, are held for combined claims.

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<sup>48</sup> See section 65 *Human Rights Act 2019*.

The complaints process for human rights only complaints can occur either through a conciliation conference or by early intervention, which is where the matter is resolved by the conciliator who speaks with the parties separately through a shuttle negotiation process.

### Who can make a complaint?

A complaint can be made by an individual who is the subject of a human rights breach. That is, where the individual alleges that a public entity has acted or made a decision in a way that is not compatible with their human rights or has failed to give proper consideration to a human right relevant to a decision that impacts on them. The individual can appoint an agent, or the Commission can authorise another person to make a complaint for the individual. Two or more persons can make a joint complaint.<sup>49</sup>

### What is an accepted complaint?

The Commission assesses each complaint received, and records which human rights are relevant based on the allegations raised by the complaint as well as which type of public entity is involved (e.g. state government, local government, or functional entity) and in which sector (e.g. health, education, court services etc.).

An 'accepted complaint' means that the Commission has assessed the complaint and decided that the matter should proceed to a dispute resolution process (conciliation or early intervention) to try to resolve the issues.

A complaint can only be accepted if it is made in writing and includes enough details to indicate the alleged contravention to which the complaint relates – see Section 67 *Human Rights Act 2019*. When deciding whether to accept a complaint, the complaint handler will consider if there has been an unreasonable limitation of human rights.

By accepting a complaint the Commission has not decided that there has been a breach of human rights.

### What is a finalised complaint?

A complaint may have been finalised for a number of reasons. It may have been rejected, accepted and resolved, accepted and not resolved, or withdrawn. For more detailed information see the section *Outcomes of finalised complaints*.

### What is an accepted and finalised complaint?

This means a complaint that has been accepted by the Commission, and has been finalised in the period 2019-20.

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<sup>49</sup> Section 64 *Human Rights Act 2019*

## What is a resolved complaint?

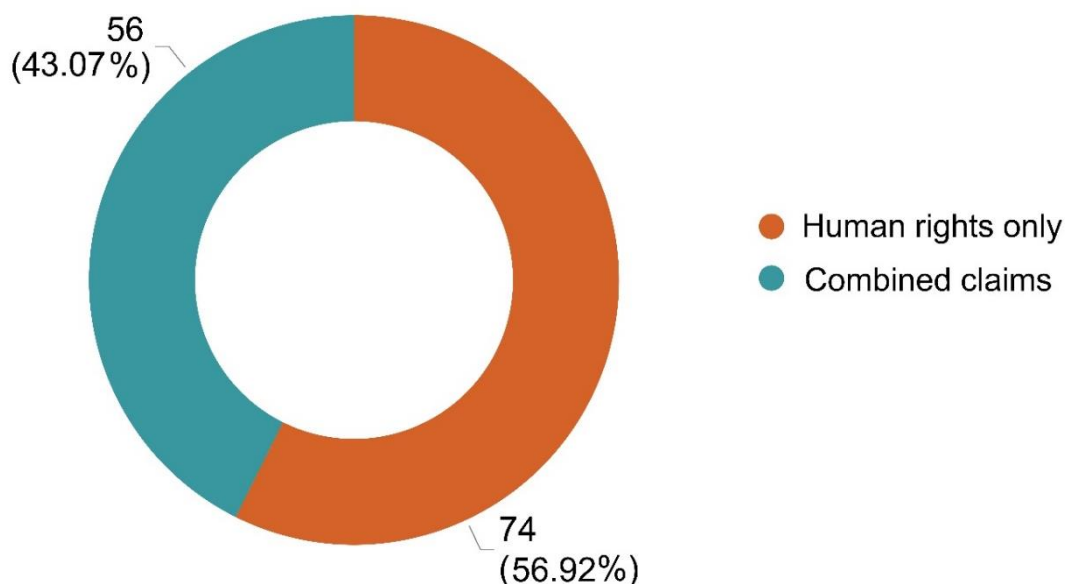
'Resolved' means that it has been through a complaints process (conciliation or early intervention) and the matter has been resolved to complainant's satisfaction.

## Human rights complaints snapshot

The Commission has identified **130** complaints received in the 2019–20 period as being about human rights.

Of these complaints, **56** were combined claims, and **74** were human rights only complaints.

*Figure 8: Complaints to the Commission shown as combined claims or human rights only complaints, 2019-20*



By the end of the 2019–20 financial year:

**37** complaints had been finalised. 30 were human rights only complaints and 7 were combined claims.

**10** of these complaints had been accepted and finalised. 5 of these were human rights only complaints and 5 were combined claims.

**8** of these complaints resolved. 5 of the resolved complaints were human rights only complaints and 3 were combined claims.

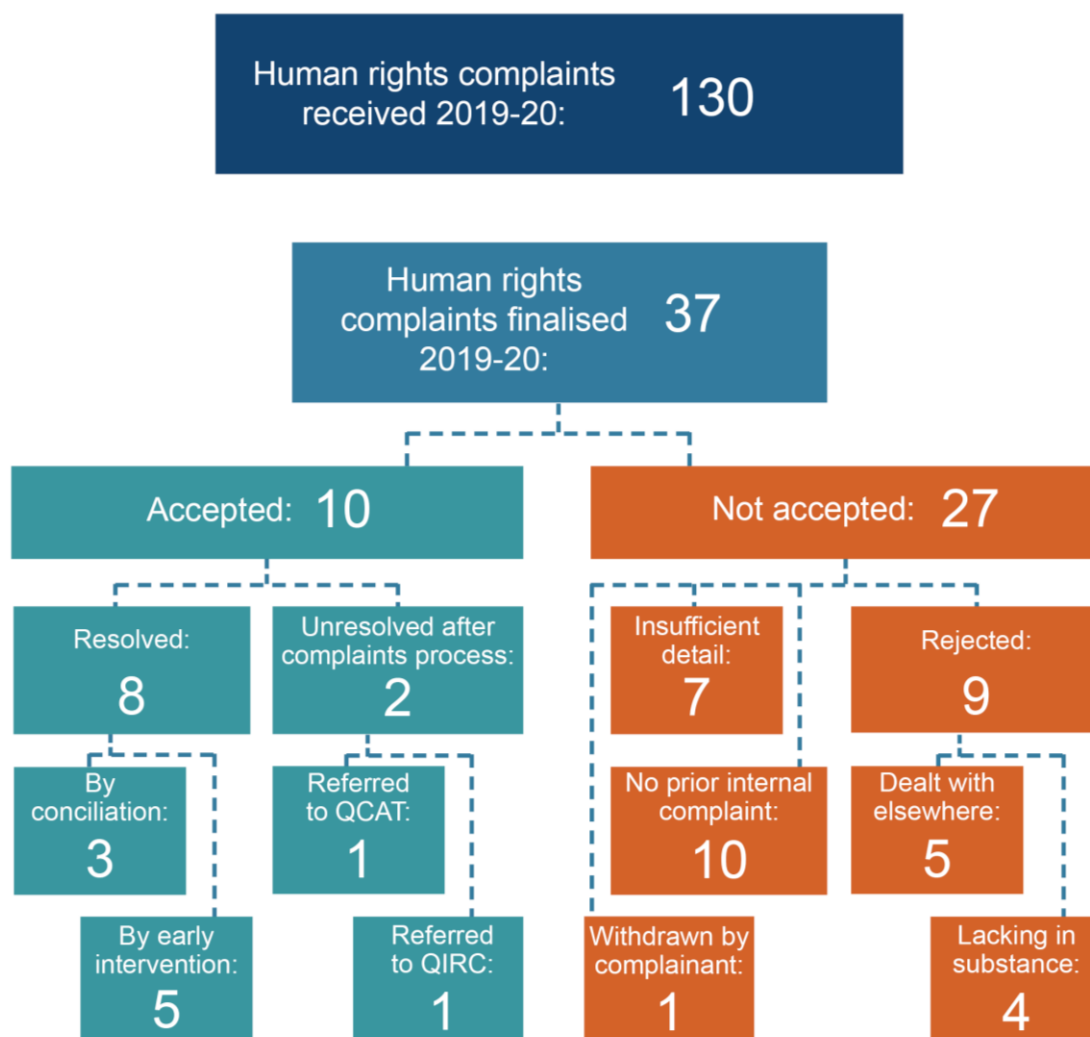


2 complaints (both combined claims) were referred to tribunals (1 to the QCAT<sup>50</sup> and 1 to the QIRC<sup>51</sup>).

Of the 37 complaints finalised in the 2019–20 financial year, 9 complaints were about COVID-19, including issues arising in hotel quarantine.

Appendix C from page 153 of this report contains detailed statistical data presented in data tables.

Figure 9: Human rights complaints snapshot, 2019-20



<sup>50</sup> QCAT hears complaints made under the *Anti-Discrimination Act 1991* (Qld) but not resolved at the Commission that do not involve the complainant's work.

<sup>51</sup> QIRC hears complaints made under the *Anti-Discrimination Act 1991* (Qld) but not resolved at the Commission that involve the complainant's work.

