



# 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.

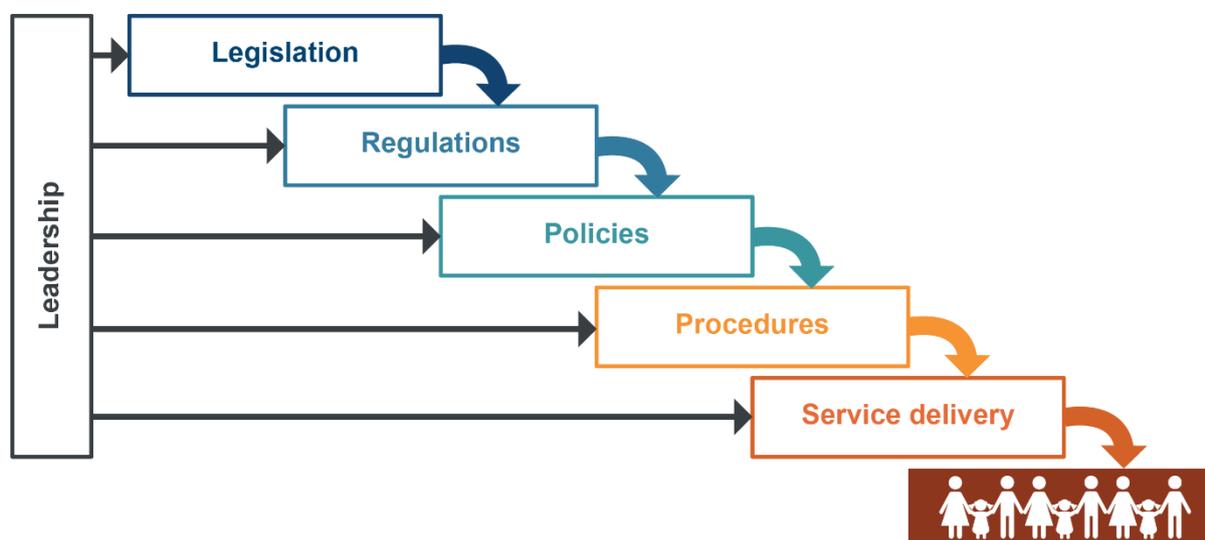
## Developing a human rights culture

The *Human Rights Act 2019* aims to develop a human rights culture in the Queensland public sector, where the human rights of individual people are respected and promoted.

### Cascading culture change model

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

Figure 3: Cascading culture change model



The model recognises that unless 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.

# Indicators of a human rights culture

In the first year of the Act's operation, the Commission developed a set of 7 indicators that identify actions that may further the development of a human rights culture, reflecting the elements in the Cascading culture change model. These indicators have become the basis of an annual survey of public entities aimed at evaluating the extent to which the Human Rights Act is influencing the day-to-day business of public entities.

These indicators are:

**Indicator 1:** Education and staff development

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

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

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

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

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

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

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

In the third year of the Act, we again used these 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 (DCYJMA)
- Department of Communities, Housing and Digital Economy (DCHDE)
- Department of Education (DE)

- Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships (DSDSATSIP)
- Queensland Civil and Administrative Tribunal (QCAT)
- Queensland Corrective Services (QCS)
- Queensland Health (QH)
- Queensland Police Service (QPS).

We also 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 7 councils:

- Brisbane City Council
- Ipswich City Council
- Flinders Shire Council
- Mackay Regional Council
- Mornington Shire Council
- Logan City Council
- Sunshine Coast Council.

The full responses from the public entities are not provided below; 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 state public entities to report on the extent to which staff awareness about the Act has been raised, what education and training has been provided (including the divisions or work units involved) and through which delivery method (online, face-to-face etc). They were also asked about whether human rights content has been incorporated into induction training and ongoing professional development for staff, and whether examples were provided to tailor training to the particular context.

#### Mandatory training for all staff

Most agencies reported that online training was their primary method of delivering training and professional development on the Human Rights

Act. QH, DSDSATSIP,<sup>1</sup> DCHDE, DCYJMA<sup>2</sup>, QPS,<sup>3</sup> and DE<sup>4</sup> all reported providing mandatory online training on the Human Rights Act during the reporting period.

## Tailored training

In addition to mandatory online training, some state public entities reported that training was delivered to specific divisions within their agencies. A combination of frontline, complaints, and policy staff received tailored training about their obligations under the Act.

At DCYJMA the Commission delivered training to the Office of the Child and Family Official Solicitor and Professional Standards teams.

QH reported that Metro North Hospital and Health Service delivered over 450 face-to-face and online training sessions on human rights to the Board, committees, Executive Officers, staff, and consumers, and the Cairns and Hinterland Hospital and Health Service rolled out training for consumer complaint handlers.

At Disability Accommodation, Respite and Forensic Services – DSDSATSIP's largest business service area, 385 staff completed role-specific human rights training.

Staff from the Strategic Policy and Legislation team at DSDSATSIP completed Human Rights Policy Training led by the Human Rights Unit in the Department of Justice and Attorney-General. This training provided guidance on identifying human rights, undertaking Human Rights Impact Assessments, undertaking section 13 proportionality analysis, and building a human rights culture. Officers also undertook legislative, policy-specific human rights training.

DE reported that, wherever possible, training is tailored to the department's context to ensure material and human rights scenarios are meaningful and reflect human rights in action in schools, regions, and divisions. For instance, a human rights session was presented to new and recently appointed principals as part of the Principal Induction

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<sup>1</sup> By the end of the reporting period: 906 employees had completed or refreshed the initial awareness mandatory training; 339 Residential Care Officers without network access had completed the same content through a self-paced workbook; and a further 391 staff had completed the Human Rights role-specific training through self-paced or face-face training.

<sup>2</sup> The Department reported that 1,029 staff completed the module during the reporting period, and overall 81% of staff had completed it.

<sup>3</sup> A total of 16,401 members have now completed the training. This represents approximately 93.9% of sworn and unsworn members, including recruits.

<sup>4</sup> 97% of staff and contractors (excluding those who worked less than one week in the year) completed mandatory all staff training, which includes human rights information.

programs (SIMposiums) held in 2022, with supporting web resources also made available. The Principal Induction program has been offered in person and online to provide greater flexibility and ensure strong uptake by principals.

The QPS delivered specialist human rights training to the Complaint Management Unit within the Internal Investigation Group, which is responsible for assessing human rights complaints.

QCAT provided mandatory 'One QCAT' training that included discussion on inclusion and diversity.<sup>5</sup>

## Practical application

The DCYJMA reported that they have commenced updating the mandatory iLearn training package and are tailoring it specifically for Child Safety and Youth Justice, with the addition of specific scenarios and examples relating to compatibility, quizzes relating to Child Safety and Youth Justice-related public entities, and the inclusion of the Commission's decision-making flowchart.

DSDSATSIP reported that an updated suite of human rights scenarios is being developed to support staff in their various roles and business areas within the department to embed an understanding of the requirements of the Act.

QH's online training module is tailored to the public health system and includes interactive scenarios relating to human rights in a hospital setting.

QPS provided some further detail about the content of their online training which:

*...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.*

## Integrating human rights in other training

QPS told us that human rights considerations are also embedded throughout other training products for members at all stages of their careers. This ensures members understand human rights linkages to their everyday work, and includes:

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<sup>5</sup> This is in addition to an online training module that which staff are encouraged to participate in.

