



Human rights complaints

About human rights complaints

The Human Rights Act allows a person to make a human rights complaint to the Commission only after first making a complaint to the public entity about the alleged contravention of the Act, and at least 45 business days have elapsed since making that complaint. This process encourages direct resolution of complaints at the earliest possible stage.

This section of the report looks at the human rights complaints received by specific public entities, as reported to the Commission, and at complaints made directly to the Commission.

Complaints made directly to public entities

The Act allows a person to make a human rights complaint to the Commission only after first making a complaint to the public entity about the alleged contravention of the Act, and at least 45 business days have elapsed since making that complaint. This process encourages direct resolution of complaints at the earliest possible stage.

Public entities must ensure an appropriate complaint handling procedure is in place for early resolution of complaints.

Section 91(j) of the Act requires the Commissioner to report on the number of human rights complaints received by particular entities, and allows the Commissioner discretion to decide which public entities' complaints to report on under this provision.

The Commission has selected the departments that responded to the human rights indicators in the previous section of this report. The annual reports of state government public entities are the source of the following information about complaint numbers and outcomes. Section 97 of the Act requires public entities to prepare an annual report on the details of human rights complaints received including:

- the number received
- the outcome of complaints.

Table 4 gives the number of complaints reported by selected entities in annual reports for 2021-2022 and the previous year. The Commission has included details, where they have been provided, of outcomes of human rights complaints.

Significant variations occur in how human rights complaints are reported by different state public entities. While some reports provide comprehensive information about the type and nature of complaints and their outcomes, other reports contain scant information. While the Commission endorses the need to protect the privacy of complainants and others, the Commission observes that the legislative requirement to provide 'details' indicates a level of particularisation is required that is lacking in some reports by public entities. Information in reports can be de-identified to protect the privacy of individuals while giving a useful and detailed account of the complaint.

In the Commission's view, the standard of information provided by some public entities may indicate that agencies are not identifying all human rights complaints and reporting them in their annual reports. An indication of this is given when large departments only identify a very small number of complaints as human rights complaints, and that in some agencies the complaints identified have significantly reduced since last year, with no explanation given.

Table 4: Internal human rights complaints made to public entities, 2021-22

Public entity	Number of complaints	Outcomes
Department of Education ¹	6 complaints upheld or substantiated either in full or in part (15 in 2020-21)	These complaints were managed in accordance with complaints policies and procedures. Action taken for substantiated complaints may include the department overturning a decision, giving an apology, changing a practice or process, providing a service not previously provided or addressing or referring the issue for system improvement.
Department of Communities, Housing and Digital Economy ²	13 complaints (30 in 2020-21)	13 complaints, of which 7 were resolved and 6 not yet finalised. A new whole-of-department complaints policy and procedure with human rights considerations has been developed and implemented. A new complaints reporting template has been developed to support the effective capture of human rights complaints data.

¹ Department of Education, *Annual Report 2021-2022*, 60.

² Department of Communities, Housing and Digital Economy, *Annual Report 2021-2022*, 42.

Public entity	Number of complaints	Outcomes
		Assessments of corrupt conduct complaints and public interest disclosures includes consideration of whether any human rights may be potentially impacted by the department's management and/or investigation of the complaint.
Queensland Police Service ³	1,184 complaints (893 in 2020-21)	<p>1,184 complaints where it was identified that one or more human rights may have been unreasonably limited.</p> <p>1,552 possible human rights limitations (one complaint can include more than one human rights limitation).</p> <p>757 (of the 1,184) complaints were finalised as at 30 June 2022.</p> <p>48 instances where human rights were unreasonably limited resulting in: 12 apologies, 1 managerial resolution, 19 explanations, 16 disciplinary actions. However, in most cases, there was no further action taken as no human rights limitations were detected, or an explanation was provided to the complainant as the officers' actions were identified as being lawful and reasonable.</p> <p>The QPS has updated its complaints and grievance policies, procedures and mechanisms to ensure human rights complaints can be recorded, assessed and responded to appropriately. The QPS examines all complaints received by the QPS to ensure decisions made by the Service and its employees were compatible with the Act.</p>
Department of Children, Youth Justice and Multicultural Affairs ⁴	62 complaints (124 in 2020-21)	<p>62 complaints that contained 112 allegations. Of these allegations, 91 have been finalised, with the following outcomes:</p> <ul style="list-style-type: none"> • 42 were unsubstantiated (rights not limited) • 39 were unsubstantiated (rights limited, justified and reasonable)

³ Queensland Police Service, *Annual Report 2021-22*, 12–13.