## Outcomes of finalised complaints

Figure 10: Outcomes of all complaints finalised in 2019-20<sup>52</sup>

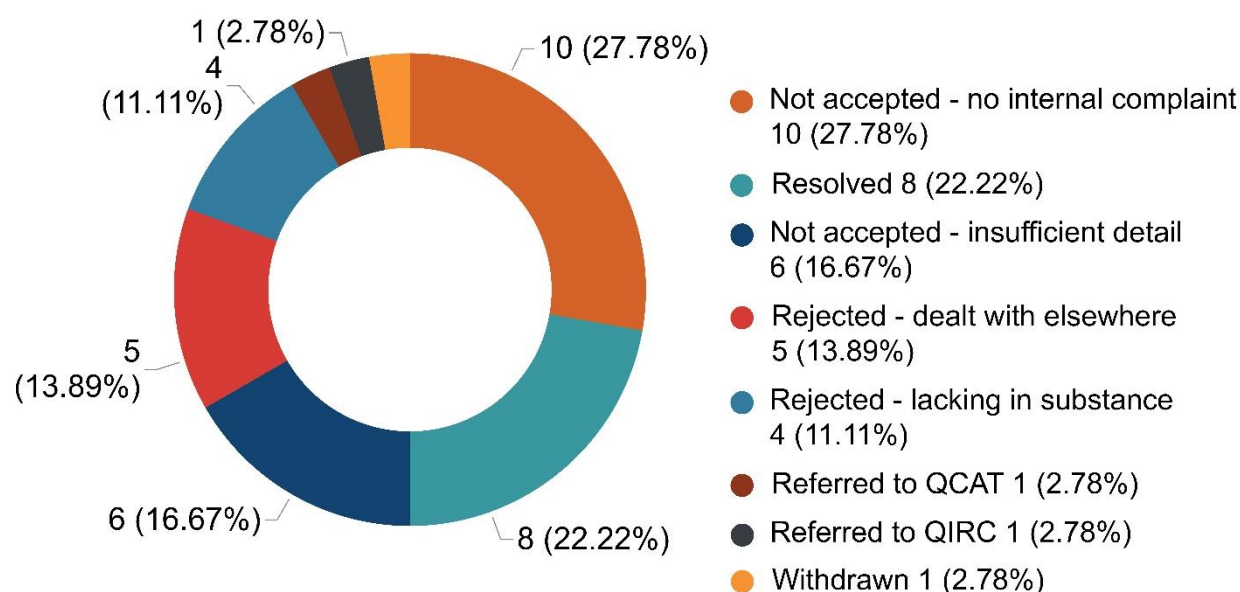
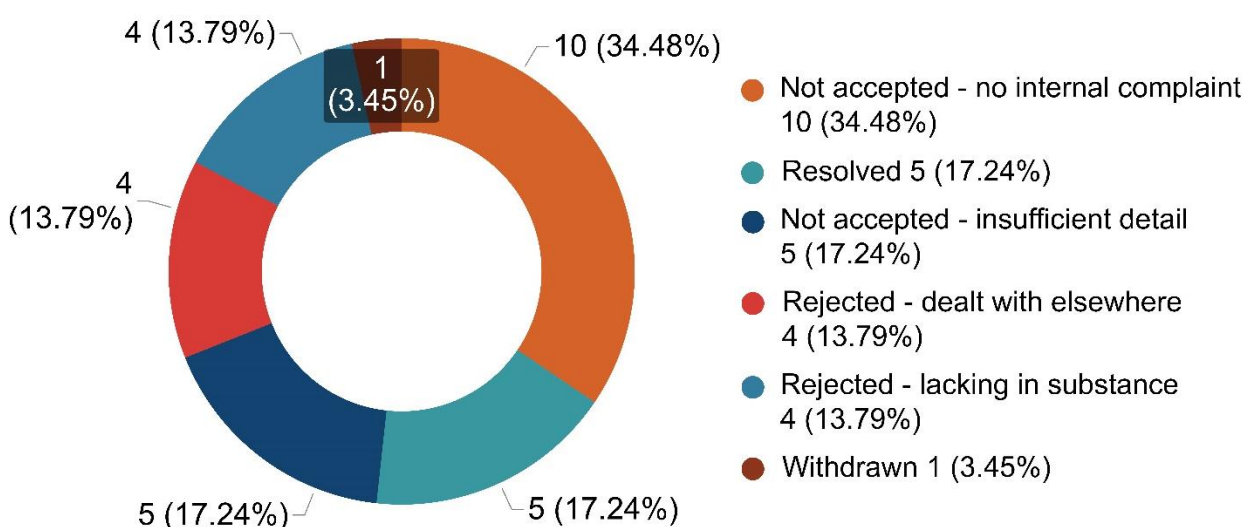


Figure 11: Outcomes of human rights only complaints finalised in 2019-20<sup>53</sup>



The outcomes achieved through the complaints process included written apologies, financial compensation, change or review of policy, development or implementation of policy, and training for the public entity staff.

<sup>52</sup> This data is also shown in Table 16 in Appendix C, from page 153 of this report.

<sup>53</sup> This data is also shown in Table 17 in Appendix C, from page 153 of this report.

## Human rights identified in all human rights complaints

This section identifies the human rights that were relevant to the allegations raised in the complaints finalised in 2019-20. The below information is inclusive of all complaints – combined claims and human rights only complaints.

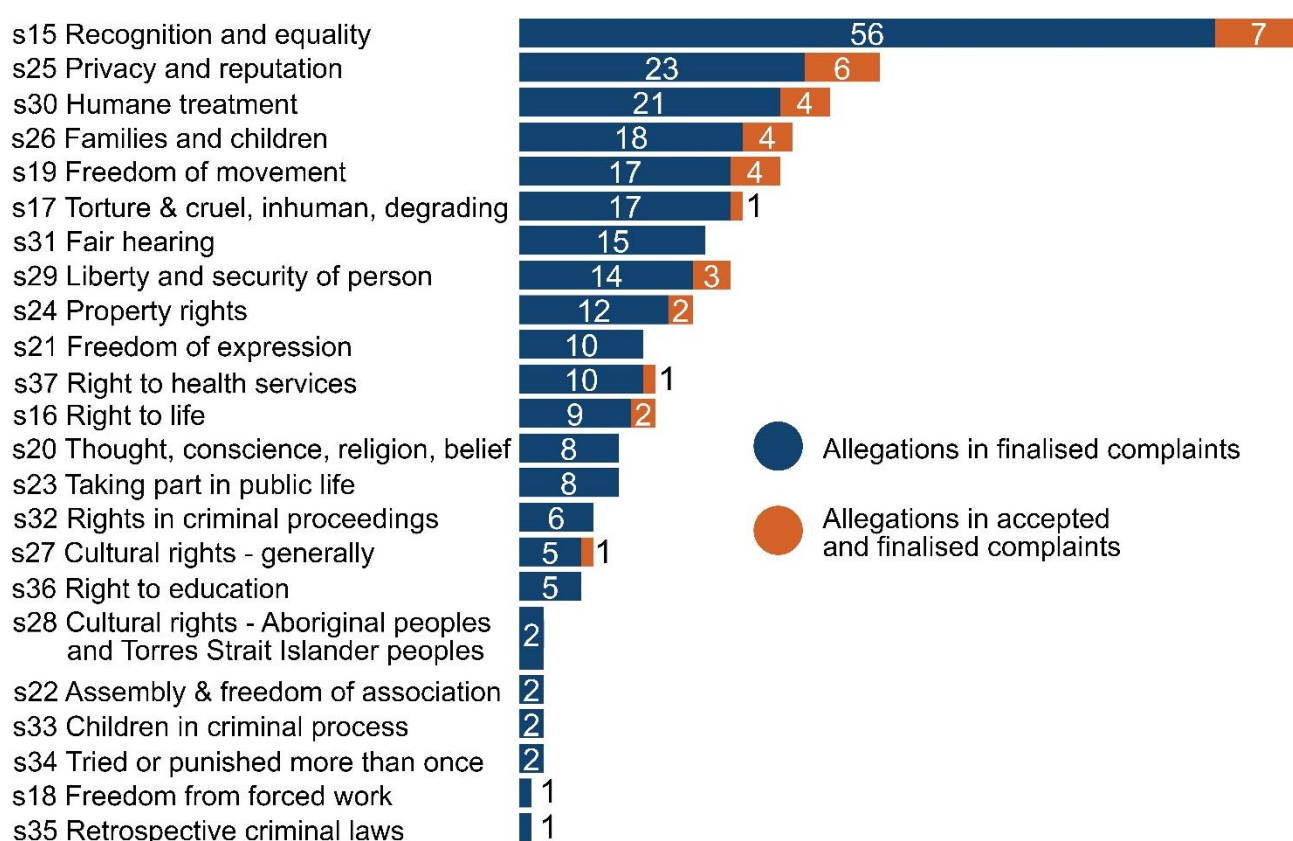
The Commission may either identify that a human right is relevant from the information provided in the complaint, or the complainant themselves may indicate that they believe the right has been breached.

Most complaints contain several allegations, and engage more than one human right.

Not all allegations of human rights breaches are accepted. An allegation alone (that a breach has occurred) is not enough, and the complainant must provide sufficient detail about an act or decision that indicates a breach of human rights has occurred.

Many complaints that were received in the financial year 2019-20 were assessed and accepted in the 2020-21 financial year, and therefore are not reflected here.

**Figure 12: Human rights identified in all complaints, 2019-20<sup>54</sup>**



The most frequently identified human right engaged in complaints finalised in 2019-20 was the right to recognition and equality before the law, identified in 21.21% of the allegations made. The likely reason for this is that the majority of complaints to the Commission are about discrimination under the *Anti-Discrimination Act 1991* which overlaps with this protected right. The right to recognition and equality before the law will be engaged in virtually all cases where a complainant is complaining about discrimination and the respondent is a public entity.

The second most common relevant right was the right to privacy and reputation, which was identified in 8.71% of the allegations made in finalised complaints.

The third most common relevant right was humane treatment when deprived of liberty (7.95%).