- accessing QPS information – human rights considerations when dealing with information held on police systems
- Cellebrite – human rights requirements relating to collecting and storing personal information from electronic devices during criminal investigations
- child protection investigations – human rights of children and victim-centric and trauma-informed policing
- domestic and family violence
  - protecting victims from coercive control, intimate partner sexual violence, stalking, strangulation, and withdrawal of gender-affirming hormone treatments or contraceptive treatments
  - identifying the person most in need of protection
  - naming children (including unborn children) on protection order applications
  - making police bail decisions to protect victims while ensuring defendants’ rights are safeguarded
- integrity – ethical and professional behaviour of members when interacting with the Queensland community.

## Information for staff

QH made resources available on their intranet with links to case law, fact sheets, and promotional material for Human Rights Week.

QCAT staff have access to internal Department of Justice and Attorney General human rights resources, including an induction pack, managers’ toolkit and training presentations, fact sheets, and guides. Resources are designed to:

*...help managers lead team discussions, improve their team’s overall understanding of human rights, discuss how human rights apply to their daily work and incorporate human rights within team meetings and activities.*

The DCHDE is currently updating their Human Rights Hub to include a suite of new documents (such as flowcharts and instructions) developed to support staff to meet their obligations under the Act.

For Human Rights Week, the Office of the Chief Practitioner in DCYJMA made a podcast for staff from an interview with the Queensland Human Rights Commission’s Deputy Commissioner and a Principal Lawyer. The podcast explored the Commission’s journey and the implementation of the Act in Queensland.

At the DE, resources are provided and maintained on the department's intranet to allow all staff to build their understanding of human rights and meet their obligations under the Act.

QPS reported that the Service regularly shares information about human rights with all Service members through its internal communications platforms. This includes information about individual human rights, external training events about human rights, and questions and answers about how human rights should be considered in real life situations. Members also raise questions and contribute to discussions through online forums and workplace conversations.

QCS told us that the Service has raised human rights awareness across the agency and supports staff to apply human rights considerations in day-to-day operations. It continues to use the RAPID decision-making tool mentioned in previous reports (relevant rights, authorisation, proportionality and purpose, individual and impartial, document). A human rights 'microsite' provides resources and information to assist staff understand their obligations and has been viewed more than 17,700 times since the Act commenced.

## Human rights networks

The DCHDE has established a Human Rights Continuous Improvement Network. The role of the Network is to:

- promote a human rights culture across the department
- foster independent human rights capability in all business areas
- act as a forum for sharing information and standards of practice on embedding human rights
- provide updates on the latest human rights developments
- connect employees to human rights resources, advice, training, and direct assistance.

In November 2021, the DCYJMA commenced a Human Rights Action Group, the membership of which includes staff from different workgroups across the department's portfolio. An action plan has been developed and the group meets quarterly to discuss progress and review priorities in relation to developing a human rights culture in the department.

QCS reported that their Champions Network has been an effective tool in providing two-way communication, including providing information about frequently asked questions that specifically relate to QCS. The

champions are members with knowledge of HR in a corrections environment, and are located across the correctional centres.

Queensland Health also referred to its champion program, which will oversee and coordinate human rights objectives into the future including:

- reviewing official briefing precedents to ensure human rights are captured
- reviewing intranet and internet content and communication strategies
- reviewing and updating internal training material
- reviewing processes to communicate human rights expectations of contractors and service providers.

## Impact of COVID-19

None of the public entities indicated that COVID-19 had been a barrier to providing training and information to staff about human rights in the reporting period. This was in contrast with the first years of the Act, when public entities were adjusting to impacts from staff regularly working from home.

## Induction training

DCYJMA reported that on enrolment all staff are automatically registered for the online course, and the Department continues to update internal training content on their learning and development program for Child Safety Officers to incorporate human rights content.

DE and QPS also confirmed that all staff are required to complete mandatory training during induction.

Human rights training is embedded throughout the three phases of the recruit training program at QPS. This training is delivered multi-modally, via face-to-face, online platforms, and self-paced learning. The recruit human rights training is specifically linked to police powers and how a police officer must consider human rights when exercising their powers.

## Human Rights Week

Human Rights Week ran between 1 and 10 December 2021 and remained a focal point for state public entities who used it as an opportunity for internal dialogue about the Act.

At the DCHDE Human Rights Week was used to promote a dialogue about the six human rights most engaged in the work of the department – recognition and equality before the law; freedom of expression; property rights; privacy and reputation; protection of families and children; and cultural rights – Aboriginal and Torres Strait Islander peoples. Initiatives included:

- broadcast message from the DDG
- distribution of a human rights screensaver
- series of news bites
- posting of examples of how departmental staff strongly promote the rights to security and protection of families and children through their work
- promotion of the free QHRC human rights webinars
- intranet articles.

The QPS celebrated Human Rights Week with Service-wide messages from the Commissioner of Police recognising Human Rights Day and encouraging members to make human rights a priority while making public spaces and lives more equal and inclusive.

## Indicator 2: Community consultation and engagement

The Commission asked state public entities to report on community consultation and engagement about human rights, and whether information has been provided to the community about human rights.

### Community consultation and engagement

As part of the First Nations Reform Agenda, DCHDE created an implementation framework as part of its commitment to reframing its relationships with First Nations peoples. The department has established a standalone First Nations Strategy Unit to ensure that Aboriginal and Torres Strait Islander peoples' rights, including cultural rights, are at the centre of the department's commitment to First Nations people.

Arts Queensland collaborated with the First Nations Arts and Cultures Panel to draft a Cultural Engagement Framework to promote cultural rights.

The QPS reported that they engaged with First Nations and multicultural communities throughout Queensland to establish a two-way dialogue between police and Queenslanders. In particular, the QPS engaged closely with the Sikh community to develop information material for police officers about the Sikh five articles of faith, relevant legislation,

and considerations police officers need to be aware of about Sikh cultural practices. For example, it is lawful to possess a kirpan or to not wear a bicycle helmet when wearing a dastār. Material was designed in a culturally appropriate way for the Sikh community, including content and artwork. Copies of the material were presented to Gurdwaras around Queensland to raise awareness with members of the Sikh community about their rights. Police stations servicing areas with a Sikh population were also given copies of the material.

## Information for the public

DCYJMA reported that human rights posters were distributed to all regions for both young people and staff to display in service centres and detention centres. During Human Rights Week, DCYJMA released media statements to external stakeholders, including young people and carers, as well as peak bodies to disseminate to their networks.

As part of its Guardianship Reform Project, QCAT reported that their website content was comprehensively reviewed and updated to ensure clients and the broader community have access to relevant tribunal information as well as information on human rights more generally.

## Legislative and policy reviews

Between November 2021 and January 2022, DSDSATSIP facilitated a consultation process as part of the current review of Queensland's positive behaviour support and restrictive practices authorisation framework. In recognition of the significant human rights issues involved, the key focus of the review included promoting the reduction and elimination of the use of restrictive practices and ensuring restrictive practices are used only as a last resort and in the least restrictive way possible.

DSDSATSIP is in the process of reviewing cultural heritage legislation to ensure the legislation continues to protect and conserve Queensland's Aboriginal and Torres Strait Islander cultural heritage, while facilitating business and development activity. An options paper was released on 17 December 2021 and disseminated widely, including through First Nations print media and radio (in English and Yumpla Tok) and 430 submissions and survey responses were received. The distinct cultural rights of Aboriginal peoples and Torres Strait Islander peoples (section 28) under the Human Rights Act informed the development of proposals and options in this paper.

