

9 December 2020

## First report on operation of Queensland's *Human Rights Act* published

The Queensland Human Rights Commission has today published [\*Putting people first: The first annual report on the operation of Queensland's Human Rights Act 2019\*](#), after it was tabled in parliament today.

Section 91 of the *Human Rights Act 2019* 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.

*Putting people first* is the first of these to be published, after the Act came into full operational effect on 1 January 2020.

"This report attempts to outline the work done across Queensland's public sector in implementing the Act over the 2019-20 financial year, and identifies 7 key indicators to measure growth in Queensland's human rights culture," says Queensland's Human Rights Commissioner, Scott McDougall.

It includes contributions from 9 key state government entities (including Queensland Police Service, Queensland Health, Corrective Services, Youth Justice, Child Safety, and the Department of Education) on staff training, the number and outcomes of human rights complaints, and the result of policy and procedure reviews for compatibility with human rights.

Similar contributions from 8 local councils, including Brisbane City Council, are also featured in the report.

The report contains a number of examples of how the *Human Rights Act 2019* has been the impetus to resolve issues relating to health, education, child safety, housing and council services both through internal complaints and complaints to the Commission.

The report includes Commission data on complaints and enquiries. A total of 655 enquiries and 130 complaints about human rights were made to the Commission by 30 June 2020. 37 complaints were finalised, with 8 being successfully resolved through the Commission's complaints process. 27 were rejected due to not meeting the requirements for acceptance – for example, not having made a complaint to the public entity first, as is required under the Act. 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.

"With less than four months of the 2019-20 financial year where people were able to lodge complaints, the numbers in this first report are small, but there are encouraging signs nevertheless that the Act is capable of achieving some very positive outcomes," says Mr McDougall.

"I have also been impressed by the willingness of public entities to engage with the Act and to approach complaint resolutions with a genuine openness to exploring less restrictive options."

The work of the Queensland Parliament and of courts and tribunals is also examined in the report.

Under the Act, parliament must consider new legislation for compatibility with human rights. This is done through statements of compatibility and the work of the portfolio committees in examining proposed bills.

Despite raising some concerns about the passage of particular pieces of legislation without sufficient scrutiny, the Commission reports that limitations on rights were “carefully considered and justified” in the majority of cases.

“The work of the parliament in 2019-20 does, on the whole, indicate a genuine commitment to incorporating human rights principles,” says Mr McDougall.

Although the parliament retains the power to pass legislation which is not compatible with human rights, it did not exercise this power during 2019-20.

Courts and tribunals also hold obligations under the Human Rights Act, and the Act was considered or mentioned in the published decisions of 29 matters across Queensland courts and tribunals in 2019-20.

Under the Act, 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 2019-20.

The report also contains an analysis of the impact of the global COVID-19 pandemic on the implementation of the Act in its first year, with the Commission reporting it presented an “early and significant test” of the legislation.

“I can envisage no greater test of new human rights legislation than a global pandemic,” says Mr McDougall.

“The pandemic 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.”

The report was tabled in Queensland Parliament today and is available on the Commission’s website at <https://www.qhrc.qld.gov.au/resources/reports>.

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## Case studies

The report includes multiple case studies demonstrating the outcomes achieved in the first year of the Act, including:

- Tenants Queensland assisted a single mother and victim of domestic violence facing eviction to remain in her home after her partner breached the lease conditions and refused to leave.

- The Benevolent Society advocated for the rights of parents with disabilities with the result that their child remained in their care and the parents were supported to build parenting skills.
- A council agreed to withdraw fines issued to a man experiencing homelessness, who had been fined several times for illegally camping in his van.
- Two complaints to Townsville HHS identified an issue of voluntary patients being unable to leave a facility due to building security measures, which led to a review of the site to ensure the least restrictive environment for all consumers.
- A family returning from overseas were able to quarantine at home on the basis that a young child in the group had ASD and was becoming distressed in the hotel quarantine environment.
- Department of Education resolved an internal complaint about Aboriginal and Torres Strait Islander significant dates and events not being celebrated at a school, with learning resources shared with staff to continue discussions with classes on National Sorry Day and National Reconciliation Week.
- Queensland Corrective Services changed their blanket ban on prison visitors who dress inappropriately. The new procedure places greater emphasis on individual circumstances such as how far the visitor has travelled and how long it has been since the prisoner last had a visit.

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