Similar human rights featured in complaints accepted and finalised. Recognition and equality before the law was relevant in 20% of the allegations in accepted and finalised complaints. Privacy and reputation featured in 17.14% of the allegations in accepted and

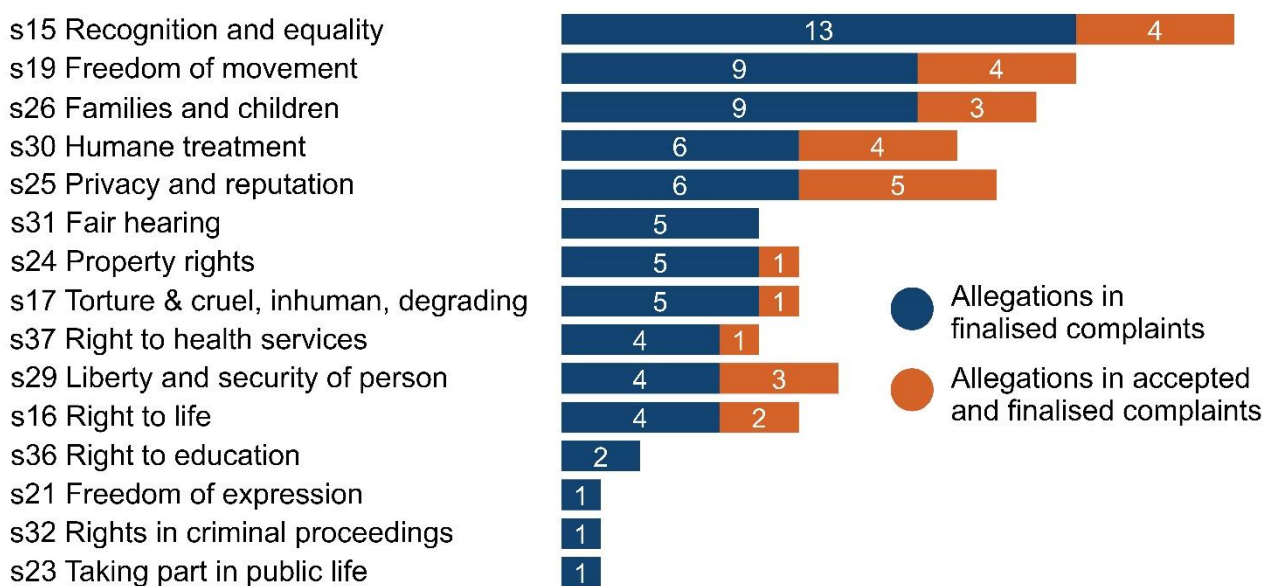
<sup>54</sup> This data is also shown in Table 18 in Appendix C, from page 153 of this report. Note that the names of rights sections are abbreviated. For a full list of rights see section of this report entitled *Introduction to the Human Rights Act - Protected Rights*.

finalised complaints. Protection of families and children, humane treatment when deprived of liberty and freedom of movement featured in 11.43% of the allegations in accepted and finalised complaints.

## Human rights identified in human rights only complaints

The following information is about the allegations made in human rights only complaints (i.e. where it is not a combined claim).

**Figure 13: Human rights identified in human rights only complaints, 2019-20<sup>55</sup>**



Again, for the finalised complaints that were about human rights only, the right to recognition and equality before the law featured most frequently in the allegations made (17.33%), with protection of families and children and freedom of movement also being common allegations (both 12%).

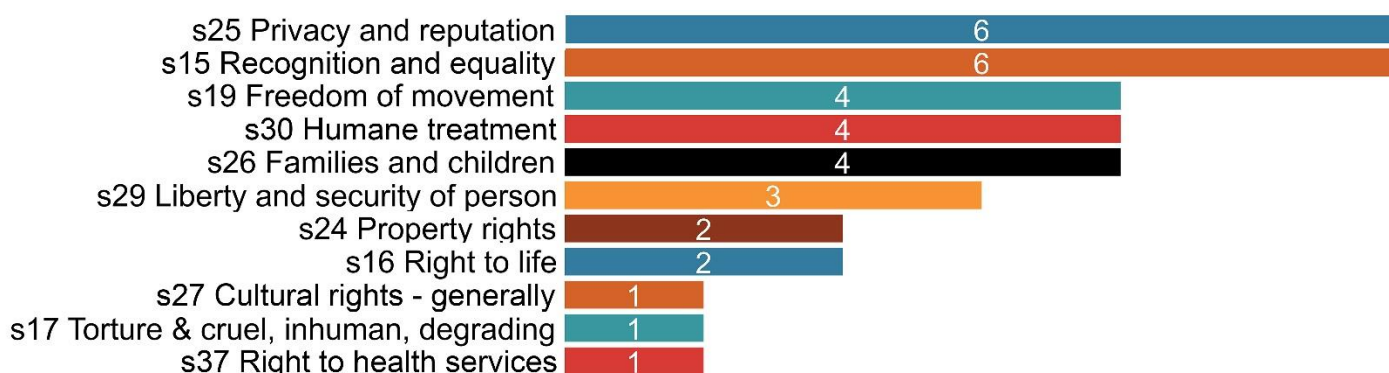
However, of the allegations made in accepted and finalised complaints that were human rights only complaints, most were about privacy and reputation (17.86%), followed by allegations of recognition and quality before the law, freedom of movement and humane treatment when deprived of liberty (each 14.29%).

<sup>55</sup> This data is also shown in Table 19 in Appendix C, from page 153 of this report. Note that the names of rights sections are abbreviated. For a full list of rights see section of this report entitled *Introduction to the Human Rights Act - Protected Rights*.

## Human rights identified in resolved complaints

The following information shows human rights identified in the 8 complaints that were resolved in the 2019-20 period. The below information is inclusive of all complaints – combined claims and human rights only complaints. Of the resolved complaints, privacy and reputation and recognition and equality before the law were again the most frequently engaged (17.65% each).

**Figure 14: Human rights identified in resolved complaints, 2019-20<sup>56</sup>**



## Finalised complaints by entity type

The information in this section gives the public sector entity type for the complaints that were finalised in the 2019-20 financial year. The below information is inclusive of all complaints – combined claims and human rights only complaints.

Most finalised complaints (33) were about state government entities (91.66%). 2 complaints were about local government and 1 was about a functional public entity.

All (100%) of the accepted and finalised complaints were about state government entities.

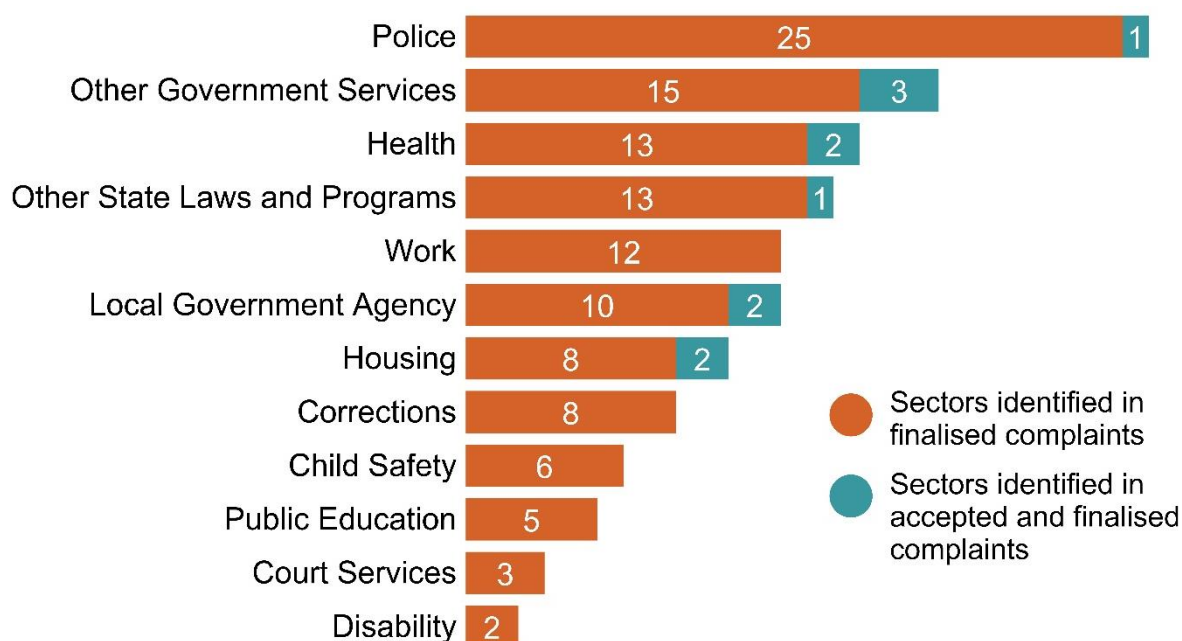
<sup>56</sup> This data is also shown in Table 20 in Appendix C, from page 153 of this report.



## Finalised complaints by sector

The information in this section breaks down the complaints by sector, for matters that were finalised during the 2019-20 financial year. The below information is inclusive of all complaints – combined claims and human rights only complaints.

**Figure 15: Finalised complaints by sector – all complaints, 2019-20<sup>57</sup>**



‘Other government services’ are services provided by public entities that do not fit into the key categories. These services might include things like public transport, legal or community services.

‘Other state laws and programs’ means government programs that are not services provided to an individual. For example, an entity that enforces fines or regulates individuals or industries such as Queensland Racing Integrity Commission or State Penalty Enforcement Registry.

‘Corrections’ includes both prisons and youth detention.

‘Work’ is where a public sector worker is complaining about issues arising in their workplace.

