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# 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 provides an update on how the Act is making an impact on state public entities, councils, tertiary institutions and functional public entities.

## Public sector training

While there was less demand for human rights training when compared with the extremely high demand in 2019–20, in 2020–21 the Commission again provided substantial training for public sector entities about human rights. The number of sessions conducted is outlined below.

*Table 5: Training sessions conducted by the Commission 2020-21*

| Training   | Number |
|--|--------|
| Introduction to the Human Rights Act                     | 48     |
| Introduction to the Human Rights Act – webinar           | 20     |
| Introduction to the Human Rights Act – train-the-trainer | 11     |
| Human rights in mental health – webinar                  | 15     |

## Human Rights Unit update

In the first year of the Act, the Department of Justice and Attorney-General's Human Rights Unit (HRU) was critical in coordinating the implementation of the Act approach across the state government.

In 2020-21, the HRU has continued to:

- ...serve a central leadership, coordination and support role for Queensland Government departments as well as continuing the process of embedding human rights into business-as-usual operations.

The HRU developed and distributed communication and awareness resources, factsheets, and guides, and delivered education and training to policy and legislation officers. It also supported departments in their reviews of legislation, policies and procedures for compatibility with human rights by providing resources, information and advice.

After the initial period of preparing government departments for commencement of the Human Rights Act 2019, the HRU's efforts have focused on supporting departments to embed human rights into their business as usual activities.<sup>70</sup>

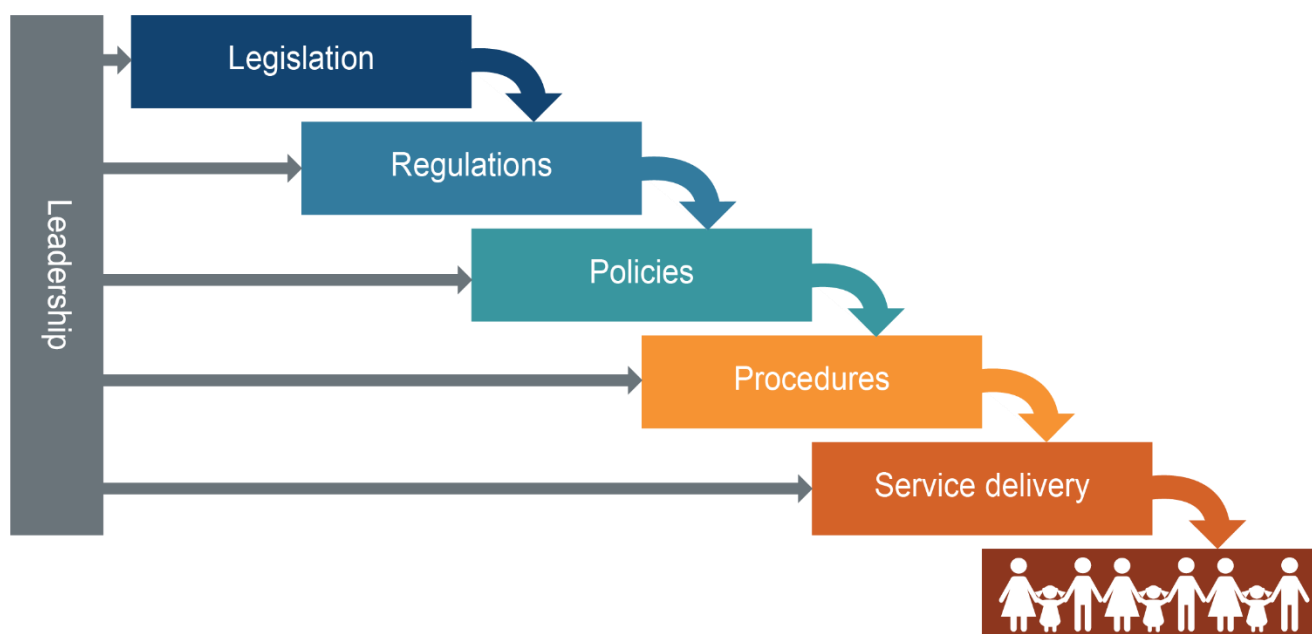
## Developing a human rights culture

The *Human Rights Act 2019* contains a key object of developing a human rights culture in the Queensland public sector, where the human rights of individual people are respected and promoted.

### Cascading culture change model

In the previous financial year, the Commission adopted the cascading culture change model in which 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*



<sup>70</sup> Department of Justice and Attorney-General (Qld), *Annual Report 2020-2021*, 42.

The model recognises that unless 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.

## Human rights leadership

For this financial year the Commission has focussed on the theme of leadership. How can leaders in the public service prioritise human rights to ensure that culture change steadily continues to grow in an organisation? During a global pandemic, the importance of human rights leadership is elevated as leaders are increasingly required to balance rights in extremely challenging and complex social and economic contexts. While managing crises has always been a feature of leadership in Queensland, a state impacted heavily by natural disasters, the sustained nature of the COVID-19 pandemic and need for ongoing responses to rapidly changing circumstances has increased the need for leadership where human rights are front and centre in strategic decision-making.

# Indicators of a human rights culture

In the first year of the Act, the Commission 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

While the same indicators were maintained this year to ensure efficient measurement can happen over time, the questions used to prompt responses from public entities changed – this was intended to reflect that most public entities had already to a large extent implemented and operationalised the Act. Therefore, the questions this year were focused on what might come next after the initial implementation of the Act.

See *Appendix B* from page 172 of this report for the full *Indicators of a Developing Human Rights Culture* including the specific questions asked of public entities.

We used the Indicators to survey 8 state government public entities, 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 Children, Youth Justice and Multicultural Affairs
- Department of Communities, Housing and Digital Economy
- Department of Education
- Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships
- Queensland Civil and Administrative Tribunal

- Queensland Corrective Services
- Queensland Health
- Queensland Police Service.

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 6 councils:

- Brisbane City Council
- Ipswich City Council
- Mackay Regional council
- Gold Coast City Council
- Logan City Council
- Sunshine Coast 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 Commission asked the public entities about staff education, general awareness raising, whether tailored examples were incorporated, the number of staff who had received training and by which delivery method, feedback sought about training and whether training was delivered for new staff.

During the first year, the Commission noted a high uptake of training across the state public entities surveyed and this trend has continued in most organisations with the majority of surveyed public entities reporting that three quarters of their workforce (or more) have received at least one training module on the Act.

### Education and staff development summary

*Table 6: Training provided by surveyed state government public entities to their employees 2020-21*

| State government entity   | Training received during reporting period  |
|---|--|
| Queensland Police Service (QPS)   | 498 new enrolments<br><br>Total of 15,311 members have now completed the training (approx. 93.9 per cent of sworn and unsworn members)   |
| Queensland Civil and Administrative Tribunal (QCAT)                     | 24 staff received training through learning management system  |
| Department of Children, Youth Justice and Multicultural Affairs (CYJMA) | 858 staff completed mandatory e-learning module on the Act (75% staff overall have completed)<br><br>2633 completed training on a new mandatory online complaints management course which incorporates human rights (65% staff overall have completed) |

|  |  |
|--|--|
| Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships (SDSATSIP) | 83.65% of current employees have completed the <i>Human Rights Act 2019</i> mandatory awareness training, with a further 958 staff completing the Human Rights role-specific training, and 14 staff completing other role-specific Human Rights training.  |
| Department of Education  | <p>Delivered targeted sessions to over 1100 school-based leaders, regional support officers and central office staff</p> <p>Partnered with the Queensland Human Rights Commission (QHRC) to deliver tailored train-the-trainer sessions to over 200 regional and central office staff, between February and September 2021</p> <p>94,000 staff had completed training as of 30 June 2021, in addition to targeted training in certain areas e.g. customer complaints</p> |
| Queensland Health (QH)   | <p>Training intensity depends on level of impact of work activities on human rights – e.g. mental health units</p> <p>Approx. 1.5% of staff have completed official online training</p> <p>Difficult to identify overall completion rate as many staff have completed Commission training, Crown law training and/or work unit specific training.</p>  |
| Queensland Corrective Services (QCS)   | <p>7094 staff have completed online training across custodial, community corrections and corporate areas.</p> <p>700 are enrolled in mandatory training.</p>   |



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Department of Communities, Housing and Digital Economy (CHDE)

Delivered to staff through online learning platforms, with tailored training for particular business areas in 2020-21 including Housing and Homelessness Services, Community Services, local community service centre staff, community centre auditors, Smart Service Queensland leadership.

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## Tailored training

In the first year, several state public entities noted that specific training, tailored to the organisation or work group and containing real-world examples from the participants' everyday work, was needed to understand and embed knowledge and understanding of human rights. Many had committed to this in the next financial year, and it is pleasing to see that this did happen in many Departments.