⁴ Department of Children, Youth Justice and Multicultural affairs, *Annual report 2020-2021*, 35.

Public entity	Number of complaints	Outcomes
		<ul style="list-style-type: none"> 10 were substantiated (limited, not justified and unreasonable). <p>The remaining were withdrawn (1), unable to be determined (2), still active (12), and unable to be assessed as the matter was before the Children's Court (6).</p> <p>No complaints were referred to the QHRC.</p>
Queensland Corrective Services ⁵	693 complaints (615 in 2020-21)	<p>QCS received 693 complaints, including 117 complaints which raised a human rights issue.</p> <p>751 complaint issues were identified in the 693 complaints received. Of the 751 issues, 130 were identified as involving a human right under the Act, equating to 17% of all complaint issues received. Those 130 issues fell into the categories of: offender management (59), other (38), visitors and liaison (17), staff (11), access (2), employment (1), offender programs (1), and search (1).</p> <p>Of the 117 complaints with a human rights component, 108 were finalised and 9 remain open or ongoing.</p> <p>Of the 108 finalised complaints:</p> <ul style="list-style-type: none"> 65 were not substantiated 32 were referred or made to another agency 5 were partially substantiated 2 complainants were unable to be contacted 2 were substantiated 2 were 'other'.
Department of Seniors, Disability Services and Aboriginal and Torres Strait	3 customer complaints 42 staff complaints (7 in 2020-21)	<p>3 customer complaints were identified as containing multiple human rights issues. Concerns about 3 human rights were resolved as not substantiated, and concerns about the remaining 4 human rights are not yet finalised.</p> <p>Of the staff complaints received, none directly referred to the Act, but 42 matters were assessed</p>

⁵ Queensland Corrective Services, *Annual Report 2021-22*, 36.

Public entity	Number of complaints	Outcomes
Islander Partnerships ⁶		as containing identified human rights that may have been engaged. Some matters contained multiple human rights issues. Outcomes and resolutions were: 21 resolved as not substantiated, 8 resolved as substantiated, 17 were not yet finalised.
Department of Health ⁷	435 complaints (206 in 2020-21)	<p>Of the 435 complaints received, 361 were from members of the public and customers, and 74 from complaints such as employee grievances.</p> <ul style="list-style-type: none"> • 207 complaints were resolved by the department • 200 complaints remain ongoing/open • 4 complaints were withdrawn • 4 complaints were referred to the QIRC for conciliation • 20 complaints were unresolved (including closed or lapsed).

Early complaint resolution

This year, advocates told us that the Human Rights Act is continuing to have a positive, beneficial impact whether or not a matter proceeds to a formal complaint at the Commission or to a hearing in a court or tribunal.

LawRight has reported using the Act in its Court and Tribunal Services in the following ways:

- guardianship and administration and blue card review matters in QCAT
- judicial review applications in the Supreme Court
- submissions to the Mental Health Review Tribunal during reviews of forensic orders and applications for electroconvulsive therapy.

⁶ Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships, *Annual Report 2020-2021*, 48.

⁷ Department of Health, *Annual Report 2021-22*, 106.

LawRight also uses the Act as an advocacy tool in its Community and Health Justice Partnerships to achieve better outcomes for clients when negotiating with government departments. One example of this is the following story:

A single mother of five children from an African country was at risk of being evicted into homelessness from her Department of Housing property. The rental arrears at issue in the case arose from extraordinary circumstances where she had travelled to her homeland but was unable to return home to Australia for a sustained period due to the COVID-19 pandemic. The mother and her case worker were supported to advocate to the Tribunal for the application for a termination order to be dismissed on multiple grounds, including that granting the application would result in an arbitrary limitation on the mother's human rights. It was argued that the Tribunal should exercise its power in a way that was compatible with human rights, especially having regard to the mother's right to not be treated in a cruel, inhuman or degrading way which can extend to forcible eviction and considering there were less restrictive methods that could be taken. Ultimately, the parties were able to agree on a less restrictive method and the need for a disputed hearing was avoided.