While a relatively high number of complaints were received about police, work and health, most were not accepted in this period. It should be noted that prisoners must undergo a specific process under the *Corrective Services Act 2006* when pursuing a combined claim, which may contribute to the low numbers at this early stage.<sup>58</sup>

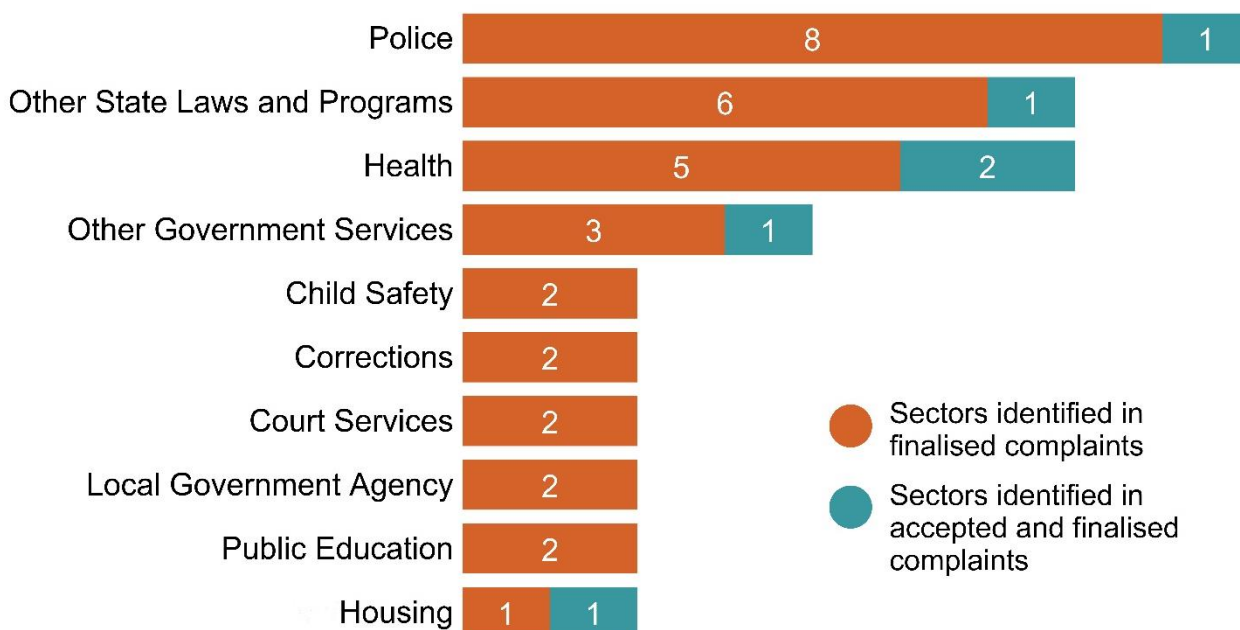
<sup>57</sup> This data is also shown in Tables 21 and 22 in Appendix C, from page 153 of this report.

<sup>58</sup> Section 319E and Section 319F of the *Corrective Services Act 2006* (Qld)

## Finalised complaints by sector for human rights only complaints

The numbers of finalised human rights only complaints are small for the first financial year and it is difficult to identify any trends at this stage.

**Figure 16: Finalised complaints by sector – human rights only complaints, 2019-20<sup>59</sup>**



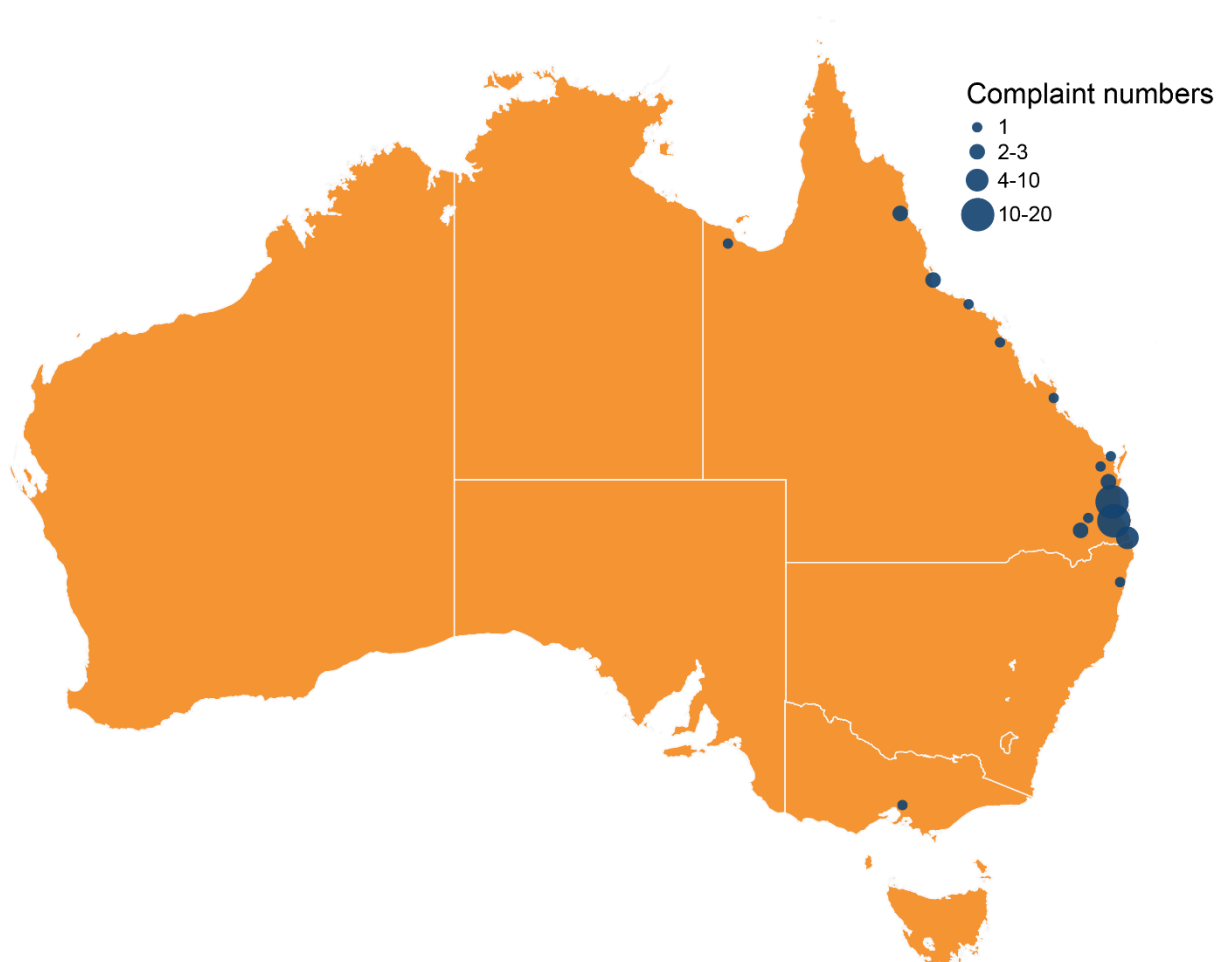
<sup>59</sup> This data is also shown in Tables 23 and 24 in Appendix C, from page 153 of this report.

## Demographic information for finalised complaints

The information in this section breaks down complaints by the complainant's country of birth, sex, and age based on information provided to the Commission. Demographic data has not been collected for every complaint. The demographic information in this section is about complainants who made combined complaints as well as human rights only complaints.

Complaints (that have been finalised in the 2019-20 financial year) were lodged mainly from within Queensland, with a small number coming from interstate. Most of the complainants in Queensland were from the South-East Queensland region.

**Figure 17: Finalised complaints by complainant location, 2019-20**



Of the finalised complaints 12 (66.66%) complainants identified as male, and 6 (33.33%) identified as female. This is a notable difference from discrimination complaints where the gender split is approximately even.

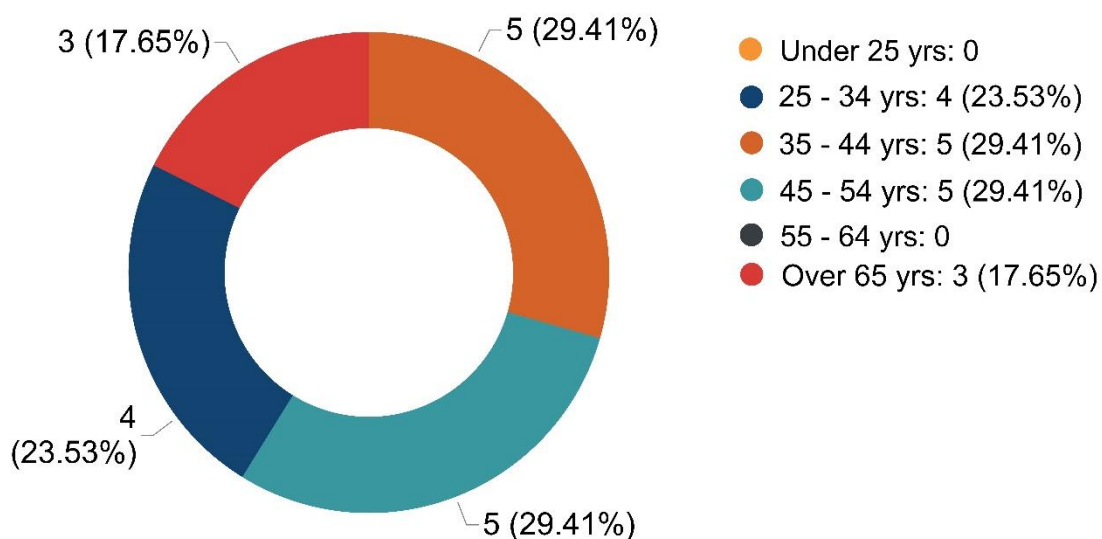
Around 77% of complainants were born in Australia, with 23% being born overseas.

2 complaints came from First Nations people, both of whom identified as Aboriginal.

1 of the complainants spoke English as a second language.

Most complainants were in the age bracket of 35 to 44 (29.41%), or 45 to 54 (29.41%), but with significant numbers in the 25 to 34 (23.53%) age bracket. None of the finalised complaints were from people under 25:

**Figure 18: Finalised complaints by complainant age, 2019-20<sup>60</sup>**



<sup>60</sup> This data is also shown in Table 25 in Appendix C, from page 153 of this report.