The QPS's human rights Community of Practice has built on the importance of workshopping rights in real-world scenarios, and meets regularly to discuss human rights and share practical learnings across the service. QPS training provides clear examples of situations general duties officers would regularly find themselves in and requires members to assess how human rights intersect with police powers and responsibilities in those situations.

QCS continues to use the RAPID test (Relevant rights; Authorisation; Proportionality and purpose; Individual and impartial, and Document), formulated during the implementation of the Act in the first year. The test has now been promoted through a short video. Information includes case studies for how the RAPID test can be applied to provide further guidance to staff. Feedback received from staff indicates that the RAPID test is working well and staff are using it to apply in their work.

At CYJMA, advice is provided to new child safety officers (CSOs) in their mandatory training pertaining to the Act, what the Act means in child protection practice, and how to act compatibly with the Act in their roles. CSOs undertake relevant scenarios in their training to assist to embed their knowledge. This is supplemented by the ongoing use of the Child Safety Practice Manual which provides advice about obligations under the Act.

Similarly, the training developed for the Disability Accommodation, Respite and Forensic Services division within the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships (SDSATSIP), included specific service delivery examples, to illustrate how to manage and address risk with regards to human rights in practice.

The DCHDE described ten workshop sessions delivered to business areas in Housing and Homelessness Services and Smart Service Queensland:

Participants were sent resources and an activity pack, ahead of interactive scenario-based sessions on how to properly consider human rights. Very positive feedback gathered on these sessions highlighted the value of tailored, scenario-based training.

### Awareness raising activities

QH provided a number of examples of awareness raising activities across different HHSs and the Department, including:

- QH commits to developing a culturally capable workforce and actively applies section 28 of the HR Act. The Aboriginal and Torres Strait Islander Health Division includes commitments and strategies for how staff will increase their understanding of section 28 and cultural capability in staff Career Success Plans.
- The Office of Prisoner Health and Wellbeing (OPHW) has engaged Health Consumers Queensland, Queensland's peak health consumer body, to provide education sessions for Prison Health Service's staff and custodial staff in correctional facilities regarding the health rights of prisoners.
- The Health Directions Exemption Service worked in partnership with Legal Services and Crown Law to develop a human rights assessment template and guide to assess and record human rights considerations specifically for exemption requests. A training program was developed for Health Directions Exemption Service staff and has been delivered since early 2021.
- HHS senior leadership groups such as Medical Leaders and Forensic Child and Youth Mental Health Officers received specific human rights training provided face-to-face by the HHS's Legal Services based on human rights implications specifically for their work activities. One HHS also provided education about specific human rights impacts in certain paediatric services.

QCS' Champions Network is made up of 110 members with knowledge of human rights and the interface with the correctional environment. The network has been an effective tool in providing two-way communication with the field, including information to inform QCS specific frequently asked questions.

Human Rights Day continued to be a focus for awareness raising for organisations including QH, CHDE, QPS and QCS. For example, QCS noted that:

On 10 December 2020, the Deputy Commissioner, Organisational Capability issued a broadcast to QCS staff promoting Human Rights Day. The broadcast acknowledged the significant achievements across QCS to support the commencement of the HRA and acknowledged QCS' ongoing commitment to human rights.

CHDE released a short video on International Human Rights Day 2020 which demonstrated to staff how human rights applies to their everyday work, particularly those in housing:

The video was introduced by Mr Mick Gooda, First Nations Advisor, and featured two staff members talking about what human rights mean in their work.

- The first staff member, from Human Resources' Workforce Diversity team, spoke to the interface between human rights, diversity and cultural awareness with a specific focus on staff empowerment and cultural capability.
- The second staff member, from the Specialist Response Team in Housing and Homelessness Services explained "it's not simply about the person's housing needs—from a human rights perspective it's about how does the housing actually help the person meet other interdependent goals, such as their economic outcomes, their social outcomes, their cultural outcomes, their access to healthcare, and their health and wellbeing". She gave an example of how the department applied this perspective to promote a client's right to access healthcare: "We were looking for housing for a person in a particular location in Brisbane and, you know, the stock was really tough, but in negotiating with the customer, their family, and the hospital, we were able to identify that that health need that they had could be delivered from another hospital in a different location and they were happy to consider that location. Guess what? We found them a property."

The Social Policy and Legislation Branch in QH also celebrated Human Rights Month with a staff education session on the conventions for briefing the former Attorney-General and incoming Minister for Health and Ambulance services on human rights. The session focused on the obligations on public entities and incorporating compatibility into briefing materials. It included examples of how to identify limitations, compatibilities and impact statements, including all steps in a section 13(2) analysis.

To celebrate a culture of human rights, a Hospital and Health Service (HHS) has produced a video<sup>71</sup> on the meaning of human rights in the HHS and the importance of protecting human rights when delivering health services to the public. The video was broadcasted by former Chief Operating Officer now Acting Chief Executive, Adjunct Professor Jackie Hanson, to all staff on 10 December 2020 to reflect the significance of International Human Rights Day in our organisation.

### Future focus

Almost all of the state public entities noted that training is mandatory and has been incorporated into induction for new staff, which will be essential to ensure that knowledge is not lost over time as a result of staff turnover.

At the QPS, training was compulsory for all members up to the level of Chief Superintendent and Executive Director in the last reporting period, and now forms part of induction training for all new members.

As well as formal training, resources are generally available to staff on an ongoing basis through intranets.

For example, a human rights microsite on the QCS intranet provides relevant resources and information to assist staff understand their obligations under the Human Right Act. It includes Queensland Government factsheets, guidelines, posters, presentations and videos. The microsite also includes a summary of updates to QCS policies and procedures and Commissioner and Deputy Commissioner broadcast announcements.

### Impact of COVID-19

While in the first year of the Act, COVID-19 was seen as a barrier to achieving the training goals set by organisations, a move to online training including webinars and video-conferencing has meant that no state public entities were reporting similar issues in the second year.

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<sup>71</sup> 'Celebrating Human Rights', *Metro North Hospital and Health Service* (2021). Available at: <https://vimeo.com/488799756>  
*Human Rights Act 2019 Annual Report 2020-2021*

## 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

Department of Education delivered internal and external communication campaigns, and has invested in targeted learning resources including animation:

Over 20 targeted resources have been developed to raise awareness and knowledge amongst staff to assist them in meeting obligations under the Act. Within this suite of resources, two public-facing animations have been published to further build awareness and understanding of human rights within both schools and the broader Queensland community. The animations contextualise human rights considerations by using an example of student dress code.

The Queensland Health *Mental Health Act 2016* website now includes a statement acknowledging the Human Rights Act and directs members of the public to the Commission's website and resources for further information. The statement acknowledges the obligations of all Queensland Health staff, including in HHSs, to comply with the Human Rights Act and consider human rights in making decisions or performing a function under the Mental Health Act.

Over 2020/21, DCYJMA developed and implemented a communication strategy for human rights. It includes social media promotion (across Twitter and LinkedIn accounts), which are predominantly sector focussed. Outcomes include:

- DG message to foster carers providing a link to information
- DG message to parents providing a link to information
- DG message to the sector with a link to information
- A brochure has been developed outlining the process to make a complaint about human rights targeted at general clients and young people in residential care
- Developed a new poster for display in child safety service centres on making a complaint about human rights
- The poster for young people has been posted to the DCYJMA website

- We reviewed the departmental brochure on making a complaint to include the process for making a human rights complaint
- This brochure has been posted to the DCYJMA website
- We added new content to the departmental complaints' webpage on human rights with a direct link to the QHRC
- We published a message on Kicbox, an app for children and young people in out of home care to access information
- We have posted human rights content on the DCYJMA Twitter account
- Features are posted on the intranet, the DCYJMA home page, the Queensland Government community support franchise page and SFCF homepages
- We have published features on the departmental external website

The SDSATSIP reported on a number of human rights related community engagement activities such as:

....through its regular 'eblast' Newsletter by promoting consultation opportunities for all jurisdictions, especially where input from people with lived experience of disability is encouraged. The eblasts also enable key information and updates from the Disability Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability to be shared amongst a broad subscriber base of people with lived experience, their families, carers, and those working within the disability sector. A human rights approach informed heavily by the United Nations Convention on the Rights of Persons with Disabilities has been a key theoretical approach taken by the Disability Royal Commission in informing their Inquiry.

And:

The annual Elder Abuse Awareness Campaign was again delivered in 2020–21 to safeguard the right of older people to live free from abuse. The theme of the campaign was "Together we can stop elder abuse", and encouraged older people, their friends and family who have concerns about an individual at risk of, or experiencing elder abuse, to act by contacting relevant services and supports.