West Moreton Hospital and Health Service engaged consumers in a review of the Informed Consent and the Care@Home model of service development that focuses on equitable access to health care, which is relevant to the right to health services without discrimination protected by the Human Rights Act.

DE reported that a mandatory consultation process with key departmental stakeholders has been implemented for new and significantly changed policies and procedures that affect state schools. This consultation process ensures stakeholders are aware of human rights implications and have the opportunity to provide feedback to influence policies and procedures.

### Developing programs

DE reported that individual regions and divisions engaged with their communities about human rights when developing new programs. For example, the State Schools division raised human rights in consultations as part of the *Students with disability resource allocation review* and the development of the new *Students with disability – reasonable adjustments resourcing model*. The consultations were undertaken through a Stakeholder Reference Group that included representatives from Queensland Advocacy for Inclusion Inc., the Community Resource Unit, unions, and Principals' Associations.

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

The Commission asked state public entities to report on the extent to which they had raised awareness about the Human Rights Act with contractors they engage to deliver services, and how they have encouraged and supported compliance of contractors with the Act.

### Training and engagement with functional public entities

Housing services in Queensland are delivered by the DCHDE as well as by a range of social housing and Indigenous housing providers. In 2021, Housing and Homelessness Services at the DCHDE commenced a collaborative project with the Queensland Council for Social Services (QCOSS) to embed the Human Rights Act across the Housing and Homelessness Sector – both internal and external to DCHDE. Work on the QCOSS Human Rights, Housing and Homelessness Project between QCOSS and the department continued in 2021–22. To meet their obligations under the Act, QCOSS delivered a range of

engagement activities to support the housing and homelessness sector and developed a suite of resources to support staff in the sector. The resources covered proper consideration, human rights complaints, advocacy and governance, as well as practical tools and a case study library.

DCYJMA reported that mandatory foster care training (pre-service training) was updated and now includes information on human rights and the Act. This updated training was delivered in October 2021.

The Parole Board secretarial staff and board members have undergone Human Rights Act training from QCS, and QCS also provided information on the Act to service providers delivering education in prisons.

QCAT has ensured that human rights resources and activities, including training opportunities, extend to all agency contractors.

## Contractual obligations

DE reported that human rights considerations are included in all procurement briefs and compatibility assessments before a related entity or contractor is engaged, and requirements to comply with the Act are embedded into the department's contracts with relevant service providers. As an example, the Queensland Kindergarten Funding Scheme: Funding Category Guidelines 2022 requires approved providers to be aware of their obligations under the Act.

QPS has embedded human rights obligations in its formal contracts with related entities. As a matter of course, 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.

QH reported that human rights expectations are highlighted in procurement processes, including at the 'request for quote' and 'invitation to offer' stages, and precedent contract and standing offer arrangements include the requirement for suppliers of goods and services to comply with the Human Rights Act. In addition, South West Hospital and Health Services conduct due diligence checks on contractor ability to meet human rights and ethical supply requirements, and Cairns and Hinterland Hospital and Health Service requires supplies to provide details on anti-slavery and human rights abuses in supply chains. Training is provided by the Gold Coast Hospital and

Health Service to contractors/providers on how to operationalise human rights considerations within their business.

## Indicator 4: Review and development of legislation

The Commission asked state public entities to report on the development of any legislation or subordinate legislation, including examples of the impact of the Human Rights Act, or of good practice in the review and development of laws.

### Legislative amendments

DCYJMA referred to two Bills that they consider protect or promote human rights: the Child Protection and Other Legislation Amendment Bill 2020, and the Child Protection Reform and Other Legislation Amendment Bill 2021. The latter passed in May 2022 and DCYJMA considers that it:

- reinforces children’s rights in the legislative framework
- strengthens children’s voices in child protection decisions that affect them
- streamlines, clarifies, and improves the regulation of care.

DSDATSIP developed Human Rights Certificates for regulations relating to ‘dry communities’.<sup>6</sup> As Mornington and Kowanyama Shires requested to maintain a ban on home brew and home brew equipment following the introduction of an alcohol carriage limit, the following human rights under the Act were engaged by the Amendment Regulation: equal protection of the law without discrimination (section 15(3)) and right to property (section 24). The department considered that provisions in the JLOM Act regarding home brew constitute a ‘special measure’ under the *Racial Discrimination Act 1975* (Cth). It was recommended that human rights engaged in relation to these purposes were reasonable and justifiable to support local decision-making about alcohol management that imposes constraints on individual liberties for the purpose of promoting safety for the broader community. The department is also undertaking an independent review of the temporary alcohol

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<sup>6</sup> *Liquor (Mornington) and Other Legislation Amendment Regulation 2022* (Amendment Regulation) and the *Liquor (Kowanyama) and Other Legislation Amendment Regulation 2022* made under the *Liquor Act 1992* (Liquor Act) and the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984* (JLOM Act).

management arrangements put in place during COVID-19 to inform improvements to policies and processes.

QH provided numerous examples of legislation that they consider protects or promotes human rights. For example, amendments were made to the *Mental Health Act 2016* to create safeguards in the use of electroconvulsive therapy, a stronger rights-based approach for decisions and processes regarding patient transfer, strengthening protections for confidential information, and in relation to 'information notices' for victims of crime.

Another significant legislative enactment in the health area was the *Voluntary Assisted Dying Act 2021* (Qld), some provisions of which are yet to commence. The Act provides a legal framework for voluntary assisted dying in Queensland, allowing eligible people who are suffering and dying to choose the timing and circumstances of their death.

## Good practice in legislation development

DE reported that their internal processes are regularly reviewed and updated to ensure they reflect appropriate processes for the completion and publication of Statements of Compatibility, Human Rights Certificates, and Human Rights Impact Assessments. In some teams, examples of these documents are shared with officers to ensure good practice is followed.

The DCYJMA reported that the department:

- considers and assesses the human rights implications in the development of all policy, legislative, and regulatory options and proposals
- thoroughly assesses human rights implications of new legislation and regulation when preparing human rights Statements of Compatibility and Certificates
- has standardised forms and templates that provide prompts for consideration of human rights as part of the briefing process
- ensures that officers attend training about the Act, assessment, and its application when available.

## Indicator 5: Review of policies and procedures

The Commission asked state public entities to report on reviews of policies and procedures for compatibility with human rights, whether this has led to any changes (including to service delivery) and whether

guidance is available for staff on acting compatibly with the Human Rights Act.

## Internal templates and tools

At DCHDE, new whole-of-department policy and procedure templates incorporating human rights considerations have been developed and distributed, along with record keeping templates for assessing compatibility with human rights.

DCYJMA has drafted a Human Rights Impact Assessment procedure, currently under review prior to implementation. This procedure has been developed to assist with Human Rights Impact Assessments for all departmental staff, and incorporates a template to support the assessment of a decision, policy, procedure, document, proposal, or framework. This procedure is expected to be implemented in the near future.

DE continued to use a Human Rights Impact Assessment Tool to review policies and procedures. Consideration of human rights is also included in the policy and procedure quality assurance checklist. All departmental policies and procedures are reviewed during development to consider where human rights should be explicitly referenced in decision-making processes to support compliance in decision-making and promote the objectives of the Act.