## Dispute resolution process: conciliation and early intervention

Compared with the *Anti-Discrimination Act 1991*, the *Human Rights Act* provides a more flexible approach to complaint handling. Early interventions rather than conciliation conferences took place in urgent situations in which the complaint was a human rights only matter.

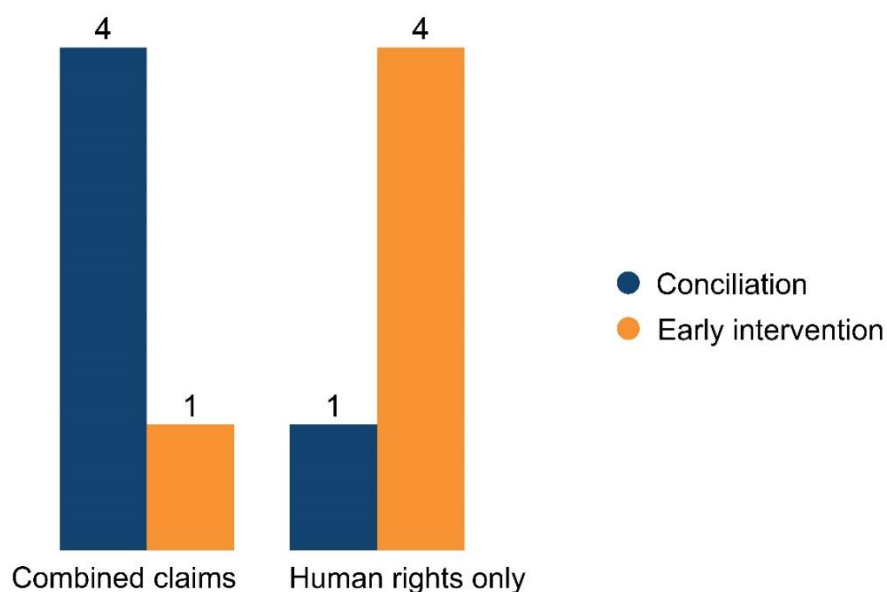
Of the complaints finalised in the 2019-20 financial year:

1 conciliation conference was conducted for a human rights only complaint.

4 conciliation conferences were conducted for combined claims (2 of which were referred to tribunals, 2 were resolved).

5 complaints were resolved by early intervention.

**Figure 19: Finalised complaints by dispute resolution mode, 2019-20**



## Corporations carrying out public functions

In the Committee report on the Human Rights Bill in 2018, the Legal Affairs and Community Safety Committee commented that it would be beneficial for the Commission to monitor complaints raised against private corporations undertaking public functions in light of some concerns raised that the definition of public entity under section 9 may create uncertainty regarding which entities may be captured.<sup>61</sup>

None of the accepted and finalised human rights only complaints named private corporations.

One complaint about disability access dealt with as a combined claim named both private and public entities – this complaint would have been accepted under the *Anti-Discrimination Act 1991* in any case, even if the Act had not been passed. It involved disability access to both a private business and a public transport service. In accordance with the *Human Rights Act 2019*, the human rights obligations only applied to the transport service.

## Complaints to other agencies

The Commission is not the only complaints body to have received complaints about human rights in the financial year 2019-20.

The Queensland Ombudsman received 779 cases which were assessed as involving a human rights element. The most common categories, accounting for over half of all complaints to the Ombudsman, were:

- protection of families and children
- humane treatment when deprived of liberty
- property rights.<sup>62</sup>

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<sup>61</sup> Legal Affairs and Community Safety Committee, Queensland Parliament, *Human Rights Bill 2018* (Report No. 26, February 2019) 13.

<sup>62</sup> Queensland Ombudsman, *Queensland Ombudsman 2019-20 Annual Report* (2020) 7.



# Resolved complaint case studies

The following case studies are a selection of resolved outcomes of complaints received in the financial year 2019-20.

## Man sleeping in van has illegal camping fines withdrawn

A man experiencing homelessness was living in his van parked in a council controlled beachside parking area. There were no parking restrictions or fees payable in the carpark. He chose the location because of its easy access to the toilets which were open 24 hours, as he needed to urgently use the toilets up to 15 times during the day and 5 times at night due to a medical condition. Despite raising his medical issues with council officers patrolling the area, the complainant was given fines for illegally camping at the park. The fines amounted to almost \$3,000.00, an amount he could not afford to pay.

The man's advocate raised several human rights including the right not to have a person's home arbitrarily interfered with (section 25). The man was experiencing strong pain when having to wake up frequently and drive to the toilets. He found interactions with the council officers embarrassing and he felt as though he wasn't being treated with respect.

During conciliation the council stated that the man was in breach of a local law, which had the important purpose of protecting privacy and safety in the community. Council officers expressed that they had sometimes ignored or warned the man rather than fining him every time. The council also said that they had tried to link the man up with homelessness services.

To resolve the complaint, the council agreed to withdraw the remaining unpaid infringement notices. The man was reimbursed for the fines he had already paid. The council also agreed to undertake staff training on the Act.

Relevant human rights:	Recognition and equality before the law (section 15), right to privacy and reputation (section 26), freedom of movement (section 19).
Complaint type:	Combined claim.
Dispute resolution mode:	Conciliation conference

## Woman who had experienced DV complains of hospital experience

A woman who had experienced domestic violence from the father of her child complained that a hospital required the presence of the father during the child's medical appointment. The hospital staff initially advised her that they needed to have the father present by phone due to a Family Court order for shared parental responsibilities. The woman said that she did not want to prevent him from getting the information, but did not want the father to be present on the phone at the same time as her and her child. The appointment proceeded with the agreement that the child be assessed in the presence of a nurse with the parents being consulted separately afterwards. The woman said that the experience left her and her child feeling traumatised and she did not want other people who had experienced domestic violence to have to go through it.

The woman and the health service entered conciliation discussions and negotiations with a genuine will to resolve the complaint. The hospital apologised in writing for the distress the woman and her child had experienced, and explained that they were not aware of the history of violence when they made the decision to include the father. The hospital advised that in future the woman would be able to access the social work team for support, and that they would ensure there would be no further direct or indirect contact with the child's father. For further appointments the woman would remain with her child during the appointment and receive the doctor's advice along with her child, and then the father would be contacted separately once they had left.

Relevant human rights: Recognition and equality before the law (section 15), protection of families and children (section 26) and right to health services (section 37).

Complaint type: Human rights only.

Dispute resolution mode: Early intervention.

## Access to family during COVID

A teenager held in remand in youth detention wanted to see his family for his birthday. However, due to restrictions imposed to prevent the spread of COVID-19, family visits were postponed at the centre. Through conciliation, the detention centre and the young person's mother agreed on a plan to maintain family contact during the pandemic. The young person talked to his family for one hour on a video call for his birthday, and once the restrictions eased his family was able to visit him in person.

Relevant human rights: Recognition and equality before the law (section 15), protection of families and children (section 26).

Complaint type: Human rights only.

Dispute resolution mode: Early intervention.

### Railway station not accessible

An older person who had serious back problems following an operation was having difficulty accessing a train station when escalators at the station were replaced by steep stairs. The complaint was resolved through the conciliation process in which it was agreed that escalators would be installed as part of a station upgrade.

Relevant human rights: Recognition and equality before the law (section 15), freedom of movement (section 19).

Complaint type: Combined claim.

Dispute resolution mode: Conciliation conference.

### Disability awareness training for council

A woman who used a wheelchair complained to the council that the wheelchair access parking spaces at her local ferry terminal had been made unavailable during construction works. During conciliation the council showed a genuine willingness to consider what the woman had to say and expressed openness about reviewing their current policies and practices. As the outcome of conciliation, the council agreed to training on disability awareness for staff.

Relevant human rights: Recognition and equality before the law (section 15), freedom of movement (section 19)

Complaint type: Combined claim.

Dispute resolution mode: Conciliation conference.

### Crisis housing conflict resolved

The Commission resolved an urgent complaint from a man who was experiencing homelessness. He had been evicted from crisis accommodation following an incident in which he said he was forced to take medication without consent. The man was distressed because he had no money and his personal possessions had been left behind when he was evicted.

The case manager from the crisis accommodation service clarified with the Commission that the man had not been removed for failing to take medication, but because he had threatened staff. Communication

had broken down since the man had stopped answering their phone calls.

Through the intervention of the conciliator, direct communication was restored between the man and the case manager from the accommodation provider. The case manager explained to the man that he was not permanently evicted, but temporarily disqualified from the program for one month. The man then collected his belongings and found an alternative crisis accommodation service to move into.

In conversation with the case manager, the man acknowledged that he had been showing increased aggression and thanked the provider for returning his clothes after laundering them. The man commented that after making a complaint he had felt he had been really listened to by the case manager and since moving into another accommodation service he was doing much better.

Relevant human rights: Property rights (section 24), right to privacy and reputation (section 25), recognition and equality before the law (section 15).

Complaint type: Human rights only.

Dispute resolution mode: Early intervention.

### Quarantine exemption for child with ASD and family

A family of five adults and a three-year-old child were placed in mandatory quarantine after returning from overseas. Although they were Queensland residents, they had spent ten months in New Zealand. The three-year-old child has autism spectrum disorder, and while she was in quarantine it became clear that the environment was unsuitable for her needs and causing her distress.

The child experiences severe food aversions and her diet could not be catered for in quarantine. Usually, the mother relies on family to help care for the child, but was kept separate from other family members. The situation worsened when the mother was accidentally locked out of the room for half an hour, and the child became severely distressed.

Following early intervention discussions between a Commission conciliator and Queensland Health, the family was fast-tracked for an exemption to the requirement to quarantine in a hotel, and were able to return home for quarantining one day after lodging their complaint with the Commission.