The Department of Education has been looking for opportunities to embed human rights in the classroom to improve human rights literacy for children:

The Department of Education supports a whole school approach to talking about and teaching human rights. Mapping of the Curriculum into the Classroom (C2C) units, using the learning area of Humanities and Social Sciences (HASS), was conducted to highlight potential opportunities for embedding human rights education across the P-10 curriculum. This has informed the design of an overarching introduction to human rights for teachers and learning resources for Prep, Year 4 and Year 8. These resources will be available to teachers in 2021-22.

Also, information for parents and families was updated in the reporting period:

The Department [of Education] promoted the revised *Legal requirements to make reasonable adjustments for students with disability* factsheet across all Queensland state schools and updated the external students with disability website providing information for parents and families about Disability Standards for Education requirements.

QCAT has undertaken a Guardianship Reform Project to better inform parties and the public about guardianship and administration application and hearing processes. This project commenced in March 2021 and included website redesign, reviews of relevant forms and the production of three videos (two animated and one live-action) to help individuals understand what to expect before, during and after a guardianship hearing.

## Community consultation

QPS engaged with the Queensland Government's LGBTI Roundtable and community groups to make policy changes regarding transgender, gender diverse and intersex people in the watch house. Further details of the policy changes achieved are noted under Indicator 5.

QH referred to 2 community engagement and consultation groups that aim to protect human rights of marginalised groups during COVID-19:

- COVID-19 Pandemic Response Culturally and Linguistically Diverse Engagement Team; and
- COVID-19 Working Group – Disability support in the Queensland community

Aboriginal and Torres Strait islander Health Division at QH is working in partnership with the Queensland Aboriginal and Islander Health Council (QAIHC) the Aboriginal and Torres Strait Islander community-controlled health peak body, First Nations health consumers and community members to progress the First Nations health equity reform agenda. The co-design process so far has included the release of a Health Equity Discussion Paper and 17 state-wide consultation sessions across the HHSs, with 450 participants including non-government organisations and community.

At DCHDE, the Housing and Homelessness Services area hosted a co-designed workshop with the Queenslanders with Disability Network, which:



...brought together people with lived experience of disability and HHS staff, including departmental Occupational Therapists, and staff from Housing Partnerships, and Property Operations and Support. The workshop built awareness and knowledge about best practice in the delivery of services for people with disability.

- Mr Scott McDougall, Queensland Human Rights Commissioner, opened the workshop reminding participants about the intent and requirements of the Human Rights Act 2019 and the need for accountability and transparency in decision making.
- Real case scenarios were used to explore practice and impact of housing response based on human rights, inclusion and person-centred approaches.
- Key insights from the workshop will be shared more broadly across Housing and Homelessness Services as part of the ongoing awareness of service responses for people living with disability.

An example provided by QH of where community consultation resulted in a positive human rights changes occurred during the review of a Hospital and Health Service's eligibility criteria for their midwifery services. Feedback from the community consultation and engagement identified the need to develop and improve these services in areas that will promote and protect various human rights, particularly the right to the protection of families and children.

## 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, and whether human rights has been embedded into formal contracts.

### Information for related entities

Over 2020/21, CYJMA worked to update its training for foster carers through their Triple R program (roles, rights and responsibilities) to incorporate human rights. Carer training is a joint responsibility of the department and funded Foster and Kinship Care agencies. DCYJMA have updated content for pre-service training which includes updating content on the Human Rights Act and its application to carers. The Statement of Commitment between CYJMA and the foster and kinship carers of Queensland has also recently been updated.



The Department of Education reported working closely with the Parents and Citizens Association (P&C) Queensland, including through the development of a *Human Rights Act 2019* fact sheet and consultation on the department's human rights awareness resources, which includes material to assist department staff in communicating with P&Cs on human rights obligations, and a link to the external P&C Queensland Human Rights fact sheet.

In 2020-21 financial year, QCS also provided information on the Act to education service providers engaged by the agency.

CHDE noted their collaboration with Queensland Council of Social Service (QCOSS), aiming to improve human rights literacy across the housing and homelessness sector, which is made up of a number of non-government organisations working with the Department. This project is featured under the heading *Functional public entities – A human rights approach to housing and homelessness services* on page 117.

## Human Services Quality Framework

As explained in last year's report, the Queensland Government's Human Services Quality Framework (HSQF) was updated to include specific Act requirements, taking effect from 1 January 2020.

The SDSATSIP reported the following progress in relation to the framework:

During 2020–2021, 135 HSQF independent audits that included HR Act requirements were completed for non-Government human services. In eight of these audits, issues were identified with organisations' conformance with HR Act requirements. However, the continuous improvement framework within HSQF has ensured that all these issues have either been addressed or are scheduled to be addressed by the organisations, in line with HSQF Scheme timeframes.

HSQF audits have also allowed for independent HSQF auditors to make observations to improve organisations' human rights-related practices and to identify achievements and good practice.

To ensure that independent HSQF certification bodies and auditors understand the HR Act, comprehensive information has been provided to them about relevant training and resources available, including through the Queensland Human Rights Commission.

The Queensland Council of Social Service (QCOSS) partners with HSQF to provide support to assist non-Government organisations to implement and meet HSQF requirements. QCOSS updated its downloadable HSQF-aligned policy/procedure templates for non-Government organisations to include a Human Rights Policy and Procedure. QCOSS has also conducted a range of webinars and information sessions on the HR Act for the non-Government human services sector.

## Formal agreement requirements

As part of their 2020–21 service agreements with the SDSATSIP, organisations that receive disability advocacy funding must comply with guidelines which cite the need to support people with a disability on an individual basis to uphold their rights and interests, and to increase the control they have over their lives through representation and building the person's capacity for self-advocacy.

The QPS has also embedded human rights obligations into its formal contracts with related entities. As a matter of course the QPS includes clauses in its contracts requiring related entities to comply with their obligations under Australian law, including specifically under the Act where it applies to that related entity.

## 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. Public entities were also asked to give an example, if possible, of legislation introduced that works to respect, protect, or promote rights, along with any examples of good practice in ensuring proper consideration of human rights in legislation development.

### Laws that promote human rights

SDSATSIP noted the passage of two significant pieces of legislation:

- *Disability Services and Other Legislation (Worker Screening) Amendment Regulation 2021* – while rights were limited this was ultimately found to be sufficiently justified.
- *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020* – significant as it promotes cultural rights protected under the Act.

Both are described in further detail in the *Human rights and the Parliament – significant legislation in 2020-21* section of this report (page 38).

The QCS highlighted the passage of *Community Based Sentences Act 2020* and the associated regulation. These promote freedom of movement and the protection of families and children by providing the ability for an offender to request to have their sentence transferred by registration and enforced in Queensland or interstate under the CBS Act, despite serving a community-based sentence that would otherwise limit movement to Queensland or the State in which it was imposed. This can support an offender's connection with family and children, effective rehabilitation, reintegration, and supervision. In turn, this can support an offender's rehabilitation and right to education, health services and family, depending on the reasons for the transfer.

CHDE noted the introduction in the reporting period of the Housing Legislation Amendment Bill 2021, and in particular how it:

...amends residential tenancy law creating a statutory framework for ending a tenancy or rooming accommodation agreement in cases of domestic violence. The amendment helps to achieve the purpose of supporting and protecting individuals from domestic and family violence by enabling them to take steps to protect themselves and escape the violence, thereby protecting and promoting the right to protection of families and children.

QH noted that in August 2020, the *Health Legislation Amendment Act 2020* amended the *Hospital and Health Boards Act 2011* to:

- include a requirement that each Hospital and Health Board have at least one member who is an Aboriginal person or Torres Strait Islander person; and
- require each HHS to develop and implement an Aboriginal and Torres Strait Islander Health Equity Strategy.

The Health Equity Strategies Regulation provides a framework to guide each HHS to achieve a greater impact on health equity and support greater engagement and collaboration in the design, delivery and monitoring of healthcare services.

QH notes that these changes:

...support the cultural rights of Aboriginal peoples and Torres Strait Islander peoples and promotes better health and wellbeing outcomes through genuine co-design, co-ownership and co-implementation. The right to health services is also supported by requiring HHSs to state various key performance measures and other actions to actively eliminate racial discrimination and institutional racism.

## 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.

### Progress of policy and procedure review

State public entities mostly reported that general reviews for compatibility had concluded, and some reported ongoing human rights assessments as and when policies are introduced or amended.