QH reported that at the Townsville Hospital and Health Service, the policy review process includes a peer review of all human rights assessments to ensure consistency, while building capability across the health service. A 'purpose-built' human rights compatibility assessment is factored into the decision-making process for COVID-19 exemption applications, and a companion guide is available for decision-makers.

## Policy review

DE reviewed over 20 policies and procedures for human rights compatibility and to improve decision-making including: *Student dress code procedure*, *Student discipline procedure*, *Refusal to enrol – Risk to safety or wellbeing procedure*, and *NDIS continuous invasive ventilation support at school procedure*.

DE also considered the Act when developing proposed actions in the *Occupational Violence and Aggression Prevention Strategy*, and concluded that while the human rights impact assessment determined that the strategy potentially limited some rights, the limitation was

reasonable and justifiable and therefore compatible with the Act. The human rights impact assessment determined that several rights were promoted by the strategy, including the right to liberty and security of person.

During COVID-19, all decisions made by QCS to increase or decrease control measures to limit the spread of COVID-19 in correctional environments have been subject to a human rights assessment. The QCS worked closely with Queensland Health and the Chief Health Officer to deliver an evidence-based, coordinated response to COVID-19 in the correctional environment and ensure that any limitations or restrictions on rights that result from control measures put in place are achieved in a reasonable and proportionate way.

DCHDE reported reviewing a selection of policies and procedures for compatibility with human rights including workplace rehabilitation, leave policies, standard of conduct, risk management policies and procedures, and climate change policy.

When eHealth Queensland (at QH) were developing a new Health National Individual Healthcare Identifiers (IHI)<sup>7</sup> Policy and standard, they considered human rights and in particular the right to access health care where a person may wish to receive care on a pseudonymous basis. The policy and standard mean that where a person is being issued a pseudonymous healthcare identifier, they must not be refused treatment or discriminated against because they do not wish their healthcare provider to access their IHI.

DCYJMA reported that a review of all Youth Justice policies and procedures was undertaken to ensure they reflect human rights considerations. The review also ensured there are robust processes in place to ensure human rights are considered when new policies and procedures are developed. Risk assessment processes were examined through a human rights lens in relation to Youth Justice staff who work with young people, and adjusted to incorporate a human rights approach. Other policy reviews and updates that contained consideration of human rights included:

- the record of decision for mandatory COVID-19 vaccination
- Voluntary Medical Retirements and Independent Medical Examinations.

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<sup>7</sup> Individual Healthcare Identifies (IHI) is a unique number used to identify an individual for health care purposes, and is automatically generated when a person has a Medicare or DVA card. Services Australia shares this number with health professionals and My Health Record or anyone the person has given permission to hold this information.

The QPS reviewed the *Declarable associations policy and procedures* and updated it to include express reference to human rights. The policy aims to minimise the risks presented by members failing to identify and properly manage associations that could compromise a person's duties, reflect adversely on the QPS, lead to a conflict of interest, or compromise the operational effectiveness of the QPS. It reminds members of their obligation to consider human rights during decision-making processes and highlights the right to privacy, freedom of association, protection of families and children, cultural rights generally and Aboriginal peoples and Torres Strait Islander peoples cultural rights.

QCAT reported that they have undertaken a general review of policies and procedures for compatibility with human rights and are continuing to review and adapt procedures on an ongoing basis.

## Indicator 6: Internal complaints

The Commission asked state public entities to report on how successful they had been in integrating human rights complaints into existing complaints processes, any barriers that have prevented this from happening, and examples of where internal complaints have led to changes to policies, procedures, practices, or service delivery.

### Complaints procedures

DCHDE reported that a new whole-of-department complaints policy and procedure with human rights considerations has been developed and implemented. Complaints reporting templates have been reviewed and updated to support the effective capture of human rights complaints data and human rights training and coaching is being implemented for staff who handle complaints referred to Corporate Services. While this work is currently limited in scope, planning has commenced to develop resources that will enhance human rights capability in complaint handling across the department.

DSDSATSIP reported that all customer complaints received by the department are assessed to determine if the complainant's human rights may have been adversely impacted. This assessment is undertaken whether or not the complainant refers to a human rights breach in their complaint. The department is undertaking work to devolve complaint management to the local work area where the decision was made or the service delivered. As part of the planned

devolution, training will be provided to relevant staff on all aspects of complaint management, including assessing the information received against the human protected by the Act.

DE's Customer Complaints Management procedure requires each complaint received to be assessed for any breaches of a complainant's human rights. Human rights complaint data is provided periodically to the Executive Management Board to provide visibility and identify trends and issues.

In the reporting period, QH developed a new fact sheet and a related online training module to assist staff to identify human rights elements in the customer complaints they receive. Cairns Hospital and Health Service has appointed a human rights consumer complaints ambassador to support assessment of human rights consumer complaints.

## Challenges in large departments

DCYJMA continued to work on improving human rights reporting for complaints, but have identified a challenge in that Child Safety, Youth Justice and Professional Standards complaints are managed in separate work units within the Department, each with different mechanisms for recording and considering complaints. Similarly, DE raised challenges with consistency in human rights complaint handling over such a large department with staff working over a vast area, commenting that:

*maintaining understanding and consistent practice for human rights complaints management can be complex. Our development of clear, consistent and accessible resources supports us to manage these issues and ensure compliance with the Act.*

Both DCYJMA and DE sought to address these challenges by building capability and skills of staff who manage complaints through training and professional development.

## Policy, procedure, and practice improvements

Public entities continued to report that human rights complaints provided an opportunity to discuss and consider systemic issues, and at times led to policy, procedure, and practice improvements.

QCAT has processes in place to manage human rights complaints, and to learn from the issues raised in those complaints. An example provided was that QCAT's Management Team (Registry) ensures that

any factors raised in complaints that require registry consideration and action are discussed as a team. This promotes discussion and understanding of the nature, meaning, and scope of human rights.

QCS provided an example of an improvement to practice arising from a complaint that resulted in the introduction of a transgender prisoner canteen list as part of the state-wide canteen standardisation. The new list provides trans prisoners with items suitable for their identified gender.

DE reported that internal reviews of customer complaints in which human rights may have been engaged often identify areas for continuous improvement that are shared with the school and Assistant Regional Director. For example, internal reviews of complaint decisions made recommendations that included:

- when notifying parents of an expulsion, the school include details of the facts relied upon in the decision; and
- more formal and regular communication between a school and parents where students require intensive behaviour support.

A selection of case studies highlighting complaints resolved internally by state public sector entities is provided below.