Relevant human rights: Humane treatment when deprived of liberty (section 30), protection of families and children (section 26), freedom of movement (section 19), recognition and

equality before the law (section 15), right to liberty and security of person (section 29).

Complaint type: Human rights only.

Dispute resolution mode: Early intervention.

### No balcony in quarantine room caused anxiety

A woman was placed in mandatory quarantine at a hotel following a return from overseas during the COVID-19 pandemic emergency period. She experienced anxiety and panic attacks which were exacerbated by being in a closed space without natural air and light.

The woman lodged a complaint with the Commission after unsuccessfully raising the matter herself. Through the conciliation process it came to light that a recommendation that she be moved to a balcony room had been made but not actioned. The matter was swiftly resolved by the woman being moved to a balcony room.

Relevant human rights: Humane treatment when deprived of liberty (section 30), freedom of movement (section 19), recognition and equality before the law (section 15), right to liberty and security of person (section 29).

Complaint type: Human rights only.

Dispute resolution mode: Early intervention.

### Family needed accessible social housing

An Aboriginal woman with a disability lived in social housing with her 3 children (who also have disabilities) and was issued with a Notice to Leave because of a serious breach of the tenancy agreement. The circumstances leading up to the eviction were in dispute, but QCAT made an order that the woman vacate the property.

After leaving the premises, the woman and her children were in unstable accommodation, and she understood that she could no longer receive any housing assistance from the social housing provider. The woman also raised concerns that while in the property it took too long to arrange modifications to the social housing property to meet her disability needs so she could safely shower and access the kitchen.

The complaint settled on a financial sum and an expression of regret about the delay in progressing modifications to the property. The social housing provider also agreed to continue to provide services to her and her children, including supporting her to apply for appropriate and accessible accommodation in the area.

Relevant human rights: Recognition and equality before the law (section 15), property rights (section 24), privacy and reputation (section 25), protection of families and children (section 26).

Complaint type: Combined claim.

Dispute resolution mode: Conciliation conference.

### Busking rules negotiable

As an expression of his culture a man wanted to busk using a traditional drum and an amplifier. However, the local council busking application form said that using drums and amplified music was prohibited to prevent interference with the peace and comfort of residents and businesses in the area.

Through the conciliation process, the man was given guidance about how to request an exemption to this rule. So long as the drumming was in particular locations and not late at night, the council said that they were in fact open to providing exceptions to the rule. Clearer communication about the right to ask for an exemption might have avoided the complaint being made.

Relevant human rights: Recognition and equality before the law (section 15), cultural rights – generally (section 27).

Complaint type: Combined claim.

Dispute resolution mode: Conciliation conference.



# Human rights in the community

The first year of the Act has been a period of time people in Queensland will not soon forget. Although COVID-19 could have sidelined the importance of the Act in its first year, instead the pandemic has made human rights more prominent in public discussions than it would otherwise have been. Based on the higher than anticipated number of human rights enquiries and complaints, the level of engagement and interest in the Act is considerable.

## Community education

The Commission recognises the importance of ensuring that the community is educated about the Act, including the human rights protected and the complaints process available.

The Commission's website contains detailed information about the Act for various audiences, and has been updated with COVID-19 specific information in response to frequent enquiries to the Commission.

The Commission undertook the following community education and engagement activities in the period 2019-20:

- Delivered 22 Introduction to the Human Rights Act webinars and 11 Human Rights in Mental Health webinars.
- Ran a social media campaign during Human Rights Month 2019 explaining each human right (section) in the HRA to raise community awareness.
- Delivered 11 face-to-face public sessions of the Introduction to Human Rights Act training module in Brisbane, Townsville, Cairns, Mackay and Rockhampton. While more sessions were planned we were unable to provide further sessions in person due to the COVID-19 pandemic.

The Commission's Aboriginal and Torres Strait Islander Unit engaged with the community about human rights issues of concern, and opportunities that may arise under the new Act. The Commission was

invited to Mount Isa, the Torres Strait, Townsville, and Cairns to yarn with Aboriginal and Torres Strait Islander communities about the new Act. The Commission also participated in a large number of NAIDOC events across the state in 2019.

Now that general human rights resources have been developed and made available, the Commission is in the process of creating more tailored resources for particular groups who will benefit from understanding more about their human rights. The Commission released a [A guide for our mob](#) which addresses some common questions from Aboriginal and Torres Strait Islander communities about how the Act works and explains practical situations in which it may be used, with a particular focus on cultural rights. The guide is part of a whole-of Commission commitment to make our processes more accessible to Aboriginal and Torres Strait Islander Queenslanders.

A free online module entitled [Introduction to the Queensland Human Rights Act 2019](#) was made available and accessible to everyone.

## Human Rights Month

For the fifth consecutive year, we ran our Human Rights Month campaign from 10 November to 10 December 2019. The focus of the 2019 campaign was Queensland's *Human Rights Act 2019*.

The campaign used a multi-platform approach to provide information and resources about the incoming Act, and included: a Speaker Series held in conjunction with the Department of Justice and Attorney-General's Human Rights Unit; a video series featuring human rights champions from a variety of sectors and backgrounds; daily social media content on various aspects of the Act; and a supporter kit developed for stakeholders.

A community conversation run in partnership with the Sunshine Coast Art of Hosting community of practice was held to discuss the question, *How can we play our part to protect the human rights of all members in our community?* Our 2019 campaign reached over 92,000 people.

Human Rights Month will continue to be an important focal point for the Commission to engage the community on human rights in Queensland.

# Appendix A: Courts and tribunals

The cases in the tables below are the published decisions of Queensland courts and tribunals that have come to the attention of the Commission.

The sections of the Act listed in the tables are those given on the cover page of the court decision for that case, or in the text of the decision.

*Table 5: Courts and tribunals which considered or mentioned the Human Rights Act, 2019-20*

Court	Number
Supreme Court of Queensland	6
Industrial Court of Queensland	1
District Court of Queensland	8
Planning and Environment Court of Queensland	1
Queensland Civil and Administrative Tribunal, Appeals	3
Queensland Civil and Administrative Tribunal	9
Queensland Industrial Relations Commission	1

# Supreme Court of Queensland

**Table 6: Considerations or mentions of the Act in the Supreme Court of Queensland, 2019-20**

Case	Cause of action	<i>Human Rights Act 2019</i> sections
<a href="#"><u><i>The Australian Institute for Progress Ltd v The Electoral Commission of Queensland (No 2)</i></u></a> [2020] QSC 174 (15 June 2020)	Application for costs	general mention, no section number
<a href="#"><u><i>Wagners Cement Pty Ltd v Boral Resources (Qld) Pty Ltd</i></u></a> [2020] QSC 124 (19 May 2020)	Contract law – but observation on whether HRA precludes orders that constrain the public availability of a court judgment	s 31
<a href="#"><u><i>Johnson v Parole Board of Queensland</i></u></a> [2020] QSC 108 (11 May 2020)	Judicial review (parole application)	ss 11(1), 13(1), 13(2)(b)-(e), 29(1), 30(1)
<a href="#"><u><i>Re JMT</i></u></a> [2020] QSC 72 (9 April 2020)	Application for bail before trial – COVID a consideration	ss 4, 5, 9, 30, Part 3 Divisions 1, 2 and 4
<a href="#"><u><i>The Australian Institute for Progress Ltd v The Electoral Commission of Queensland</i></u></a> [2020] QSC 54 (30 March 2020)	Interpretation of the <i>Electoral Act</i> regarding political donations	ss 8, 13, 48
<a href="#"><u><i>Boyy v Executive Director of Specialist Operations of Queensland Corrective Services</i></u></a> [2019] QSC 283 (21 Nov 2019)	Application for order under the <i>Judicial Review Act</i> for written statement of reasons for decision	s 34

# Industrial Court of Queensland

*Table 7: Considerations or mentions of the Act in the Industrial Court of Queensland, 2019-20*

Case	Cause of action	Human Rights Act 2019 sections
<a href="#"><i>Du Preez v Chelden</i></a> [2020] ICQ 8 (15 June 2020)	Application for leave to appeal against decision of the Industrial Magistrate in a trial concerning the death of a mine worker	ss 34, 108 mention in text

## District Court of Queensland and pre-trial rulings

*Table 8: Considerations or mentions of the Act in the District Court of Queensland and pre-trial rulings, 2019-20*

Case	Cause of action	Human Rights Act 2019 sections
<a href="#"><i>Crossman v Qld Police Service</i></a> [2020] QDC 123 (17 June 2020)	Appeal against convictions for driving over speed limit	s 35 mention in text
<a href="#"><i>Crossman v Qld Police Service</i></a> [2020] QDC 122 (17 June 2020)	Appeal against convictions for driving over speed limit	s 35 mention in text
<a href="#"><i>R v NGK</i></a> [2020] QDCPR 77 (Judgment given 17 June 2020, reasons published 1 July 2020)	Application for a no jury order due to COVID	ss 4(f), 32(2), 48(1), 58(1)
<a href="#"><i>R v Logan</i></a> [2020] QDCPR 67 (17 June 2020)	Application for a no jury order due to COVID	ss 3, 4, 7, 9, 15, 32, 48, 58
<a href="#"><i>R v Mitchell</i></a> [2020] QDC 89 (20 May 2020)	Application for no jury order due to COVID	s 32(2)(c)
<a href="#"><i>RTM v The Queen</i></a> [2020] QDC 93 (28 April 2020)	Application for no jury trial - interests of justice - delay	s 32(c)
<a href="#"><i>Volkers v R</i></a> [2020] QDC 25 (10 March 2020)	Application for permanent stay of indictment - delay	ss 13, 29(5)(b), 31, 32(2)(c)