At the Department of Education a Human Rights Impact Assessment must now be completed for all new and reviewed departmental policies. The human rights impacts of over 20 policies, frameworks and projects have been considered over the reporting period to ensure compatibility with the Act. In particular cases, policies and procedures were updated to explicitly reference the Act (e.g. the School Performance Policy and Procedure, released in February 2021, which guides school leaders to continuously improve and evaluate school actions that contribute to all students' learning and wellbeing).

The Department of Education's individual employee grievances policy and procedure was also reviewed and amended to embed the consideration of human rights in managing grievances, and advice of avenues for external review including through the Queensland Human Rights Commission.

QCAT also continues to review and adapt its procedures on an ongoing basis and as required to ensure that it is best placed to assist people to resolve disputes through the access to tribunal services during the COVID-19 public health emergency. For example, during greater Brisbane's 'snap' lockdowns, arrangements are made for hearings to proceed by phone at QCAT and across southeast Queensland or by video conference. This ensures the rights of individuals to a fair hearing are protected during the period of the snap lockdown.

Queensland Health is continuing to progress with its review of all policies and procedures for compatibility with human rights. As previously reported, the review is finding that most if not all, are compatible with human rights. Overall, the reviews have resulted in some minor changes to the wording to:

- include statements about human rights obligations for awareness purposes
- specifically identify human rights relevant to the particular policy or procedures

- make minor wording changes to ensure clarity and provide examples about the limited situations or circumstances that may justify limiting a person's rights, and
- to ensure that the appropriate recordkeeping practices are built into decision-making processes.

Queensland Ambulance Service have developed a specific Human Rights Policy and have identified areas where the protection of human rights can be strengthened. For example, a new operational procedure to support the policy is under development relating to the transport of assistance animals with patients.

## Practice changes

Disability Accommodation, Respite and Forensic Services (DARFS) reviewed its practices in line with the implementation of the Act to ensure compatibility with human rights. A statement was developed to assist DARFS staff to consider, understand and recognise a person's human rights in every decision they make relating to clients when providing direct care and support to clients. There has not been a substantiated claim of breaching human rights against DARFS since the implementation of the Act Statement and awareness training.

An interesting example of how a human rights assessment process can work happened during a review of dental services at one HHS. A human rights issue was identified in that there could be a limitation on the access to culturally appropriate healthcare for the provision of dental (gum) products. Before the human rights assessment the process had been to offer a range of 'most common' gum colour options. After the assessment, a more inclusive and diverse range of colour matches for dental (gum) products has been made available.

## Tools and resources

The CHDE noted the following resources developed to improve staff capability to act compatibly with rights:

- A human rights advice service was added to the support provided by the Service Delivery Help Desk to frontline Housing staff. The service assists staff with general human rights queries as well as the proper consideration process.
- A large internal business system for social housing tenancy management, was updated with expanded content on human rights. The new material assists Housing staff with information, scenario-based examples and guidance on properly considering human rights.

- A 'Human Rights Compatibility Consideration Guide' was developed to assist staff in the proper consideration of human rights in decision-making and to support good-practice recordkeeping. The guide incorporates a flowchart that links to a suite of five compatibility findings.
- A 'Human Rights Compatibility Report' template was developed to assist staff document proper considerations made in relation to Ministerial and Director-General briefing notes.

## Impacts on service delivery

The survey responses indicate that the Act has led to meaningful dialogue and some policy changes, a few of which are highlighted below.

### Human rights of trans and gender diverse people promoted in changes to Operational Procedural Manual

During the reporting period, the Queensland Police Service:

- amended its Operational Procedures Manual (OPM) to modernise operational policies about searching trans, intersex and gender diverse people and policies about prisoner segregation
- approved an internal gender affirmation HR policy to support our people to bring their authentic and best self to work, and to solidify our commitment to creating a safe and inclusive workplace.

These policy changes were made following consultation with stakeholders including the Queensland Human Rights Commission, the Queensland Government LGBTI Roundtable and community groups. These direct consultations with experts ensured the policies were robust and inclusive, while respecting and promoting human rights.

### Human rights dialogue around fresh air in hotel quarantine

The Commission, QPS and Queensland Health had a number of meetings during the reporting period, working towards a hotel quarantine environment which is the least restrictive on human rights possible, while still responding proportionately to the health crisis during COVID-19. These conversations reflect one of the goals of the Act: to create dialogue around the meaning and purpose of human rights.

For a period, this dialogue resulted in QPS and QH maintaining a focus on human rights by ensuring people had access to fresh air, including through sourcing appropriate accommodation, fresh air walks, and other supports the person might need. Unfortunately, because of the introduction of more contagious variants of COVID-19, and a lack of available hotels with balconies or opening windows, access to fresh air was not sustained in the longer term. On the other hand, purpose-built quarantine facilities are currently under construction which will hopefully improve conditions in future.

### Virtual visits, court appearances and prisoner health

Last year, the Commission highlighted the introduction by QCS of the virtual prisoner visits with family, which promoted the rights to freedom of expression and protection of families and children. All 11 high security correctional centres, Helena Jones, and Capricornia Low Security Centre have this capability, which can be utilised when lockdowns are required to prevent COVID-19 entering the prison environments.

Court video-conferencing has also been expanded which may promote fair hearing and rights in criminal proceedings by reducing delays when a prisoner cannot attend court in person.

During the reporting period, a state-wide Memorandum of Understanding between QH and QCS for the delivery of health services to prisoners was updated to align with human rights – this replaces 8 separate MOUs to improve consistency of service, and is accompanied by a new strategy *Reducing the barriers to health and wellbeing: The Queensland Prisoner Health and Wellbeing Strategy 2020-2025*.

### Locked wards and seclusion under the Mental Health Act

QH noted a number of examples of strengthened protection and promotion of human rights as a direct result of the review of policies and procedures, and in particular in the mental health area. These developments include:

- A review of the MH Act Statement of Rights in 2021 resulted in the inclusion of an acknowledgement of staff obligations under the HR Act, including that a doctor or authorised health practitioner must if requested explain to or refer a patient to the HR Act.
- Requiring clinicians performing functions or exercising powers under the MH Act to ensure unique age-related, cultural and spiritual, gender-related, religious and communication needs are recognised, respected and followed to the greatest extent practicable. The policies also highlight consideration of timely involvement of a person's local supports.



- Human rights assessment of the Locked Ward Policy and Directive issued 2013, which identified that there may be less restrictive ways to achieve the objectives of the current policy and directive, prompting a review of the policy to be commenced in 2021 which may lead to discretion in locking wards.
- Support for a trial of discretionary locking at a Mental Health Service in South East Queensland for a period of six months, the evaluation of which will form the review project.
- Amendments to the Chief Psychiatrist's Seclusion Policy provide a greater level of guidance on seclusion management under other legal frameworks and encourages services to seek local advice and refer to local HHS policy. Services are directed to also consider whether patients meet the criteria for treatment and care under the MH Act. Services are now also required to escalate matters in which any seclusion management occurs under legal frameworks other than the MH Act as a significant event and/or as a potential non-compliance event to the Chief Psychiatrist. In addition the policy also clarifies expectations regarding appropriate use of emergency authorisation of seclusion in relation to limiting consecutive authorisations.

QH also committed to future:

...development of a system and checklist for documenting human rights considerations as part of decision making under the MH Act in relation to Chief Psychiatrist public interest decisions (for directing psychiatrist reports and making references to Mental Health Court) to ensure adequate documentation of the decision-making process. This will be supported by internal training on incorporating human rights consideration into this decision-making process.

## Indicator 6: Internal complaints

The Commission asked state government entities how they have incorporated human rights into complaint handling processes and whether barriers have been identified to identifying, considering and responding to complaints.<sup>72</sup>

The results were promising, with some agencies indicating service improvements in direct response to issues raised under the Act.

In 2020/21 CYJMA took the following actions regarding internal complaints:

<sup>72</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.  
Human Rights Act 2019 Annual Report 2020-2021



- worked with the Queensland Ombudsman to deliver complaint management training to more than 210 staff in the department both centrally and regionally and also key staff from each CSSC. The training included how to manage and report on human rights complaints.
- strengthened the human rights reporting both for complaints and Professional Standards areas of the department.
- released and implemented a 'First Attempt at Resolution Practice Guide,' a resource for front-line service centre staff to support them in managing early resolution of complaints. This includes content on considering human rights in decision making.

The CYJMA noted that the decision-making framework designed in 2020 to assist decision-making is compatible with human rights considerations regarding family contact and other relevant service provision is still being utilised by frontline staff.<sup>73</sup>

SDSATSIP noted that its publicly available Complaints Management Policy embeds the application of human rights in the assessment of all complaints and that:

The inclusion of human rights into the policy has changed the way complaints are assessed as human rights issues are actively sought now, and if identified, referred to the relevant service area for assessment, or advice provided to contact the Human Rights Commission.