Townsville Community Law told us that they have:

...advocated for public housing clients using the Human Rights Act on several occasions where a person was feeling unsafe because of the actions of their neighbours in a housing complex. In one instance an older woman had complained to her housing provider that her neighbour had verbally and physically intimidated her, but the housing provider had failed to intervene. The legal service wrote to the housing provider setting out the woman's rights under the Human Rights Act, including the right to equal treatment, freedom of movement, and the right to privacy, which includes the right to not have a person's home unlawfully or arbitrarily interfered with. The housing provider swiftly responded once the human rights issues had been raised with them and organised for her to be relocated to a new residence.

Townsville Community Law reflected that in such cases there may be other indirect options such as involving the police or urging the housing provider to instigate processes under residential tenancy laws, however these avenues would often result in eviction or further criminalisation of the tenant with challenging or intimidating behaviour. These processes were also often time consuming while the Human Rights Act allowed for more effective advocacy directly centred around protecting the rights of their clients.

Complaints made to the Commission

The Commission receives complaints when a person believes that a public entity has not given proper consideration to their human rights when making a decision, or acted in a way that is not compatible with human rights.

The Commission is impartial and does not take sides. The Commission's role is not to decide who is right or wrong, but to help people resolve complaints.

The Commission's role is to:

- work to ensure that everyone puts forward their point of view, is listened to, and feels safe
- assist everyone reach agreement about how to resolve the complaint, and
- ensure the process is fair.

As with last financial year, the Commission continued to receive a large volume of complaints in 2021–22, and this led to lengthy delays in assessing and conciliating complaints. Complaints to the Commission generally have increased by 93% in three years. Of the complaints that the Commission was able to deal with, 35% alleged a breach of human rights.

Delays in dealing with complaints have made it difficult to ascertain the exact number of human rights complaints made in the reporting period; this is because a complaint needs to be considered in some depth before the Commission can identify and record what 'type' of complaint it is.

This section contains information on human rights complaints finalised by the Commission in 2021-22. More detailed information on the data represented in graphs is provided in data tables in Appendix C.

Complaints processes and terminology

What is a piggy-back complaint? And what is a human rights only complaint?

Some complaints raise issues that might be covered by both the *Anti-Discrimination Act 1991* and the *Human Rights Act 2019*.

Under section 75 of the Human Rights Act, if the Commissioner considers that a human rights complaint would be more appropriately dealt with as an alleged contravention of the Anti-Discrimination Act, the Commission may deal with the complaint under that Act, with the consent of the complainant.

A 'piggy-back' complaint at the Commission is where a complaint is dealt with under the Anti-Discrimination Act (such as a discrimination complaint) but is against a public entity and therefore raises human rights issues under the Human Rights Act. The human rights aspects of the complaint are 'piggy-backed' onto the discrimination claim. The complaint parties usually proceed through a conciliation conference for these matters in which an impartial conciliator assists the parties to resolve the complaint, and the complainant has the option of referring their complaint to the relevant tribunal, if it does not resolve.

A 'human rights only' complaint is confined to a complaint about a public entity in relation to an act or decision of the public entity that is not compatible with the person's human rights, or that proper consideration to a human right relevant to a decision was lacking.

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

If a complaint is a human rights only complaint, there is no right of referral to a tribunal for a decision on the complaint, and no right to compensation.

Who can make a complaint?

A complaint can be made by an individual who is the subject of a human rights breach. That is, where the individual alleges that a public entity has acted or made a decision in a way that is not compatible with their human rights or has failed to give proper consideration to a human right relevant to a decision that affects them.

The individual can appoint an agent, or the Commission can authorise another person to make a complaint for the individual. Two or more persons can make a joint complaint.⁸

⁸ *Human Rights Act 2019* s 64(3).

What is an accepted complaint?

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

An ‘accepted complaint’ means that the Commission has assessed the complaint and decided that the matter should proceed to a dispute resolution process (conciliation or early intervention) to try to resolve the issues.