### Case study: Prison facilitated virtual access to family funeral

*QCS received a human rights complaint from a prisoner who had been denied a leave of absence to attend a family member's funeral. Due to safety concerns and the high risk the prisoner was deemed to pose, an escort to the funeral was unable to be facilitated. When the human rights complaint was received, a new decision was made to facilitate the prisoner being able to watch a live stream of the funeral. The complaint led to a change to the decision-making paperwork for leave of absence applications, which now requires decision makers to consider this alternative when the leave of absence is not approved.*

### Case study: Improved respite care as result of complaint

*A complainant's daughter has a disability and attends respite at Accommodation Support and Respite Services (AS&RS) on weekends. The daughter has incontinence and requires support with showering and bathing. The complainant alleged that AS&RS staff had not adequately managed her daughter's cleanliness, that there were occasions when medication was not administered, and that staff rostering was not appropriate. Although the complainant did not mention the Human Rights*

*Act 2019, the department investigated whether the complaint was a breach under s.17, protection from torture and cruel, inhuman or degrading treatment. While a breach was not able to be determined, a number of service improvements were implemented, including additional training and professional development for residential care officers; enhanced record keeping practices, including more detailed notes for staff changeover; and ensuring female staff were on-shift for future respite stays by the client.<sup>8</sup> The complainant indicated that they were satisfied with the actions the department was taking to address her concerns.*

## **Case study: Exemption to visit neonatal intensive care unit during COVID-19**

*On 3 March 2022, Queensland Health received a complaint from a health consumer group about the impact of Chief Health Officer public health directions on the ability of parents who are COVID-19 positive or close contacts to visit their babies in the neonatal intensive care unit (NICU).*

*The Deputy Chief Health Officer engaged with stakeholders on the restrictions under the Hospital Entry Direction, and the Isolation for Diagnosed Cases of COVID-19 and Management of Close Contacts Direction; and agreed these would prevent parents who were a diagnosed person or a close contact from visiting babies in the NICU for 14 days.*

*The Deputy Chief Health Officer considered the human rights of parents affected by the restrictions, including the protection of families and children, and issued a class exemption for the management of neonatal visitors. The class exemption reduced the restriction period for parents who were diagnosed cases or close contacts from 14 days to 7 days. Rather than waiting until after the 7 day post isolation period, parents were allowed to visit their babies in the NICU after completing the initial 7 day isolation period.*

*To address the risk of allowing parents to visit vulnerable and high risk settings in the post isolation period, the class exemption outlined strict conditions, including mandatory compliance with local level policies required by hospital operators and the Queensland Clinical Guidelines.*

*The class exemption was signed on 16 March 2022 and made available to hospital nurseries to provide to parents in appropriate circumstances.*

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<sup>8</sup> Case study provided by DSDSATSIP.

## Indicator 7: Future plans

The Commission asked state public entities to report on any future plans to achieve the objects of the Act.

QCS reported that they are exploring the establishment of an officer-level community of practice forum within QCS to create a cross-agency dialogue about embedding of good human rights practice across the agency.

DCHDE plans to continue the Human Rights Continuous Improvement Network by meeting regularly to receive legal updates, discuss new human rights developments, share information and standards of practice, and connect employees to resources, advice, and tailored training. Meetings will also spotlight a real human rights scenario to assess compatibility.

DCHDE also reported that discussions are underway to develop a model in partnership with Housing and Homelessness (HHS) leadership to build capacity and confidence to meet their obligations under the Act of staff based in HHS offices across Queensland. The program vision for HHS is that each HHS office across Queensland will have a critical mass of staff who are able to confidently assess compatibility with human rights in decision-making and complaints.

Human rights training at DCHDE will continue to be tailored to the needs of each division to build confidence and competence in assessing compatibility with human rights and appropriate record-keeping. Work is also underway to develop a risk matrix to guide complaints staff in the appropriate level of action when human rights are engaged in complaints.

While QCAT is experiencing severe resourcing constraints, it restated its commitment to continuing to promote human rights training to staff, and through 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
- enhance the capability of staff in anticipating, identifying, and responding to human rights issues.

QH provided examples of proposed work to embed the Human Rights Act, with highlights including:

- implementation of the First Nations Health Equity Reform Agenda by the Aboriginal and Torres Strait Islander Health Division, including by partnering with hospital and health services to address and eliminate racism and racial discrimination
- a review of the Health Directions Exemption Service and its role in the management of COVID-19, which will consider human rights assessments and deliver recommendations for any future pandemic
- appointment of a dedicated human rights officer at Gold Coast Hospital and Health Service
- analysis of complaint data by Children's Health Queensland to identify themes to inform improvements for patients and families and to inform future staff training
- promotion of the Act by West Moreton Hospital and Health Service at correctional centres in relation to medication management, which is an area that receives a high number of consumer complaints.

The DCYJMA is continuing work on its human rights action plan, and on implementing quality monitoring systems. This includes ongoing communications to staff and external partners, specifically including human rights in new and revised departmental policies and procedures and creating opportunities for ongoing learning.

DSDSATSIP will continue to review Queensland's positive behaviour support and restrictive practices authorisation framework. The department also reported on future activities with an impact on human rights including:

- leading Queensland's whole-of-government response and engagement with the Disability Royal Commission
- stage 2 public sector reforms that acknowledge the significance of the right to self-determination of Aboriginal peoples and Torres Strait Islander peoples
- Path to Treaty process.

DE reported that they will continue to maintain the department's Human Rights Framework, supporting material, and training resources to support staff and build understanding. Future plans include:

- continuing to progress development of a human rights culture in schools and education centres through curriculum resources and capability programs for teachers and school leaders

- continuing to upskill employees in considering human rights in the decision-making and complaints management processes and ensure new staff undertake human rights training
- developing and promoting a human rights-based approach to understanding reading, writing, and broader literacy skills in schools.

The QPS will continue to review its policies to ensure that they protect and promote human rights as reflected in the QPS Strategic Plan 2022-2026, which includes a commitment to ‘respect, protect and promote human rights in our decision-making and actions’. The Service plans to undertake a review of watchhouse procedures in the near future.

## Local government public entities

### Indicator 1: Education and staff development

To prepare this report on the operation of the Human Rights Act, the Commission surveyed councils about the extent to which staff awareness has been raised about the Act, in particular:

- what education and training has been provided (noting the particular divisions or work units targeted)
- what delivery method was used (online, face-to-face etc)
- whether human rights content has been incorporated into induction training and ongoing professional development for staff
- whether they provide examples to tailor the training to the particular context.

Of the 7 councils surveyed, 4 had provided training for council staff to guide their understanding of the Act in the reporting period (Logan City Council, Brisbane City Council, Ipswich City Council and Sunshine Coast Council). Ipswich City Council advised that, in addition to general council staff, all councillors have completed customised online human rights training and will continue to receive training periodically.

Sunshine Coast Council has developed online Human Rights Act awareness training which was made available to all staff, and 14% of staff had completed it at the time of the survey. An in-person session was prepared but was unable to be delivered in the reporting period.

Brisbane City Council and Ipswich City Council delivered both online and face-to-face training (or hybrid methods) in the reporting period.

Logan City Council continued to roll out training to staff on human rights, using a recently redeveloped online training package, and the council's Executive Leadership Team were provided with a presentation on the Act and progress on implementation. This council reported delays in delivering face-to-face training because of the impact of COVID-19 and work from home arrangements.

## Applying the Act

The councils that provided training incorporated case studies to demonstrate how the Act applies to the everyday work of councils.

Brisbane City Council commented that, as well as promoting effective practice:

*Use of relatable case studies and scenarios has also reinforced the relevance of training and enabled collaborative discussions, as well as positive post-training feedback.*

In their training, the Sunshine Coast Council incorporated scenarios tailored to the local government context that require decision-making to be compatible with human rights, for example:

*The training takes staff through the Manningham City Council experience of limiting access to Council buildings for an unreasonable complainant.<sup>9</sup> This example provides a useful lesson regarding considering whether there is a less restrictive and reasonably available way to achieve the purpose sought, when human rights compatibility is called into question.*

## Creative ways to raise awareness

Ipswich City Council's training consists of animated scenarios and interactive multiple-choice questions. The council commented that using animation, video, and interactive formats has better engaged staff, resulted in positive feedback from staff, and increased completion rates.

Brisbane City Council has also employed various internal communication strategies, such as e-newsletters, digital promotion on internal facing TV screens, and posts on the council's online networking platforms.