In responding to complaints, QCAT has engaged directly with clients about human rights issues for the purpose of responding to issues raised, gaining an understanding of the issue direct from the client and at the same time identifying any need for process improvement, as well as QCAT staff training.

QH had already incorporated human rights into existing complaints processes but is continuing to improve and refine the process across the system as it has been identified as an area that needs further work. QH did however report some success in resolving complaints internally, for example:

Complaints alleging breaches of the right to privacy in relation to patient records are a common theme arising for human rights complaints. Of substantiated complaints, most of these have been resolved internally by providing the complainant with an apology and the requiring the subject employee to undertake further privacy training.

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<sup>73</sup> Department of Children, Youth Justice and Multicultural Affairs (Qld), *Annual Report 2020-2021*, 33.

## Learning from complaints

QCAT expressed that it has:

processes in place to manage human rights complaints and ensure dialogue in terms of learnings in response to those complaints. An example of this is that QCAT's Management Team (Registry) ensures that any factors which are raised in a complaint requiring registry consideration and change are discussed as a team. This is to make sure that lessons learned, and registry changes are cascaded to all team members. In practical terms this promotes a dialogue about the nature, meaning and scope of human rights.

The CHDE also indicated a genuine intention to learn from complaints by building 'human rights profiles' at departmental and divisional levels: The rights most commonly exercised by complainants in the reporting period were: the right to equality; freedoms of expression and movement; privacy and reputation; and the right to property. The human rights profiles will be used to inform the design of training, resources and engagement campaigns, tailored with a focus on the rights most often engaged throughout the department's portfolio areas.

QH reported that Hospitals and Health Services (HHSs) are using complaints as training and awareness opportunities and examples about service delivery and access to services to make improvement, for example:

One HHS has implemented a process to analyse trends and themes that are forming from human rights complaints. This information will be used to inform improvements for the provision of health services for patients and their families.

Some HHSs report human rights complaint data every month to their Quality and Safety Committee, Executive Leadership Teams and the HHS Boards to ensure senior leadership is aware of the concerns that are being raised by patients and their families in relation to human rights.

## Changes implemented following complaints

Some state public sector entities had noted service improvements as a response to issues arising from complaints.

The Department of Education provided the following case study to illustrate this:

The department remains committed to embedding human rights into complaints processes to prompt further policy change. A specific example of this commitment can be observed through the management of a human rights complaint utilising the department's customer complaints management framework.

A complaint was received by the region, following a procedural error that resulted in a breach of the student's privacy and reputation. As an outcome of the complaint, a review of the department's Managing student absences and enforcing enrolment and attendance at State Schools procedure was undertaken, resulting in additional processes being put in place.

Following a complaint, the CHDE determined its first 'non-compatible' finding during the reporting period took steps in response:

A divisional feedback loop was established to ensure proper governance in relation to such findings. The dialogue-based approach used has successfully ensured that relevant staff have the information needed to continue to refine processes and support capability with a human rights lens.

QH provided a number of examples of how early complaints had been the trigger to improve human rights compatible decision-making in relation to mask-wearing:

HHSs are reporting that the application and communication of mandatory mask requirements for visitors has improved with patients attending outpatient appointments as a result of concerns raised earlier about human rights.

For example one HHS identified an opportunity to ensure staff were aware of the requirements and an escalation path to follow where a visitor has identified that they have an exception for the mandatory mask requirements. Staff were provided with information and education about how to consider and balance human rights if informed that someone has an exemption reason for not wearing a mask.

## Challenges or barriers to dealing with complaints

No agencies identified COVID-19 restrictions as a particular barrier to dealing with complaints. However, QPS noted that an extra layer of complexity in that:

QPS regularly enforce directions made by the Chief Health Officer under her statutory powers. Because complaints about this type of enforcement also relate to the exercise of the Chief Health Officer's power to make those directions, they involve both the QPS and Queensland Health. These complaints are referred to Crown Law to act on behalf of the State.

One challenge noted by CHDE was the changes in portfolios after the commencement of the new Queensland Parliament following the 2020 state election, which has meant realigning approaches to human rights implementation.

## 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.

Most of the entities had plans prepared for the next year and beyond to continue to embed human rights.

The future plans for CYJMA include:

- Working across the organisational units to continually improve and streamline the process for human rights complaints, including recording and reporting mechanisms to promote transparency and accessibility for complainants
- Commencing monthly auditing of human rights complaint allegations to ensure human rights allegations are being accurately recorded and managed by complaint investigators
- Mandatory training for new Child Safety staff in complaints management which includes human rights considerations
- Continual communiques to staff and NGOs to ensure human rights considerations are always at the fore in relation to our work across the department
- Continual updates to our key peaks and stakeholders of our progress towards embedding human rights and provide opportunities for collaboration to ensure the strengthening of compatibility with human rights
- Continuing to consider human rights compatibility as part of the scheduled review of departmental policies and procedures
- Development of a communications plan for young people in detention
- Development of a feedback mechanism for internal CYJMA staff in relation to existing training and future skill and knowledge development

The SDSATSIP noted future plans including:

- Working towards nationally consistent authorisation processes for the use of restrictive practices as part of specialist disability services – all policies and procedures relating to restrictive practices are currently under review

- Continued active focus on maximising opportunities for Queenslanders with disability to access specialist disability services
- Supporting the human rights approach of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability
- Review of legislative incompatibilities in the Aboriginal and Torres Strait Islander Partnerships business area.

The Department of Education will continue to embed its approach to strengthening and ensuring sustainability of implementation measures across its business areas. The department has embedded responsibility in each line area for ongoing implementation and support in capability development to meet obligations under the Act. Capability and development will be advanced further by the release and communication of human rights in education curriculum resources.

QCAT expressed a commitment to continuing to promote human rights training to staff, including training modules available through DJAG Human Rights Unit and the Queensland Human Rights Commission. QCAT is also committed to on-the-job human rights training and using practical everyday examples and situations to:

- help staff deal with human rights matters/issues as they arise;
- ensure an ongoing dialogue about human rights considerations; and
- enhance the capability of staff in anticipating, identifying and responding to human rights issues.

To support the objects of the Act, QCS will continue to 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.

CHDE will continue to work with QCOS on Stage 2 of the project with Housing and Homelessness Services.

QH is committed to continuing to embed a culture of human rights into the organisation. The Queensland Health Human Rights Working Group will continue to meet as long as representatives feel the need and to ensure momentum is maintained across the system.

QH noted an ambitious list of future plans across HHSs and the Department and some highlights include:

- As human rights continue to be embedded across the system Queensland Health plans more efficient approaches to collecting complaints data, considering lessons learnt and identifying key themes. This will inform the development of further Queensland Health scenario-based exercises that will be built into existing resources and training. As the complaints process is being finessed and more complaints are forthcoming, Queensland Health will look to analyse increasingly substantive complaint data.
- The Independent Patient Rights Adviser Network is in final phase of beta testing the MyRights Application (App), which can be downloaded onto mobile phones and tablets. The App provides information about consumer and carer rights under the MH Act via interactive tutorial videos.
- One HHS is establishing a Human Rights Review Panel that will meet regularly and has capacity to provide guidance to staff regarding the application of human rights within the HHS.
- Other HHSs are in the process of onboarding and training human rights champions or ambassadors within their HHSs to provide support and coaching for other staff.
- As a state-wide paediatric health service, Children's Health Queensland is developing an age appropriate children's guide to human rights to assist patients and families in promoting and understanding their human rights. Comprehensive consumer engagement with children, young people and families who attend the facilities and engage with the service is planned.

# 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 7: Staff training completed by key local government entities, 2020-21*

| Local councils         | Training received during reporting period  |
|------------------------|--|
| Ipswich City Council   | <p>Council's legal services delivered a series of tailored human rights workshops targeting senior management and human rights champions.</p> <p>Council's legal services developed online human rights training in September 2021.</p> <p>Incoming staff receive human rights online training from the Commission's 'public entities online training module' with 724 staff completing the training module.</p> |
| Logan City Council     | <p>Council has developed mandatory online training for councillors, staff and incoming staff.</p> <p>Council has developed a bespoke induction program with focused Human Rights Act modules.</p>  |
| Sunshine Coast Council | <p>Council has developed 'Human Rights Act Awareness training' with a face-to-face learning module and online training modules that require decision making compatible with human rights tailored to Council.</p> <p>12% of staff have completed the training, this is due to the impact of COVID-19 on the face-to-face training.</p>   |

|                         |   |
|-------------------------|---|
|                         | All incoming staff receive an online Code of Conduct training which specifically incorporates human rights obligations.   |
| Gold Coast City Council | Customer-facing teams have received online training.  |
|                         | Council's Legal Services branch has met with various areas across Council to discuss the Act.   |
|                         | Council has provided online training through the Commission's website.  |
| Mackay Regional Council | No training implemented in relevant period.   |
| Brisbane City Council   | Training has taken various forms, dependent on the needs of specific work areas, and has included workshops for staff to identify the ways in which human rights may arise in their roles, formal training on the justification of limitations process under s 13 of the Human Rights Act 2019 and an informal "lunch and learn" session which sought to raise awareness and create discussions around embedding a human rights culture in Council. |

Most of the councils were able to provide human rights training for their staff; however, many of them were impacted by the COVID-19 pandemic. Many councils took the initiative to develop their own training for staff in human rights. Councils such as Brisbane City Council are in the process of developing human rights online training modules to reach broader staff. Gold Coast City Council have organised their in-house Counsel to advise teams of human rights obligations.