Under the Human Rights Act, a complaint can only be accepted if it is made in writing and includes enough details to indicate the alleged contravention to which the complaint relates.⁹ When deciding whether to accept a complaint, the complaint handler will consider whether there may have been an unreasonable limitation of human rights.

By accepting a complaint the Commission has not decided that there has been a breach of human rights.

What is a finalised complaint?

A finalised complaint is one which has been dealt with to conclusion, either through our dispute resolution process or through rejection and closure of the complaint file. For more detailed information see the section *Outcomes of finalised complaints*.

What is an accepted and finalised complaint?

This means a complaint that has been accepted (in any period) by the Commission and has been finalised in the period 2021-22.

What is a resolved complaint?

‘Resolved’ means that a complaint has been through a complaints process (conciliation or early intervention) and the matter has been resolved to complainant’s satisfaction.

Human rights complaints snapshot

By the end of the 2021–22 financial year:

⁹ *Human Rights Act 2019* s 67.

489 human rights complaints had been finalised in that year. 319 were human rights only complaints and 170 were piggy-back complaints.

191 of these finalised complaints had been accepted. 39 of these were human rights only complaints and 152 were piggyback complaints.

61 complaints were resolved in the 2021–22 financial year. 12 of the resolved complaints were human rights only complaints and 49 were piggyback complaints.

57 complaints (all piggy-back complaints) were referred to tribunals (41 to QCAT¹⁰ and 16 to the QIRC¹¹).

COVID-19 complaints

Since the start of the pandemic, the Commission has recorded whether the complaint is about COVID-19 or related issues. Common issues featured in these complaints include vaccination, mask-wearing, border restrictions, and quarantine requirements.

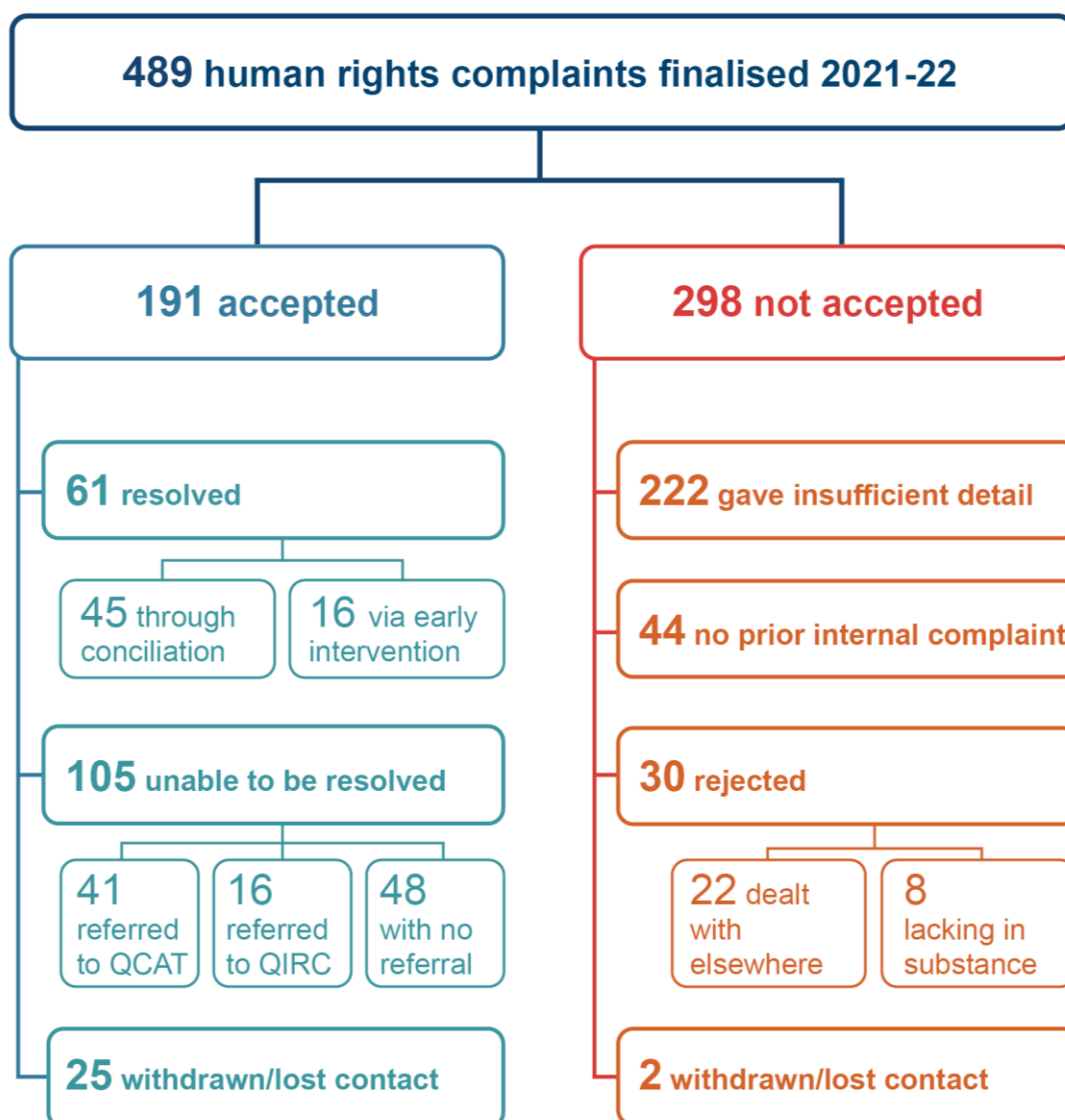
An unanticipated influx of complaints of this nature has strained the Commission's resources and created a backlog of complaints. While the Commission has secured further resources and is taking decisive steps to address this situation, in the short term this has resulted in challenges in identifying the number and nature of complaints made about human rights in the reporting period.