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<sup>9</sup> See *Slattery v Manningham City Council (Human Rights)* [2013] VCAT 1869.

## Induction materials

At Ipswich City Council, online training is delivered to all new employees. The Sunshine Coast Council's Code of Conduct training program, which must be completed on induction, incorporates an overview of human rights obligations.

## Indicator 2: Community consultation and engagement

The Commission asked councils whether community consultation and engagement about human rights had been conducted, or information provided to the community about human rights.

Brisbane City Council identified opportunities for increased community consultation and engagement about human rights. They told us, for example, that discussions with planning and development services teams have identified how human rights, as well as accessibility and inclusive engagement considerations, can be facilitated early in the development of consultation and communication plans for planning projects.

Ipswich City Council continued to engage the community through a human rights webpage, and launched a Community Panel, a form of community engagement which replaces community reference groups, where panel members can opt in or out of engagement opportunities.<sup>10</sup> The council commented that this:

*...presented an opportunity for Council to raise awareness of human rights and to provide information about how human rights have been enhanced through the various projects Council has undertaken.*

*A human rights section has been developed and included on the Community Panel Member page. This includes information about how public consultation enhances human rights and provides information about human rights and Council's obligations.*

The Sunshine Coast Council has information available on its website, including:

- a statement of *council's commitment to acting compatibly with human rights*
- information about making a human rights complaint, and

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<sup>10</sup> City of Ipswich, 'Community Panel' (Web page) <[https://www.ipswich.qld.gov.au/live/our-community/community\\_engagement/community-panel](https://www.ipswich.qld.gov.au/live/our-community/community_engagement/community-panel)>.

- a link to the Queensland Human Rights Commission website.

Logan City Council has made its Human Rights Policy and Human Rights Act Guidelines available on their website.

The Sunshine Coast Council and Logan City Council also provided examples of initiatives and programs that promote human rights through community engagement and awareness raising.

For instance, the Sunshine Coast Council co-designed and launched the Sunshine Coast *Shine a Light on Racism* campaign with members of their Multicultural Advisory Group and Community Strategy Leadership Group. The campaign aims to promote everyone's responsibility in being anti-racist.

Logan City Council told us that Colleen Sam's truth-telling exhibition, *My story: the unbroken spirit of the Kalkadoons*, exhibited at the Logan Art Gallery and Living Museum of Logan, gave voice to Aboriginal and Torres Strait Islander communities and supported freedom of expression.

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

The Commission asked councils about the extent to which they had raised awareness about the Human Rights Act with contractors they engage to deliver services, and how they have encouraged and supported their compliance with the Act.

Some councils did not specifically address this issue but commented that all contractors are required to comply with relevant legislation generally.

Brisbane City Council developed a fact sheet for external entities who may be considered a functional public entity. Internal training has also focused on human rights knowledge and capability development for council officers liaising with community organisations and businesses in their day-to-day duties.

Ipswich City Council started discussions with the Local Government Association of Queensland about the possible development of resources for functional public entities, and in the next financial year council intends to extend human rights training currently offered to staff to these entities (with modifications) and develop a procedure regarding procurement.

## Indicator 4: Reviews and development of laws

The Commission asked councils about the development of local laws and subordinate local laws, including any examples of the impact of the Human Rights Act, or any examples of good practice in local law development.

The responses indicated that the Human Rights Act has had little or no impact on the development or amendment of local laws or subordinate local laws in the reporting period. The Commission understands that Guidelines for Drafting Local Laws<sup>11</sup> were developed in 2016, which predates the Human Rights Act and therefore contains no mention of the requirement to consider human rights.

Mackay Regional Council told the Commission that local laws are reviewed in consultation with the community, which includes consideration of human rights, and in compliance with the 'Local Law Making Process' set out by the Department State Development, Infrastructure, Local Government & Planning.

Both Ipswich City Council and the Sunshine Coast Council said that there had been no new local laws or subordinate local laws, or amendments in the reporting period, but would consider human rights during the identification, development, consultation and implementation process of local laws.

Brisbane City Council stated that the *Health, Safety and Amenity Local Law 2021* includes exemptions that have been specifically utilised to provide authorised officers with discretion in enforcement and ensure compliance with human rights and the Act.

Logan City Council reported that council resolved to propose to amend *Local Law No. 1 (Miscellaneous Local Laws) 2022* in relation to regulating camping on council-owned or controlled land.<sup>12</sup> This amendment affects other local laws that regulate parks, jetties, boat ramps, roads, council property, and other public places.<sup>13</sup> The amendment prohibits camping on council property unless authorised or permitted and is a penalty provision.<sup>14</sup>

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<sup>11</sup> Office of the Queensland Parliamentary Counsel, 'Guidelines for drafting local laws' (4 April 2016).

<sup>12</sup> *Amending Local Law No. 1 (Miscellaneous Local Laws) 2022* (Logan City Council).

<sup>13</sup> *Local Laws No. 5 (Parks, Jetties and Boat Ramps) 2011* (Logan City Council) ss 11–12.

<sup>14</sup> *Amending Local Law No. 1 (Miscellaneous Local Laws) 2022* (Logan City Council) s 10 inserts a new s 9A in *Local Law No. 12 (Council Property and Other Public Places) 2003* (Logan City Council).

The council commented that:

*While the amendments were reviewed for compatibility with human rights, and it was not considered incompatible, it is noted that the potential human right being affected by these amendments was the freedom of movement. Council considered this and balanced it against public considerations of road safety hazards, inappropriate disposal of waste, environmental impacts and visual amenity issues. The amendments allow for a permit process for camping on Council owned or controlled land in circumstances where the camping will not:*

- *Result in harm to human health or safety or personal injury; and*
- *Result in property damage or a loss of amenity; and*
- *Result in environmental harm or environmental nuisance; and*
- *Result in a nuisance.*

*Balancing the above criteria, it is considered that the amendments promote human rights by allowing freedom of movement where it does not infringe on other's rights to life and property rights.*

## Indicator 5: Review of policies and procedures

The Commission asked councils about their review of policies and procedures for compatibility with human rights, whether this has led to any changes (including to service delivery), and whether guidance is available for staff on acting compatibly with the Act.

Some councils had commenced, or in some instances already completed, a review of policies, procedures, and practices for human rights compatibility, and others commented that they had incorporated human rights considerations as policies came up for review. However, the Commission received few examples to indicate that the Human Rights Act is having a significant impact on policies and procedures adopted by councils or has often been a catalyst for change in service delivery.

Brisbane City Council recently started to review its human rights policy and reported that as part of this process an assessment workbook used by planning officers had been enhanced with additional questions and prompts to promote consideration of human rights.

Ipswich City Council completed its review of 473 policies and procedures for human rights compatibility in the reporting, and only

found one policy that required significant amendment. As previously reported, the Council's policy, procedure, and administrative directive templates contain a human rights statement that must be completed prior to adopting a new policy or amending an existing policy. In the reporting period, there were amendments made to the briefing note templates for the CEO and General Manager so they are presented with the same information on human rights as presented to the Council when making decisions. This was to improve consistency and accountability.

During normal policy review processes at Mackay Regional Council, policies that are identified as having a human rights component are updated to contain a definition and statement. However, there were no examples of where the review of policies and procedures has led to changes influenced by the Human Rights Act. In future, the council intends to develop a checklist for policy review to ensure there is an assessment of human rights.