Ipswich City Council provided tailored human rights training to 20% of ongoing staff, and 724 incoming staff completed the online training module. Where training had occurred, the roll out was still in the early stages. Sunshine Coast Council were able to provide 12% of staff with human rights training.

Brisbane City Council hired a Senior Human Rights Officer to be the point of contact for all human rights-related matters. Ipswich City Council and Sunshine Coast Council encouraged the discussion of human rights by publishing information through internal and external material such as quarterly newsletter.

Sunshine Coast Council explained that:



Both the online and face to face Human Rights Act Awareness training modules encourage discussion and feedback during the session or through a post session survey. The training is regularly updated and improved based on this feedback. We also regularly check the [forgov.qld.gov.au/humanrights](http://forgov.qld.gov.au/humanrights) website for any new training materials and update our records accordingly.

## 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.

### Community engagement and information, and community consultation

A number of councils have made concerted efforts to ensure that their constituents know about the Act, understand they have human rights, and are informed 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.

Many councils have provided information on human rights to the community through their websites. Brisbane City Council has updated its website and made their Senior Human Rights Officer available to meet with community inclusion work areas.

Gold Coast City Council updated their engagement policies and utilise their current methods of community engagement, such as complaints, to refine their human rights policies.

Ipswich City Council continues to dedicate a whole webpage to human rights and is engaging through their Community Reference Group. The Council states that the methods of consultation were diverse and included:

- digital engagement on Shape Your Ipswich – survey and open comment tools
- three ZOOM webinars – two for the whole-of-community and one targeted at young people
- market research (semi-structured tele-interviews)
- face-to-face workshop and yarning circle with the Murri Interagency
- artistic visioning competition and an Instagram competition
- school-based surveys

- iFuture displays [(corporate plan)] and paper-based surveys at all community centres
- study circles, supported by a DIY Community Conversation Guide
- three face-to-face drop-in sessions at the Central, Rosewood and Springfield libraries (with interpreters).

## 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

Progress has been made by councils in advising related entities about their duties under the Act. Most councils have updated, or are in the process of updating, their policies to ensure that third parties understand their obligations. Some councils have also created specific fact sheets or changed contracts to reflect the Act's requirements.

Sunshine Coast Council has a comprehensive framework for its procurement and contracting activities, underpinned by legislative requirements. At present, their contracts require contractors to comply with any and all legislation relevant to, or in any way applicable to, the contractor performing its obligations under the contract. They support their contractors by incorporating consultation on their legislative obligations during this procurement process.

Ipswich City Council supports its contractors by sending letters to all its suppliers advising:

- the commencement of the Act
- the requirement for 'functional public entities' to comply with the Act
- enclosing the fact sheet (Contractors and Grant Recipients of Council – Obligations under the Human Rights Act') council developed during the last reporting period
- directing them to the Commission website for more information and resources.

## Indicator 4: Reviews and development of laws

The Commission asked councils to point to a local law or subordinate local law that has been introduced in the financial year 2020-21 that is significant in terms of human rights and provide any examples of good practice in ensuring the proper consideration of human rights is part of local law development.

Although no new laws or amendments were adopted in the 2020-21 financial year, it is positive that councils are reviewing current processes in the development of local laws and subordinate local laws to ensure that they are consistent with Council's objectives of creating a culture of human rights within their relevant regions.

## Indicator 5: Review of policies and procedures

The Commission asked councils to report on reviews of policies and procedures for compatibility for human rights including examples of changes to policies, procedures or service delivery, if any.

### Review of policies and procedures

All surveyed local councils have endeavoured to review and amend laws, policies, templates and administrative directions to ensure they are consistent with the Act.

Logan City Council sought assistance from an external provider to review and assess compatibility with the Act.

Sunshine Coast Council have reviewed their policies and procedures:

...by qualified and skilled professionals within the council who are adept at this task, ensuring policies and procedures align to and incorporate relevant legislative obligations.

It is Sunshine Coast Council's position that policies and procedures are compatible with relevant right protected in the Human Rights Act 2019, and do not limit a human right. Those procedures that have been identified as potentially limiting a person's rights, contain actions/directions as a result of risk assessments, however the relevant legislation justifies the action/direction deeming them compatible.

Sunshine Coast Council states a positive change that has resulted from this review:

First Nations Aboriginal and Torres Strait Islander Employment Guideline has been developed in response to Council's initiative towards more inclusive recruitment and our obligations under Council's Reconciliation Action Plan.

Ipswich City Council has commenced the review of its policies, procedures and administrative directives but extended the deadline for completion due to the volume of documents. They have also decided to implement a cross-departmental policy review working group to assist in completing the review. The working group will consist of policy officers from each department who will meet on a regular basis to review the outstanding policy documents.

Brisbane City Council has reviewed approximately 370 policies, procedures and guidelines. Each of these have been reviewed for their compatibility with human rights and only a nominal number of documents were identified as requiring minor amendments to ensure human rights compatibility.

Brisbane Council has identified policies which they understand positively engage human rights:

In particular, Council's suite of 'Zero Harm' policies which seek to ensure staff safety positively engage the right to life. Similarly, Council's Aboriginal Cultural Heritage procedure positively engages the cultural rights of Aboriginal and Torres Strait Islander Persons under s 28 of the Human Rights Act 2019.

Mackay Regional Council has reviewed its policies, and the normal process is where policies have a human rights component, a definition and statement will be included in the policy.

### Tools and guidance

In addition, some local councils including Brisbane City Council, Ipswich City Council and Gold Coast City Council have created or amended checklists and cover pages to provide guidance to ensure staff make human rights compatible decisions.

Ipswich City Council has amended its policy, procedure and administrative directive templates to include a mandatory human rights section. Prior to adopting a new policy document, or amending an existing policy document, a human rights impact assessment must be undertaken using the human rights impact assessment checklist.

## Indicator 6: Internal complaints

The Commission asked councils about how they have incorporated human rights into complaint handling processes and whether barriers to identifying, considering, and responding to complaints have been found during this process.

Sunshine Coast and Gold Coast City councils are utilising tools such as case file coversheets or checklists to ensure that human rights are considered in every case. However, the responses indicated that very few complaints were identified across the surveyed councils.

Mackay Regional Council has integrated human rights complaints in their policy and procedure but has not observed any change to complaints generally, and did not receive any human rights complaints in the reporting period.

Brisbane City Council explained the process by which complaints are dealt with:

Complaints which contain a human rights component are handled by or in consultation with Council's Senior Human Rights Officer. All complaints are handled sensitively and expediently, with a comprehensive human rights impact assessment conducted to ensure an appropriate response and identify any areas for improvement within Council. Council has received a low volume of human rights complaints in the 2020/21 period. The performance of the complaints process will continue to be monitored in order to identify and implement improvements where appropriate.

## 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.

All councils intend to provide further training for staff and information for contractors, and continue to review policies and procedures to ensure they are compatible with human rights.

Ipswich City Council would also like to develop fact sheets on specific human rights issues and develop community engagement by publishing information in the quarterly newsletter.

Mackay City Council endeavours to implement human rights into leadership and induction packages, add human rights into community groups and plans for future community engagement and consultation surveys. They will add human rights to commercial and contractual considerations and documents and align human rights with other similar conditions such as workplace health and safety.

Sunshine Coast Council is continuing their commitment to human rights by not only continuing the training but also by keeping:

...human rights obligations at the front of mind for all employees when decision-making is required across the business.

Some of the high priorities for Logan City Council include:

- Provision of targeted face to face training for Council employee's that are more likely to deal with human rights issues or receive and deal with human rights complaints;
- Consideration of the implementation of human rights questions and concepts into the recruitment processes of Council and into annual staff performance reviews;
- Offer training session to contractors on the Human Rights Act and obligations imposed on functional 'public entities'.