<a href="#"><i>ADI v EGI</i></a> [2020] QDC 13 (21 February 2020)	Application for stay of Magistrates Court decision to dismiss application to vary a protection order	ss 17, 26, 31, 48
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## Planning and Environment Court of Queensland

*Table 9: Considerations or mentions of the Act in the Planning and Environment Court of Queensland, 2019-20*

Case	Cause of action	Human Rights Act 2019 sections
<a href="#"><i>Optus Mobile Pty Ltd v Sunshine Coast Regional Council &amp; Ors</i></a> [2020] QPEC 15 (17 April 2020)	Appeal against refusal to provide development permit	Act mentioned in text

## Queensland Civil and Administrative Tribunal appeals

*Table 10: Considerations or mentions of the Act in Queensland Civil and Administrative Tribunal appeals, 2019-20*

Case	Cause of action	Human Rights Act 2019 sections
<a href="#"><i>IMM v Department of Housing and Public Works</i></a> [2020] QCATA 73 (9 June 2020)	Application to stay a decision to allow entry to a rented property for repairs	s 31(3)
<a href="#"><i>Tafao v State of Qld</i></a> [2020] QCATA 76 (22 May 2020)	Leave to appeal and appeal of discrimination decision	s 108
<a href="#"><i>Balemi v Ingles</i></a> [2020] QCATA 58 (24 April 2020)	Application for leave to appeal from decision of Adjudicator in minor civil dispute	s 31 mention in text



# Queensland Civil and Administrative Tribunal

**Table 11: Considerations or mentions of the Act in the Queensland Civil and Administrative Tribunal, 2019-20**

Case	Cause of action	Human Rights Act 2019 sections
<a href="#"><i>Health Ombudsman v ORC</i></a> [2020] QCAT 181 (22 June 2020)	Determination whether a doctor's conduct constituted unprofessional conduct - where there was a significant delay	ss 31(3), 108(2)(a) mentioned in text
<a href="#"><i>SSJ v Director-General, Department of Justice and Attorney-General</i></a> [2020] QCAT 252 (17 June 2020)	Review of blue card decision	s 13
<a href="#"><i>PIM v Director-General, Department of Justice and Attorney-General</i></a> [2020] QCAT 188 (22 May 2020)	Application for review of decision in relation to a negative notice precluding the issuing of a blue card	ss 3, 4, 8, 9, 13, 31, 34, 48, 58, 59, Part 2 Divs 2 and 3
<a href="#"><i>State of Qld through Dept Housing &amp; Public Works v Tenant</i></a> [2020] QCAT 144 (15 May 2020)	Application to terminate a tenancy agreement for objectionable behaviour	ss 3, 11, 12, 13, 15, 17, 19, 21, 24, 25, 26, 31, 37, 48, 58, 59
<a href="#"><i>GCS</i></a> [2020] QCAT 206 (6 May 2020)	Application for appointment of a guardian and administrator for an adult	ss 13, 48
<a href="#"><i>Storch v Director-General, Department of Justice and Attorney-General</i></a> [2020] QCAT 152 (6 May 2020)	Application for review of decision to issue a negative blue card notice	ss 3, 4, 8, 9, 10, 12, 13, 15, 24, 25, 31, 32, 34, 48, 58
<a href="#"><i>RE and RL v Department of Child Safety, Youth and Women</i></a> [2020] QCAT 151 (29 April 2020)	Review of foster care approval and placement	ss 9, 13, 15, 25, 26, 48, 58
<a href="#"><i>NN and IN v Department of Child Safety, Youth and</i></a>	Application to review decision on contact	s 26

<a href="#">Women</a> [2020] QCAT 146 (30 March 2020)	arrangements with a child's former foster family	
<a href="#">Horizon Housing Company v Ross</a> [2020] QCAT 41 (9 January 2020)	Application for termination of lease on ground of failure to leave	ss 3, 11, 13, 15, 17, 24, 25, 26, 31, 48

## Queensland Industrial Relations Commission

*Table 12: Considerations or mentions of the Act in the Queensland Industrial  
Relations Commission, 2019-20*

<b>Case</b>	<b>Cause of action</b>	<b>Human Rights Act 2019 sections</b>
<a href="#">Gilbert v Metro North Hospital Health Service &amp; Ors</a> [2020] QIRC 84 (11 June 2020)	Declaratory relief against respondents for discrimination (peaceful assembly & freedom of association)	s 22 mention in text

# Appendix B: Human rights indicators

## Indicators of a developing human rights culture: State government

### Indicator 1: Education and staff development

- What education and training on the *Human Rights Act* has been provided?
- Approximately what percentage of staff have received training? Which work groups or areas of the agency have received training?
- What was the mode of delivery of the training? For example, online, face to face, both online and face to face, or other?
- Has human rights been included in induction training, and does ongoing professional development/training for staff include human rights? If so, what is the mode of the delivery of the training?

### Indicator 2: Community consultation and engagement about human rights

- Have you conducted any community consultation and engagement, such as with stakeholders, clients, or consumers about human rights?
- What information have you provided to the community about human rights?
- Have you consulted relevant sectors of the community about proposed changes to, or development of, legislation, regulations, policies, procedures, services etc. which may impact human rights?
- Please provide details, including how did the community consultation and engagement impact on any decision-making/policy formulation, or other?

### Indicator 3: Awareness raising and support for related entities (including functional public entities engaged by the entity i.e. contractors)

- Have you raised awareness of human rights with contractors/providers engaged by your agency? If so, provide details.
- What support in ensuring compatibility with the Act, have you provided to providers engaged by your agency? If any, provide details.

### Indicator 4: Reviews and development of legislation or subordinate legislation

- Have you put processes in place to ensure that human rights are properly considered in the review, or development, of legislation or subordinate legislation?
- If possible, can you point to legislation or subordinate legislation that has been introduced since the commencement of the Act that works to respect, protect, or promote human rights?

### Indicator 5: Review of policies and procedures

- Has your agency reviewed existing policies and procedures for compatibility with human rights?
- Please provide an example of the way in which the review of existing policies and procedures has resulted in positive change?
- In particular, have you developed any new guides or other tools to assist staff to act and make decisions that are compatible with human rights, and to properly consider human rights when making decisions?
- Has any review of policies and procedures resulted in a change to service delivery? If so, please provide examples.

### Indicator 6: Implementation of internal complaint management for human rights complaints

- Has your agency incorporated human rights complaints into existing complaint processes?
- Does your agency's complaints policy prompt staff to consider whether human rights of any individual have been engaged and limited?

- Have you implemented a process for identifying, assessing and considering, and responding to human rights complaints?
- Can you think of examples of when a complaint has been resolved through the internal complaints process and/or has resulted in policy/procedure/practice review or change for the agency?

## Indicator 7: Future plans

What future plans does your agency have to achieve the objects of the Act in:

- protecting and promoting human rights;
- building a culture in the Queensland public sector that respects and promotes human rights; and
- helping promote a dialogue about the nature, meaning, and scope of human rights.

## Additional questions: COVID-19

*The Commission recognises that the COVID-19 pandemic has caused major disruption to the business of Queensland public sector entities. At the same time, the COVID-19 pandemic has been a significant test of the Act, with agencies being required to consider and act compatibly with human rights and respond proportionately in the context of a major health emergency.*

- To what extent has your agency's COVID-19 pandemic response impacted on the implementation of the *Human Rights Act 2019*?
- Can you provide any examples of how your agency has properly considered and acted compatibly with human rights (as required by section 58 of the Act) when responding to issues arising during the COVID-19 pandemic emergency period?

# Indicators of a developing human rights culture: Councils

## Indicator 1: Education and staff development

- What education and training on the *Human Rights Act* has been provided?
- Approximately what percentage of staff have received training? Which work groups or areas of the council have received training?
- What was the mode of delivery of the training? For example, online, face to face, both online and face to face, or other?
- Has human rights been included in induction training, and does ongoing professional development/training for staff include human rights? If so, what is the mode of the delivery of the training?

## Indicator 2: Community consultation and engagement about human rights

- Have you conducted any community consultation and engagement, such as with stakeholders, clients, or consumers about human rights?
- What information have you provided to the community about human rights?
- Have you consulted relevant sectors of the community about proposed changes to, or development of, by-laws, policies, procedures, services etc. which may impact human rights?
- Please provide details, including how did the community consultation and engagement impact on any decision-making/policy formulation, or other?

## Indicator 3: Awareness raising and support for related entities (including functional public entities engaged by the council i.e. contractors)

- Have you raised awareness of human rights with contractors/providers engaged by the council? If so, provide details.

- What support in ensuring compatibility with the Act, have you provided to contractors/providers engaged by the council? If any, provide details.

## Indicator 4: Reviews and development of local laws or subordinate local laws

- Have you put processes in place to ensure that human rights are properly considered in the review, or development, of local laws or subordinate local laws?
- If possible, can you point to local laws or subordinate local laws that have been introduced since the commencement of the Act that works to respect, protect, or promote human rights?

## Indicator 5: Review of policies and procedures

- Has the council reviewed existing policies and procedures for compatibility with human rights?
- Please provide an example of the way in which the review of existing policies and procedures has resulted in positive change?
- In particular, have you developed any new guides or other tools to assist staff to act and make decisions that are compatible with human rights, and to properly consider human rights when making decisions?
- Has any review of policies and procedures resulted in a change to service delivery? If so, please provide examples.

## Indicator 6: Implementation of internal complaint management for human rights complaints

- Has the council incorporated human rights complaints into existing complaint processes?
- Does the council's complaints policy prompt staff to consider whether human rights of any individual have been engaged and limited?
- Have you implemented a process for identifying, assessing and considering, and responding to human rights complaints?
- Can you think of examples of when a complaint has been resolved through the internal complaints process and/or has resulted in policy/procedure/practice review or change for the council?