The Sunshine Coast Council pointed to some positive changes to realise the cultural rights of Aboriginal peoples and Torres Strait Islander peoples after policy and procedure review (which included consideration of the Human Rights Act) including the addition of a traditional Welcome to Country at significant events and implementation of cultural awareness training.

Logan City Council has a human rights policy that includes guidance on how complaints are to be addressed and plans to review all of council's policies and procedures for human rights compatibility. Human rights considerations have been incorporated into decision-making frameworks in some key areas (e.g. land acquisition).

## Indicator 6: Internal complaints

Councils were asked about:

- successes in integrating a process for human rights complaints into existing internal complaints processes
- barriers that have prevented this from happening
- examples of where internal complaints have led to changes to policies, procedures, practices, or service delivery.

Councils that responded to the question about internal complaints either reported no complaints or few complaints in the reporting period. Few examples were provided of where the internal complaints process had led to systemic change.

Brisbane City Council received a relatively low volume of complaints involving human rights under an existing procedure for dealing with these matters. The council reported resolving a human rights complaint regarding a local law enforcement decision which led to further training and improvement opportunities. Following the complaint, new guidance documentation for staff was created to assist them in the use of discretion for enforcement purposes to ensure decisions are fair and compatible with the Act.

Brisbane City Council's Senior Human Rights Officer continued to work closely with complaints management and in-house legal teams to ensure human rights issues are actively identified and that lessons learned from complaint outcomes are cascaded to staff and incorporated into additional training and awareness raising.

Ipswich City Council reported successfully integrating human rights complaints into their internal procedure, and told us that a human rights checklist is completed for all complaints, including privacy complaints. The council reported receiving no human rights complaints in the reporting period, but noted that some human rights issues may be counted as 'requests for service' rather than complaints. The council intends to analyse the content of 'requests for service' contacts to identify how many raise human rights and will also provide further customised training to complaint handlers.

The Sunshine Coast Council did not specify if they had received any human rights complaints but noted that human rights impacts on complainants are considered when investigation or review findings are considered for determination, conclusion, and actions recommended. The council noted challenges with keeping complaints officers' knowledge fresh in the early days of implementing the human rights complaints mechanism and indicated that professional development is ongoing to ensure that human rights are identified, considered, and responded to effectively.

Logan City Council reported receiving one complaint that was taken to have been a human rights complaint, but that it was withdrawn by the complainant. Council report that they are reviewing their internal complaint procedure to include human rights complaints. The council's decentralised administrative action complaints process has been a challenge, particularly as there have not been many requests for advice or support in the area. Human rights issues are either not picked up or are not being presented by complainants. To address this, Council is considering a centralised model for the assessment and triaging of elevated complaints.

## Indicator 7: Future plans

The Commission asked councils to report on their future plans to achieve the objects of the Act.

While the Flinders Shire Council had not taken action to date to implement the Human Rights Act into policies, procedures, information or training, they plan to commence that work in the next financial year (2022-23).

Mornington Shire Council is situated in the Gulf of Carpentaria and is one of the most remote and isolated local governments in the state. It serves a community that is a fusion of First Nations peoples and cultures. The council explained that they have not been able to take action to date on the Human Rights Act. However, the council commented that they had raised concerns about human rights to Commonwealth and State governments, particularly around the right to health, as they considered there are serious disparities compared with other parts of Queensland.

Mackay Regional Council had not undertaken any training or a policy review in the financial year but have begun developing learning packages for senior leaders and incorporating human rights content in their induction package to be completed in the 2022-23 financial year. The council indicated that the new learning packages would be mostly for senior leaders and policy staff, as well as complaint management staff. Mackay Regional Council also plans to add human rights to broad community information and specific information for community groups and has planned for future community engagement, and inclusion of human rights in contractual documents with contractors engaged by the council.

The Sunshine Coast Council reported that they are currently developing a human rights policy intended to contribute towards culture building. An organisational Human Rights Implementation Action Plan is also in draft. This Action Plan will consider how to increase training uptake and development of locally contextualised decision-making tools, and is intended to:

*...prompt our organisation to step further into the role of promoting a dialogue about the nature, meaning and scope of human rights.*

Brisbane City Council will continue to monitor performance and feedback to identify improvement opportunities, including by ensuring training, resources, and corporate messages are current and relevant.

Human rights processes will be internally audited in the next financial year, and their Senior Human Rights Officer will continue to engage with all divisions in Council to:

*... ensure there is a sustained focus on embedding a culture of human rights.*

Ipswich City Council reported on several activities to further the objects of the Act, including in training and the development of fact sheets, and will also revise a human rights impact assessment checklist to make it more user friendly and less legalistic.

Logan City Council is continuing to progress its Human Rights Act action plan to integrate a culture of human rights, and future plans include targeted face-to-face training for employees most likely to deal with human rights issues or complaints, implementation of human rights considerations in reports to Council, inclusion of human rights questions in recruitment processes and staff performance reviews, and providing information to functional public entities engaged by council.

## Human rights leadership

The Commission asked public entities (from both state and local government) about the leadership they had shown in building a human rights culture in their organisation. This question was also put to public entities last year. In the 2020-21 report, we highlighted the importance of human rights leadership in the context of an ongoing global pandemic. The cascading culture change model (Figure 3 in this chapter) recognises that a human rights culture can only develop and be sustained over time with strong leadership. In the responses last year to this question, the Commission heard that:

- education and training for staff was the first priority
- respecting and promoting human rights was a strategic goal in some agencies
- COVID-19 had led to challenging decisions with human rights implications for leaders at all levels of government.

## Leadership in state public entities

All the surveyed state public entities stated that their leadership teams had maintained focus on the Human Rights Act in its third year.

## Training and professional development

State public entities were prioritising ongoing training for staff on proper consideration of human rights and making decisions that are compatible with human rights, and in some cases delivering training to the leadership team themselves.

QCS reported that senior leadership have demonstrated a clear commitment to human rights by ensuring all staff have access to appropriate human rights tools and training.

DCYJMA commented that senior leadership have prioritised building on the knowledge and skills of staff in relation to human rights through training and other innovative information sharing mechanisms. The purpose of this is to create opportunities for learning that are accessible, engaging, and cater to differing learning needs and demographic groups.

DSDSATSIP and DE commented that they are actively promoting staff participation in human rights training and supporting staff to attend.

QH has committed to tailored training for Executive, Board members and senior staff across the system state-wide.

## Improving decision-making

The DCHDE Board of Management expressed their commitment to enhancing consideration of human rights in decision-making across the department with a focus on frontline services.

The DE reported that human rights considerations are embedded in senior leaders' decision-making, which is assisted by ensuring all briefing notes contain information about the impact on human rights of the matter to be approved. Where human rights would be limited, a full explanation including a justification of the limitation/s must be provided.

## Strategic plans

Including human rights in a strategic plan can keep the focus of leadership on human rights culture-building. Consideration of human rights is incorporated in strategic plans for some agencies, such as the Department of Education Strategic Plan 2021–25 and the Queensland Corrective Services Strategic Plan 2022-2026.

## Leadership in councils

Some councils indicated that senior leadership had committed to embedding a culture of human rights.

The Sunshine Coast Council reported that senior leadership has shown their commitment to the Act by considering human rights when making recommendations for consideration at Ordinary Meetings, and through continued efforts to educate staff to ensure best practice decision-making across the Council.

Logan City Council reported that senior leadership has provided regular updates and sought feedback from executives about how the human rights implementation is unfolding.