Of the 489 human rights complaints finalised in the reporting period, 212 (43%) were recorded as being about COVID-19. This is a noteworthy increase from the previous year, where 25% of human rights complaints were about COVID-19.

¹⁰ QCAT hears complaints made under the *Anti-Discrimination Act 1991* (Qld) but not resolved at the Commission that are not work-related.

¹¹ QIRC hears complaints made under the *Anti-Discrimination Act 1991* (Qld) but not resolved at the Commission that are work-related.

Figure 4: Human rights complaints snapshot, 2021-22



Outcomes of finalised complaints

298 (approximately 61%) of the human rights complaints finalised in the 2021–22 financial year were not accepted by the Commission. Aside from those complaints not indicating an unreasonable limitation on a human right (222 complaints), 22 complaints were not accepted because the Commission determined that the complaint has already been or would be better dealt with by another body, such as through a court or another specific complaints or oversight agency.

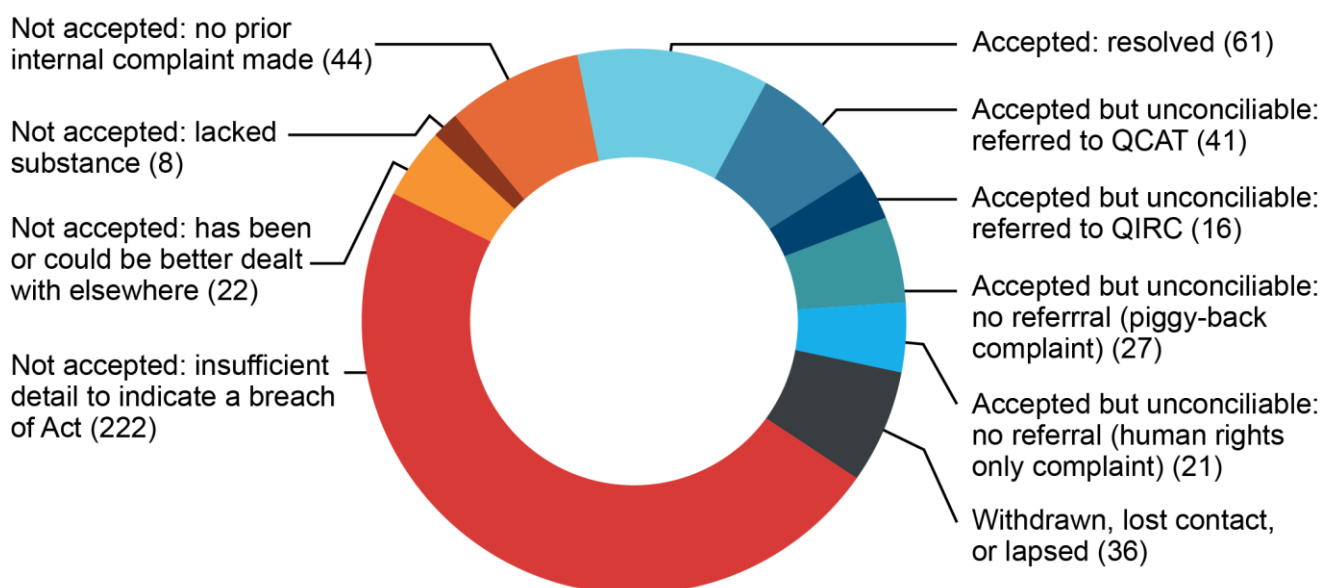
In each of the first two years of operation of the Act, the Commission observed that many complaints were being made directly to the Commission rather than meeting the requirement under the Act of first