# Progress towards a human rights culture in government and councils

The Queensland Government employs a large and decentralised workforce which requires advice, education, and awareness about human rights obligations on an ongoing basis. In 2020–21, state public entities employed around 235,447 staff.<sup>74</sup> Of these, 34% worked in education and 40% in health. Nine out of 10 employees worked in frontline roles, and most (64%) worked in regional areas.

In a geographically large and diverse state, there are additional challenges in training the whole of the public sector workforce and in reaching regional and remote communities to educate and consult about their rights. In this context, the numbers of public servants who have already received training is impressive.

The Commission is encouraged that both policy reviews and complaints are uncovering issues that are then being addressed at an early stage by some public sector entities. One such example is the review of a mental health policy for locked wards which will eventuate in a trial of discretionary locking of doors depending on individual circumstances. The fact that several public sector entities commented about an intention to learn from human rights complaints, rather than adopting a defensive position, is also encouraging as it will hopefully result in continuous improvement.

In Queensland there are 77 local government areas, each tasked with individually implementing the Act. Without coordination of this process, it is likely that this rollout will be patchy. Councils overall appear to be at an earlier stage compared with the state government entities in embedding the Act, with fewer staff having been trained, and very few human complaints being made (or identified). The Commission expects that this has been a combination of COVID-19 diverting resources, minimal to no resourcing for dedicated implementation teams, and also the lack of an overall coordinated approach. In contrast, the Queensland public sector entities have had the benefit of the ongoing support of the Department of Justice's Human Rights Unit.

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<sup>74</sup> Public Service Commission (Qld), 'Queensland public sector workforce profile as at March 2021 – quick facts' (web page).

On the other hand, some of the larger and more well-resourced councils in the South-East Queensland region have made some promising progress, dedicating staff to the task of implementing the Act and communicating to the public about their rights.

## Human rights leadership

In a public service environment that is increasingly complex and resource-poor, it might be tempting for public sector leadership to complete formal implementation activities and treat human rights as a box now ticked. This is of course the antithesis of what is expected under the Act.

Reassuringly, some of the government departments and councils surveyed for this report recognised culture building as a long-term leadership goal. While reflecting the importance of aligning the organisation's core values with the promotion and respect of rights, CYJMA expressed that senior leaders have:

...a long-term commitment to continually building on the capacity of the department relating to the promotion of human rights, both internally and externally, providing opportunities for capacity building through skill and knowledge development for all staff and building a positive culture that is value driven.

Brisbane City Council has also demonstrated a commitment to the long-term, by hiring a dedicated Senior Human Rights Officer to carry on the Council's work of implementing the Act and developing a human rights culture.

The need to respond to the Commission's human rights Indicators has in itself encouraged shared vision and responsibility at the executive level for human rights culture. For example:

One HHSs has assigned responsibility for each indicator to an Executive to champion and to be responsible for tracking and responding to questions in relation to indicators 1 – 6. All indicators have been supported by executive leaders through their planning activities and engagement with staff and consumers, using Executive Leadership Committee as a formal mechanism to maintain awareness and obtain endorsement of relevant initiatives.

## Education as a first priority

The importance of leading meaningful and ongoing education was expressed by a number of public sector entities, including QPS, QCS and QCAT along with Brisbane, Logan, Ipswich and Sunshine Coast councils.



An example follows of a leadership team prioritising the ongoing training of senior staff:

QCAT's senior leadership team ensures that training is coordinated for both the Tribunal and the Registry staff. The Tribunal's training includes a 'First Friday' training session, facilitated by one of QCAT's Senior Members. This training provides a forum for the members and adjudicators to discuss issues, including those relating to human rights.

This is particularly significant as QCAT has made the majority of human rights decisions compared with other courts or tribunals.

Members of the QPS Senior Executive Leadership Team regularly discuss human rights considerations in their business as usual activities, where relevant to a topic. To assist them in this work, they receive briefings and advice from the QPS Legal Division on the operation and implementation of the Act.

Brisbane City Council has identified strong enthusiasm and commitment across leadership when it comes to understanding and implementing obligations under the Act, recognising that in the early phases the focus must be on education.

Logan City Council has similarly expressed that senior leadership has been "diligent" in their support of embedding human rights across the business with an implementation timeline now approved.

Senior management in Ipswich City Council has demonstrated a commitment to embedding human rights by employing an officer dedicated to the role of coordinating the implementation of the Act, and supporting and participating in this ongoing work.

### Human rights as a strategic goal

Including the need to respect, protect and promote human rights as a strategic goal in planning documents will hopefully ensure that public sector leaders will keep human rights front in decision-making.

For example, CYJMA expressed an intention to continue to make progress towards embedding human rights in everyday business through including human rights in their strategic plan.

Also, the CHDE's 2021-25 strategic plan features the Department's commitment to human rights as follows:

Respecting, protecting and promoting human rights as the cornerstone of a fair and inclusive society.

QPS' Strategic Plan 2021-2025 also includes a commitment to respect, protect and promote human rights in decision-making and actions.

Similarly the commitment to human rights at the senior leadership level is evident through Department of Education Strategic Plan 2021-24 and Department of Education Human Rights Framework.

Further to this commitment, senior leaders within the Department of Education have conducted consultation with specialist units to enhance the presence of human rights within Cultural Leadership Capability.

Another strategy to keep human rights on the agenda is reflected in DSATSIP's approach:

The HR Act implementation is also an item for quarterly consideration at the department's Board of Management meetings, which includes a written update on implementation progress.

Sunshine Coast Regional Council's Senior Leadership also consider the application of human rights in the preparation of all reports and recommendations for consideration by Council at its Statutory Meetings.

Embedding human rights in strategic direction and then keeping it on the agenda at the highest levels are important strategies to maintain focus in the long-term.

### Human rights focussed leadership during COVID-19

QH noted that, despite the challenges presented by COVID-19:

There has also been a system wide change management process to keep human rights at the forefront of everything we do. The culture of properly considering human rights in all actions and decisions is being embedded in policies and procedures system wide.

In fact, many of the examples provided of positive developments have derived from issues arising because of COVID-19. While it is now difficult to imagine a response to COVID-19 without a *Human Rights Act 2019*, there are certainly signs that leadership during a time of crisis has been positively influenced by the framework provided by the Act.

# Human rights in vocational and tertiary institutions

Further education bodies including public universities and vocational education bodies in Queensland are bound by the *Human Rights Act 2019* and are required to report about complaints and other activities under section 97 of the Act.

The annual reporting periods for universities are by calendar rather than financial year, but the Commission has drawn on the content from the 2020 reports in compiling this summary.

Some actions had been taken towards building a culture of human rights, but approaches were fairly inconsistent. Most institutions had commenced or completed a policy review, but few reported on any particular changes that had been made as a result. Some had commenced training but none indicated that training was mandatory. Only a handful of complaints were identified as being about human rights; it is unclear whether the further education bodies were requiring a complainant to refer to 'human rights' specifically for it to be categorised as such.

## Policy review

TAFE Queensland noted that:

In 2020-21, TAFE Queensland has taken a proactive approach to further the objectives of the *Human Rights Act 2019*. TAFE Queensland is in the process of reviewing and undertaking amendments to policies and procedures, and the business practices underpinning these, to address the organisation's human rights responsibilities.<sup>75</sup>

Griffith University's (Griffith) report highlighted an initiative to review and strengthen policies on academic freedom and freedom of speech to ensure that policies reflect diverse viewpoints. Griffith further noted that student and academic policies are under view to ensure alignment with the Act.<sup>76</sup>

Queensland University of Technology (QUT) reported that it has been:

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<sup>75</sup> TAFE Queensland, *Annual Report 2020-21*, 20.

<sup>76</sup> Griffith University, *Annual Report 2020*, 26.

...integrating human rights considerations into policy and procedure including the QUT Staff Code of Conduct, QUT Student Code of Conduct, Management of student misconduct policy, and various policies relating to the hiring and accessing of university spaces.<sup>77</sup>

QUT also noted that the particular issues considered in reviewing the Staff Code of Conduct included academic and intellectual freedom and initiatives on sexual assault and sexual harassment.<sup>78</sup>

James Cook University (JCU) noted it had updated policies, processes and procedures with respect to human rights compatibility.