Several councils in regional and remote areas were at an earlier stage of implementing the Act. Mackay Regional Council confirmed that a commitment has been made to embed human rights in future, but currently:

*Senior leadership has not been afforded the opportunity to demonstrate commitment to embedding human rights generally, as the organisation has not created the context or content for the senior leaders to do so.*

## Coordination roles

One way in which senior leadership teams can commit to building a culture of human rights is to invest in staff dedicated to this task.

Brisbane City Council told us that employing a dedicated officer with carriage of the Council's implementation of the Act demonstrates senior leadership's commitment to the Human Rights Act. Since the employment of a full-time Senior Human Rights Officer, senior leadership groups have actively engaged in consultation and training opportunities to enhance the presence of human rights in branch and divisional management plans and risk profiles, and also promoted training and resources on their local communication channels to emphasise the relevance and importance of human rights knowledge and capability development in their respective work areas.

Ipswich City Council had a part-time senior solicitor coordinating the implementation of the Act across council. Council told us that investing in an appropriately qualified and dedicated officer has ensured that the human rights implementation plan is prioritised, coordinated, and progressed in a timely manner.

# Progress towards a human rights culture in government and councils

The Commission has previously recognised the challenges with embedding a culture that respects and promotes human rights throughout a large and decentralised workforce across a vast geographical area.

Training and professional development in the surveyed state public entities and the majority of councils has continued into the third year of the Act. As a minimum, most state public entities offer a mandatory online module (including for new staff on induction) and further tailored training options are available to specific work groups. The larger councils are also providing more in-depth training tailored to particular work groups in addition to general modules. Public entities on the whole are no longer reporting that COVID-19 and work-from-home arrangements are a barrier to delivering training and professional development.

For the first time, in 2021, the Working for Queensland survey of over 80,000 state public sector employees included a question about the Human Rights Act. Seventy-eight percent of workers reported that they understand how the *Human Rights Act 2019* applies to their work. This result is an early indication that training and professional development is having a positive effect in building the capacity of state public servants in understanding and applying the Act. The Commission will closely observe these survey results in future years.

With regard to policy review and development, many state public entities and councils indicated that they had established processes in place to ensure the Human Rights Act is considered, and were using assessment tools, checklists, and other resources to assist them identify limitations on rights and assess proportionality. However, based on the information provided, the Human Rights Act did not seem to be having much of an impact on the outcome of policy review or development.

The Commission has observed some challenges across state public entities and councils in identifying human rights complaints, particularly where the complainant does not specifically raise the Act in their complaint to the organisation. These challenges seem to arise from a lack of staff capacity to recognise human rights issues as well as from complaints systems and recording issues, such as uncertainty about

what constitutes a ‘complaint’ or where there is no consistency between different divisions of an organisation in complaint handling.

Last year the Commission was encouraged that policy reviews and complaints about human rights were uncovering systemic issues that were being addressed at an early stage by public entities. Case studies received this year from public entities clearly demonstrate the value of the internal complaints process in addressing issues with service delivery.

The implementation of the Act in councils seems to lack a coordinated and consistent approach, which we understand is in part a funding and resourcing issue. In particular there appears to be a gap in including human rights considerations in the local government law-making process. The lack of resourcing of the smaller and more remote councils seems to be an ongoing concern in building a human rights culture. The Commission has observed that councils with dedicated individuals or teams given the role of implementing the Human Rights Act were further advanced with embedding a human rights culture at the time of reporting. The Commission recognises that the resourcing of councils across Queensland is not equal, and the larger, better resourced councils have been able to implement the Act in a more timely and coordinated manner.

## *Building Belonging: A Review of Queensland’s Anti-Discrimination Act*

In May 2021, Queensland’s Attorney-General asked the Queensland Human Rights Commission (the Commission) to undertake a review of the *Anti-Discrimination Act 1991* (Qld).

The Anti-Discrimination Act plays a central role in protecting and promoting equality and belonging in Queensland. This Review, which marks the thirtieth anniversary of the Act, provided an opportunity to undertake a holistic re-evaluation of all aspects of Queensland’s discrimination law.

The Terms of Reference asked the Commission to consider whether there is a need for any reform to enhance and update the Act to best protect and promote equality. In undertaking the Review, any reform should have regard to compatibility of the Anti-Discrimination Act with the Human Rights Act.

Human rights considerations were particularly relevant to whether exemptions (or ‘exceptions’) to discrimination should remain in the Act, or whether they need to be amended or repealed. In examining human rights compatibility, the Review team considered whether each current exemption promotes or limits the rights protected by the Human Rights Act, and whether the exemption is a reasonable and proportionate limitation on rights to achieve a legitimate purpose.

The Review’s evaluation of whether reform was needed to existing attributes and whether new attributes should be introduced to the Act also centred human rights considerations. For instance, human rights conventions and other instruments such as the *Convention on the Elimination of All Forms of Discrimination against Women*, the *Convention on the Rights of Persons with Disabilities*, and the *United Nations Declaration on the Rights of Indigenous Peoples* provided guidance on the scope of family, and carer and kinship relationships. In evaluating this material, we recommended a broader attribute of family, carer, or kinship responsibilities to promote these rights.

The Human Rights Act provides a framework for balancing human rights with any proposed limitation on those rights. Taking a human rights-centred approach provided the Review with a solid foundation for making complex decisions and guided the development of the Commission’s recommendations. The benefits of a human rights approach to policy reform included providing a clear framework for balanced, evidence-based decision-making, and the opportunity to learn from and integrate guidance from international human rights law.

The proportionality test in the Human Rights Act is a valuable tool for any organisation weighing up policy reform, and it is encouraging that other agencies undertaking law reform have human rights compatibility included in their terms of reference.<sup>15</sup> The Commission anticipates that including human rights considerations at the earliest stage of the law reform process, prior to legislation being drafted, will enhance law reform in Queensland in the coming years.

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<sup>15</sup> See for example, Attorney-General’s referral to the Queensland Law Reform Commission for review and investigation the issue of regulating a decriminalised sex work industry in Queensland, *Terms of Reference*, 27 August 2021.

## Functional public entities

Functional public entities are those that fall within the definition of ‘public entity’ only 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 that manages a prison would fall under this category, and 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 contribute to building a positive human rights culture in Queensland, as many have a direct role in the delivery of essential services, including disability services, aged care, and housing.

## Human rights in housing and homelessness sector

As we reported last year, in 2021 the Queensland Council of Social Service partnered with the Department of Communities, Housing and Digital Economy (DCHDE) and the housing and homelessness sector to build understanding of the Act, increase confidence to work compatibly with the Act, and support sectors to use the Act for person-centred service delivery. This project concluded during this reporting period. Tailored, practical and detailed resources are available on an ongoing basis through Community Door website, which aims to ensure organisations are ‘human rights-aligned’. Jacaranda Housing, a ‘human rights champion’ participating in the project, commented that they became champions:

*To receive bespoke guidance that reflects the challenges and operating environment of the community housing sector. Our team has attended training and discussion forums on the Act, but this is a terrific opportunity to ensure we have correctly embedded the Act in all aspects of our decision-making processes and service delivery.*<sup>16</sup>

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<sup>16</sup> Queensland Council of Social Service, ‘Human Rights, Housing and Homelessness – About the project’ (Web page) <<https://www.qcoss.org.au/project/human-rights-housing-and-homelessness/>>.