

FACT SHEET:

Making a complaint

Complaints under the Human Rights Act 2019 may not be lodged until after 1 January 2020.

Complaints under the Human Rights Act will only be able to be made about alleged breaches which occur after 1 January 2020.

Making a complaint to us is not the only option for resolving your issue. Sometimes talking with the person or organisation directly is the quickest and easiest way to address your concerns. Putting your concerns in writing, with a clear indication of what you want to happen to resolve them, is a good first step.

Should you wish to lodge a complaint with us, you have a 12 month time limit from the date of the situation you are complaining about. If it has been more than 12 months we may still be able to accept it in some cases, depending on the length of the delay and the reason for it.

What you say in the complaint is important. It determines whether the complaint will be accepted into the complaint process, and may affect your rights and the outcome of the complaint.

We recommend you seek legal advice before making a complaint. You can do this through Legal Aid Queensland or a Community Legal Centre, or find a private solicitor through the Queensland Law Society.

You can also contact our telephone information service for information about how to make a complaint.

Who can complain?

Human rights and anti-discrimination law protects everyone in Queensland. You don't have to be a resident, or have a particular citizenship or visa status.

Discrimination, sexual harassment and human rights complaints can only be made by someone personally affected by a situation. You can appoint an agent to complain on your behalf, however.

If someone is unable to make a complaint or appoint an agent themselves, for example a child or a person with an intellectual disability, the Commission may authorise an agent such as a parent or guardian to make a complaint on their behalf.

Complaints about vilification can be made by what the Anti-Discrimination Act terms a 'relevant entity' – for example, community groups or support organisations for people of different races or religions, or those supporting LGBTIQ+ communities.

What can I complain about?

Your complaint could be covered by the Anti-Discrimination Act, the Human Rights Act, or both. You don't need to know if it's a discrimination or human rights complaint in order to lodge it – we will contact you to discuss it after lodgement, to help figure out the best way of moving forward with it. You can also talk to us before you lodge it if you're unsure or need any more information.

Discrimination, vilification, and sexual harassment

You can complain about the following breaches of the Anti-Discrimination Act:

- Discrimination;
- Sexual harassment;
- Unlawful requests for information;
- Public vilification;
- Victimising another person because they have previously made or been involved in a complaint about a breach of the Anti-Discrimination Act; or
- Encouraging or requesting someone to breach the Anti-Discrimination Act.

You can complain about the person responsible for this behaviour, and if they were at work while they did it, their employer may also be responsible for allowing it to happen.

Human rights

Complaints about human rights breaches can only be made about acts and decisions made by Queensland public entities. Public entities are Queensland government departments, local councils, and organisations providing public services on behalf of the state.

Public servants are considered public entities, so you can lodge a complaint about them if you feel their actions or decisions unfairly limited your human rights. No rights are absolute, so the limitation has to be unfair for you to be able to make a complaint.

Courts and tribunals are not public entities, except when acting in an administrative capacity. The Commission will not deal with a complaint about the decision of a court or tribunal when that decision is capable of appeal or review for binding legal orders relevant to your complaint. There are strict time limits for appeals and reviews. We recommend you seek legal advice prior to lodging a complaint against a court or tribunal.

Complaints can be made about the actions or decisions of administrative staff in courts or tribunals, for example the way you were treated by a registry staff member.

The actions or decisions you're able to complain about are only those made on or after 1 January 2020.

You need to complain to the public entity first. You can then complain to us if they do not respond to your complaint within 45 business days (approximately 9 weeks), or if their response is not satisfactory for you.

Reprisal because of a Public Interest Disclosure

Complaints about reprisals for Public Interest Disclosures can be made about an individual, a group of people, or an organisation or business, or a combination of these.

How can I complain?

Under the legislation, complaints have to be received in writing. This means in a letter or email, or by filling out a complaint form online, or by downloading a complaint form to fill out then returning it to us.

If you can't write your own complaint, we'll try and find someone to help you do it. In some cases we might be able to help you ourselves.

Your complaint can be in any language, as we can use translators where needed.

A complaint should be made within one year of the situation you are complaining about. We may accept a complaint made more than one year from the situation you are complaining about if there is good reason for the delay.

Please include the following information:

- your name, phone number and address for service of mail or email where you can access mail quickly. This address for service will be given to all those you are complaining about. If you want to keep your home address private, use a PO Box, the address of an organisation, lawyer or other reliable person or an email address;
- full details of your complaint — who treated you unfairly, where and when, and what happened. Include what you did and how others in a similar situation were treated - better or worse;
- why you think you were singled out or why you were treated unfairly;
- date the complaint and sign it if you can;
- the name, address, and phone number of everyone you are complaining about, if you have these details. If they were at work at the time, also tell us the name of their employer;
- if you have made a prior complaint to the organisation you are complaining about, include details of this, including when it was made and the outcome of complaining.

What will the Commission do with my complaint?

We will check your complaint. If it comes under any of the Acts we deal with, we may take these steps:

1. We will send your complaint to all those you are complaining about (the respondents) and give them a chance to respond in writing.
2. We will send you (the complainant) any responses we get, so you can see if you are satisfied.
3. We will try to resolve the complaint. We may negotiate between the parties or, call a compulsory meeting (conciliation conference) to talk about your complaint, and help everyone reach an agreement.
4. If there is an agreement, we will usually write it down for all the parties and may have everyone sign it so it is binding.

5. For complaints under the Anti-Discrimination Act 1991 or under the Public Interest Disclosure Act 2010, if everyone can't agree, you may refer the complaint for a public hearing to the:

- Queensland Industrial Relations Commission (QIRC) for work-related complaints; or to the
- Queensland Civil and Administrative Tribunal (QCAT) for all other complaints.

What else?

There are no fees for our services.

If you need legal or other advice about your complaint, we can suggest where to go for help. We cannot give you advice or run your complaint for you.

We may investigate the complaint but we will not take sides.

We will try to help everyone reach an agreement but will not decide for you.

Keeping your complaint confidential may make it easier to resolve the complaint at conciliation. For that reason the Commission suggest that you keep your complaint confidential and only tell your legal advisers and those who are helping with your complaint.

You can withdraw your complaint at any time.