## Indicator 7: Future plans

What future plans does the council have to achieve the objects of the Act in:

- protecting and promoting human rights;
- building a culture in the Queensland public sector that respects and promotes human rights; and
- helping promote a dialogue about the nature, meaning, and scope of human rights.

## Additional questions: COVID-19

*The Commission recognises that the COVID-19 pandemic has caused major disruption to the business of Queensland public sector entities. At the same time, the COVID-19 pandemic has been a significant test of the Act, with agencies being required to consider and act compatibly with human rights and respond proportionately in the context of a major health emergency.*

- To what extent has the COVID-19 pandemic response impacted on the council's implementation of the *Human Rights Act 2019*?
- Can you provide any examples of how the council has properly considered and acted compatibly with human rights (as required by section 58 of the Act) when responding to issues arising during the COVID-19 pandemic emergency period?

# Appendix C: Complaints and enquiries data tables

Refer to section *Human rights complaints snapshot* for explanations of terms such as 'accepted', 'resolved' and 'finalised.'

**Table 13: Country of birth of enquirers, 2019-20**

Enquirer country of birth	Number of enquirers
Australia	309
New Zealand	14
United Kingdom	11
India	4
Philippines	4
Iran	2
Iraq	2
Ireland	2
Netherlands	2
Somalia	2
Spain	2
Other countries	19

*Table 14: Human rights enquiries to the Commission by age bracket, 2019-20*

<b>Enquirer age range</b>	<b>Number of enquirers</b>
Under 15	5
15-19	4
20-24	4
25-34	12
35-44	33
45-54	28
55-64	22
Over 65	17

*Table 15: Human rights enquiries to the Commission by First Nations people, 2019-20*

<b>Enquirer Aboriginal or Torres Strait Islander identification</b>	<b>Number of enquirers</b>
Neither	96
Aboriginal	36
Aboriginal and Torres Strait Islander	4
Torres Strait Islander	3

**Table 16: Outcome of finalised complaints – inclusive of combined claims and human rights only complaints, 2019-20**

<b>Outcome of finalised complaints – all (combined claims and human rights only)</b>	<b>No. finalised</b>
Not accepted – internal complaint requirements not met <sup>63</sup>	10
Accepted and resolved	8
Not accepted – insufficient detail <sup>64</sup>	6
Rejected – refer to more appropriate course of action or complaint has already been appropriately dealt with elsewhere <sup>65</sup>	5
Rejected – frivolous, vexatious, misconceived or lacking in substance <sup>66</sup>	4
Withdrawn by complainant	1
Accepted but not resolved - referred to Queensland Civil and Administrative Tribunal	1
Accepted but not resolved - referred to the Queensland Industrial Relations Commission	1

<sup>63</sup> Applies where the complainant has not yet made an internal complaint to the public entity and at least 45 business days have elapsed, as required by Section 65 and section 70 *Human Rights Act 2019*.

<sup>64</sup> Applies in circumstances that the complaint does not contain enough details to indicate the alleged contravention to which the complaint relates – see Section 67 *Human Rights Act 2019*. Many complaints that initially do not contain sufficient detail to be accepted may later be able to demonstrate that the complaint meets the statutory requirements.

<sup>65</sup> Applies where the Commission considers that the matter could be dealt with under a more appropriate course of action, or has already been appropriately dealt with elsewhere.

<sup>66</sup> The Commission must refuse to deal with a human rights complaint if the commissioner considers that the complaint is frivolous, vexatious, misconceived or lacking in substance.

**Table 17: Outcome of finalised complaints – human rights only complaints, 2019-20**

<b>Outcome of finalised complaints (human rights only)</b>	<b>No. finalised</b>
Not accepted – internal complaint requirements not met <sup>67</sup>	10
Accepted and resolved	5
Not accepted – insufficient detail <sup>68</sup>	5
Rejected – refer to more appropriate course of action or complaint has already been appropriately dealt with elsewhere <sup>69</sup>	4
Rejected – frivolous, vexatious, misconceived or lacking in substance <sup>70</sup>	4
Withdrawn by complainant	1

<sup>67</sup> Applies where the complainant has not yet made an internal complaint to the public entity and at least 45 business days have elapsed, as required by Section 65 and section 70 *Human Rights Act 2019*.

<sup>68</sup> Applies in circumstances that the complaint does not contain enough details to indicate the alleged contravention to which the complaint relates – see Section 67 *Human Rights Act 2019*. Many complaints that initially do not contain sufficient detail to be accepted may later be able to demonstrate that the complaint meets the statutory requirements.

<sup>69</sup> Applies where the Commission considers that the matter could be dealt with under a more appropriate course of action, or has already been appropriately dealt with elsewhere.

<sup>70</sup> The Commission must refuse to deal with a human rights complaint if the commissioner considers that the complaint is frivolous, vexatious, misconceived or lacking in substance.

**Table 18: Human rights identified in all finalised human rights complaints – inclusive of combined claims and human rights only complaints, 2019-20**

<b>Relevant human right</b>	<b>Allegations made in finalised complaints 2019-20</b>	<b>Allegations made in accepted and finalised complaints 2019-20</b>
Recognition and equality before the law	56	7
Privacy and reputation	23	6
Protection of families and children	18	4
Humane treatment when deprived of liberty	21	4
Protection from torture, cruel, inhuman or degrading treatment	17	1
Freedom of movement	17	4
Right to liberty and security of person	14	3
Fair hearing	15	0
Property rights	12	2
Freedom of expression	10	0
Right to health services	10	1
Right to life	9	2
Freedom of thought, conscience, religion and belief	8	0
Taking part in public life	8	0
Rights in criminal proceedings	6	0
Cultural rights – generally	5	1
Right to education	5	0
Cultural rights – Aboriginal peoples and Torres Strait Islander peoples	2	0
Peaceful assembly and freedom of association	2	0
Children in the criminal process	2	0
Right not to be tried or punished more than once	2	0
Freedom from forced work	1	0
Protection from retrospective criminal laws	1	0

**Table 19: Human rights identified in finalised human rights only complaints, 2019-20**

<b>Relevant human right</b>	<b>Allegations made in finalised complaints 2019-20</b>	<b>Allegations made in accepted and finalised complaints 2019-20</b>
Recognition and equality before the law	13	4
Privacy and reputation	6	5
Protection of families and children	9	3
Humane treatment when deprived of liberty	6	4
Protection from torture, cruel, inhuman or degrading treatment	5	1
Freedom of movement	9	4
Right to liberty and security of person	4	3
Fair hearing	5	0
Property rights	5	1
Freedom of expression	1	0
Right to health services	4	1
Right to life	4	2
Freedom of thought, conscience, religion and belief	0	0
Taking part in public life	1	0
Rights in criminal proceedings	1	0
Cultural rights – generally	0	0
Right to education	2	0
Cultural rights – Aboriginal peoples and Torres Strait Islander peoples	0	0
Peaceful assembly and freedom of association	0	0
Protection of children in the criminal process	0	0
Right not to be tried or punished more than once	0	0
Freedom from forced work	0	0
Protection from retrospective criminal laws	0	0



**Table 20: Human rights identified in resolved human rights complaints, 2019-20**

<b>Relevant human right</b>	<b>Allegations made in resolved complaints 2019-20</b>
Recognition and equality before the law	6
Privacy and reputation	6
Protection of families and children	4
Humane treatment when deprived of liberty	4
Protection from torture, cruel, inhuman or degrading treatment	1
Freedom of movement	4
Right to liberty and security of person	3
Fair hearing	0
Property rights	2
Freedom of expression	0
Right to health services	1
Right to life	2
Freedom of thought, conscience, religion and belief	0
Taking part in public life	0
Rights in criminal proceedings	0
Cultural rights – generally	1
Right to education	0
Cultural rights – Aboriginal peoples and Torres Strait Islander peoples	0
Peaceful assembly and freedom of association	0
Protection of children in the criminal process	0
Right not to be tried or punished more than once	0
Freedom from forced work	0
Protection from retrospective criminal laws	0

**Table 21: Finalised human rights complaints by sectors – inclusive of combined claims and human rights only complaints, 2019-20**

<b>Public entity by sector</b>	<b>No. finalised complaints</b>
Police	25
Health	13
Work <sup>71</sup>	12
Local government	10
Accommodation/housing	8
Corrections <sup>72</sup>	8
Child Safety	6
Education	5
Court services	3
Disability services	2
Other	28

**Table 22: Accepted and finalised human rights complaints by sectors – inclusive of combined claims and human rights only complaints, 2019-20**

<b>Public entity by sector</b>	<b>No. accepted and finalised complaints</b>
Police	1
Health	2
Work	0
Local government	2
Accommodation/housing	2
Corrections	0
Child Safety	0
Education	0
Court services	0
Disability services	0
Other	4

<sup>71</sup> Where a person is complaining about human rights in their workplace, i.e. a public sector worker.

<sup>72</sup> The Category “Corrections” includes both adult corrections and youth detention.

**Table 23: Finalised human rights complaints by sectors – human rights only complaints, 2019-20**

<b>Public entity by sector</b>	<b>No. finalised complaints</b>
Police	8
Health	5
Work	1
Local government	2
Accommodation/housing	1
Corrections	2
Child Safety	2
Education	2
Court services	2
Disability services	0
Other	9

**Table 24: Accepted and finalised human rights complaints by sectors –human rights only complaints, 2019-20**

<b>Public entity by sector</b>	<b>No. accepted and finalised complaints</b>
Police	1
Health	2
Work	0
Local government	0
Accommodation/housing	1
Corrections	0
Child Safety	0
Education	0
Disability services	0
Other	2

**Table 25: Finalised complaints by complainant age bracket, 2019-20**

<b>Complainant age group</b>	<b>No. of finalised complaints</b>
24 and below	0
25-34	4
35-44	5
45-54	5
55-64	0
Over 65	3