making a complaint to the public entity concerned and waiting 45 days before lodging with the Commission.¹² In the first year, 27% did not meet the internal complaint requirements and this went down slightly to 21% in the second year. However, this has become less common in the third year of the Act with around 9% of complaints being closed by the Commission because this requirement was not met. Updates to the complaints information on the Commission's website to make this requirement more prominent may have contributed to improved understanding about the processes involved for potential complainants.

Of the complaints that were accepted, 61 complaints were resolved in the 2021–22 financial year. A further 57 complaints, some of which had been received in the previous financial year, were referred to tribunals (QCAT or QIRC).

There were a range of specific outcomes that were obtained through resolving complaints at the Commission, with an apology being the most common outcome, followed by an agreement that one or more respondents to the complaint would receive training about their obligations.

Figure 5: Outcomes of all complaints finalised in 2021-22



¹² *Human Rights Act 2019* (Qld) s 65.

Table 5: Specific outcomes achieved through the Commission's complaints process 2021-22 (including piggy-back complaints)

Outcome	Number
Apology	14
Agreement to train individuals/workforce	9
Agreement for compensation	8
Policy change/review	7
Change original decision	3
Policy development/implementation	3
Promotion/transfer of job role	2
Respondents' explanation accepted	2
Modifications to improve accessibility	1
Display of posters/information	1

Resolution rate for complaints

Compared with complaints accepted under the *Anti-Discrimination Act 1991*, the resolution rate continues to be significantly lower for human rights and piggy-back complaints.

This year 45.3% of Anti-Discrimination Act only complaints were resolved, compared with 32% of piggy-back complaints and 31.5% of Human Rights Act only complaints.

Figure 6: Resolution rates by complaint type 2021-22



Human rights identified in complaints

The Commission may identify relevant human rights from the information provided in the complaint, or the complainant may indicate that they believe the right has been limited. Most complaints contain several allegations and engage more than one human right.

Not all allegations of unreasonable limitations of human rights are accepted. An allegation (that a contravention has occurred) alone is not enough; the complainant must provide sufficient detail about an act or decision that indicates a breach of human rights has occurred before the complaint is accepted.