University of Queensland (UQ) had implemented processes to ensure new policies and procedures and amendments to existing policies and procedures have adequate regard to the principles for the protection of freedom of speech and academic freedom, and are compatible with human rights.<sup>79</sup>

University of Sunshine Coast (USC) had updated existing policies and legislation, and created a decision-making tool to support human rights compatible decision-making. A human rights certification is included in papers presented to the University Executive and approval requests to the Vice-Chancellor and President.<sup>80</sup>

University of Southern Queensland (USQ) reviewed complaint policies and procedures to include guidance for staff, students and the public about human rights complaints processes. 14 human resource policies were revised, executive management were briefed on human rights principles and the implications of the Act and processes were established to embed human rights principles into future policy development.<sup>81</sup>

## Complaints

Central Queensland University, QUT, USQ and USC reported that they had not received any human rights complaints in 2020. TAFE also reported that they not received human rights complaints in the 2020-21 period.<sup>82</sup>

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<sup>77</sup> QUT, *Annual Report 2020*, 12.

<sup>78</sup> Ibid 11.

<sup>79</sup> The University of Queensland, *Annual Report 2020*, 33.

<sup>80</sup> University of the Sunshine Coast, *Annual Report 2020*, 44-45. t

<sup>81</sup> University of Southern Queensland, *USQ Annual Report 2020*, 22. t

<sup>82</sup> TAFE Queensland, *Annual Report 2020-21*, 20. t

JCU reported the details of 3 human rights complaints – 2 of which had been resolved through the Commission’s conciliation process, and 1 that was before QCAT.<sup>83</sup> Two of the 3 were about reasonable adjustments for a disability and another was about exclusion from a program where a student was deemed not suitable to continue.

Griffith University received 5 human rights complaints in 2020, 4 of which were unsubstantiated, and 1 which was currently under investigation at the time of writing.<sup>84</sup>

UQ received 2 complaints during 2020 that raised human rights concerns and those were under consideration at the time of writing.<sup>85</sup>

## Training

QUT had commenced training key staff about the requirements of the Act and developed internal guidelines to assist decision-makers in giving proper consideration to human rights.<sup>86</sup>

A human rights awareness training package was made available to all Griffith staff in 2020.<sup>87</sup>

USC had rolled out staff training and awareness activities, and resources regarding human rights on the intranet.<sup>88</sup>

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<sup>83</sup> James Cook University, *2020 Annual Report James Cook University*, 23.

<sup>84</sup> Griffith University, *Annual Report 2020*, 26.

<sup>85</sup> The University of Queensland, *Annual Report 2020*, 48.

<sup>86</sup> QUT, *Annual Report 2020*, 12-13.

<sup>87</sup> Griffith University, *Annual Report 2020*, 26.

<sup>88</sup> University of the Sunshine Coast, *Annual Report 2020*, 44.

## Functional public entities

Functional public entities are those which are only public entities when they are performing certain functions. Including these under the Act reflects the modern operation of the government, where non-government entities are engaged in various ways to deliver services to the public, on behalf of the government or another public entity. A private company managing a prison would fall under this category: they would be a functional public entity when delivering their prison management services, but not for other work they may carry out as a private company not on behalf of the state.

Functional public entities have a vital role to play in building a human rights culture in Queensland, as many have a direct role in the delivery of essential services including disability services, aged care and housing.

An example of a positive, collaborative approach towards building a human rights culture led by and involving non-government organisations is described below.

### A human rights approach to housing and homelessness services

Queensland Council of Social Service (QCROSS) and the Department of Communities, Housing and Digital Economy (DCHDE) are working in partnership to develop human rights literacy and strengthen the capacity of the housing and homelessness sectors to act compatibly with the Act.

This year, QCROSS has delivered activities and created resources to support the housing and homelessness sectors' understanding of the Act, covering key topics including the role of public entities, the nature and scope of protected human rights, complaints handling and giving proper consideration when making decisions.

From March to June 2021, QCROSS has supported 1177 interactions ranging from bespoke face-to-face training workshops to online webinars and access to a broad range of project resources.

**Table 8: Engagements in the QCOSS and DCHDE human rights partnership**

| Engagement type                                      | March to June 2021 |
|--|--------------------|
| Website views  | 384                |
| Newsletter reads                                     | 293                |
| Resources accessed – video and written resources     | 220                |
| Community of Practice Forum views                    | 93                 |
| One-on-one supports                                  | 4                  |
| QCOSS-hosted online events – participants (2 events) | 104                |
| Stakeholder hosted events – participants (5 events)  | 79                 |
| <b>Total</b>   | <b>1177</b>        |

The project continues until March 2022, with more events and activities scheduled.

Project engagement has attracted interest from sectors beyond housing and homelessness, with 22 per cent of engagement with the project coming from public health, community health, education, neighbourhood centres, family support services and local government.

Insights from those who are engaging with the project include:

‘I would like participants to understand their human rights, so they have some power to keep us accountable for our actions’ - Tina, Anglicare Central Queensland (ACQ).

‘My takeaway was the importance of designing processes that alleviate pressures from service users’ - Rikki.

‘I would like to see a human right around housing’ - Anonymous survey response.

‘It’s been empowering to us to know we can draw from legislation to enhance our advocacy skills’ - Kia, Micah Projects.

The Queensland Human Rights Commission is engaged as a project stakeholder along with Q-Shelter, Queensland Youth Housing Coalition, Tenants Queensland, Queenslanders with Disability Network, Aboriginal and Torres Strait Islander Housing Queensland and the Council to Homeless Persons (Queensland). The important contribution of project partners has supported sector participation and provided expert advice on emerging issues and service trends. Common issues in the sector include property allocations, property transfers, arrears management, breach notices and evictions, neighbour disputes and situations involving domestic and family violence.

### Human rights champions

QCOSS is working intensively with five community service providers and 15 department staff (from across the state) as Human Rights Champions. Through training, policy development and the co-design of learning resources, project champions are building their confidence to develop new practices, and share their insights across the sector to encourage other providers to understand the benefits of a human rights approach. Practical, real-life scenarios are being used to train staff and the sector about how to give proper consideration.

Insights and hopes from some of our Human Rights Champion organisations:

‘The HR Act may seem daunting at first however can be easily put into practice with plain English and step by step decision making processes.’  
- Robyn, Anglicare CQ.

‘Empowerment of our team to implement the Act and have confidence in decision-making. Also, for our tenants to feel that they are being treated with their human rights and dignity intact.’ - Scott, Jacaranda Housing.

‘There is more to work with since this Act has come into our jurisdiction, more than before, much more to work with’ - Sally, SHAC.

‘The organisation saw a fantastic opportunity to ensure that we understand and are applying the Human Rights Act in our policies and procedures and the work we do, and to help us advocate for our families.’ - Kim, AIDRWA.

‘I met with a government agency yesterday and asked them to consider human rights for one of my clients and named the ones I thought they needed to further consider when making decisions about our clients, it worked they got on board with a different line of thinking straight away - WINNING !!’ - Julie, Anglicare CQ.



In this early phase of the work, discussions focused on the responsibilities of public entities, particularly the incorporation of the human rights complaint mechanism and the work involved in giving proper consideration when making decisions. This foundational knowledge was important for all staff. Particularly among frontline staff who need to apply consideration and respond to complaints. It was important for these activities to be embedded in policies and procedures using human rights language. Work is underway to develop tools and resources to support policy development as well as work to co-design operational tools that incorporate human rights consideration into significant decision-making moments, like evictions and service allocations.

Staff engaged with the project are learning and embracing human rights in their everyday work. In a recent learning series, confidence in staff knowledge of the Human Rights Act went from 39% before the sessions to 73% afterwards. The QCROSS project team is witnessing the importance of leadership and organisational culture in improving human rights literacy amongst community service providers.

The next phase of the project will focus on how services can empower participants and work alongside them to advocate for clients and improve service collaboration. The project will also co-design tools and resources with human rights champions to further develop their human rights culture and operational practices.

## Optional public entities

Organisations can choose to be declared a public entity by regulation under the Human Rights Act. The Department of Justice and Attorney-General's fact sheet *Opt-in to the Human Rights Act 2019* provides details on how a public entity can choose to 'opt-in'.

Queensland Advocacy Incorporated became the first to opt-in organisation to be bound by the Act in October 2020. The QAI Director commented on why this step was taken by their organisation:

"Human rights belong to everyone and are fundamental to an inclusive society," QAI Director Michelle O'Flynn said today. "QAI has always operated within a human rights framework and endeavours to protect and defend the human rights of the most vulnerable Queenslanders, in particular Queenslanders with disability.

"In becoming the first organisation to voluntarily opt-in to be bound by the HRA, QAI seeks to honour our commitment to the UN Convention on the Rights of Persons with Disabilities and hopes to contribute to a broader human rights culture within our community," Ms O'Flynn continued.<sup>89</sup>

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<sup>89</sup> Queensland Advocacy Incorporated, Media release, 2020. Available at: <https://qai.org.au/2020/10/06/qai-first-to-opt-in-to-be-bound-by-human-rights-act-2019/>  
*Human Rights Act 2019 Annual Report 2020-2021*