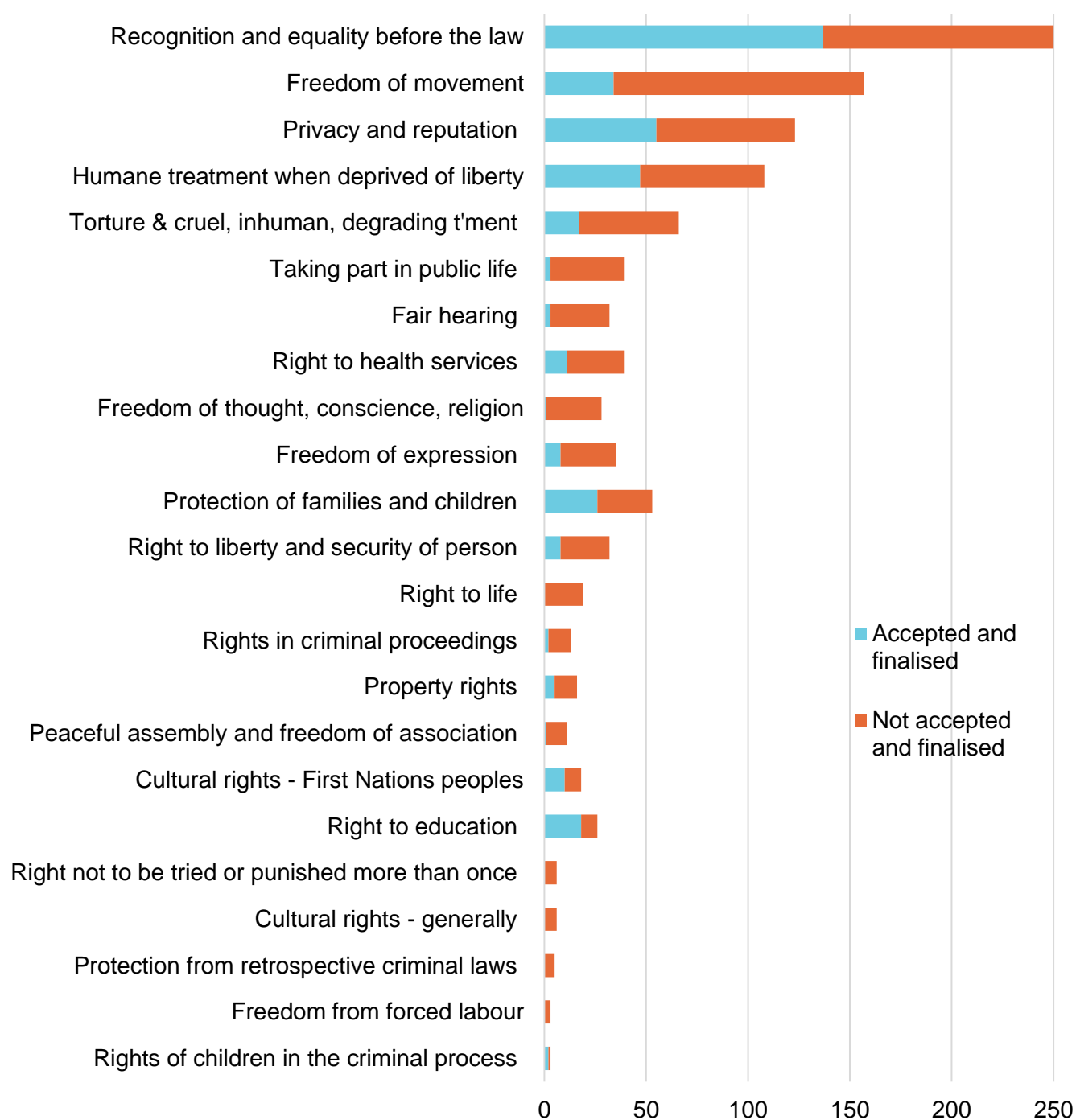
Some complaints that were received in 2021–22 have been assessed and accepted in the 2022–23 financial year (or are in the queue for assessment) and are therefore not included here.

The information represented in the following graphs can be found in data tables in Appendix C of this report.

All human rights complaints

Figure 7 shows human rights relevant to the allegations raised in the complaints finalised in 2021–22, and includes all complaints – piggy-back complaints and human rights only complaints.

Figure 7: Human rights identified in all complaints, 2021-22



The most frequently identified human right in complaints was the right to recognition and equality before the law, identified in over half of the human rights complaints made to the Commission. As noted in previous years, this is because the majority of complaints to the Commission are about discrimination under the *Anti-Discrimination Act 1991* which overlaps with this protected right. The right to recognition and equality before the law is likely to be engaged in all cases where a complainant is complaining about discrimination and the respondent is a public entity.

The second most common protected right in complaints finalised in the reporting period was freedom of movement. Complaints about limitation of this right continue to be high in number because of the impact of COVID-19 and the restrictions placed on the free movement of people in Queensland in the reporting period. While there were a considerable number of complaints about freedom of movement, they were not as likely to indicate an unreasonable limitation on human rights as complaints about other protected rights.

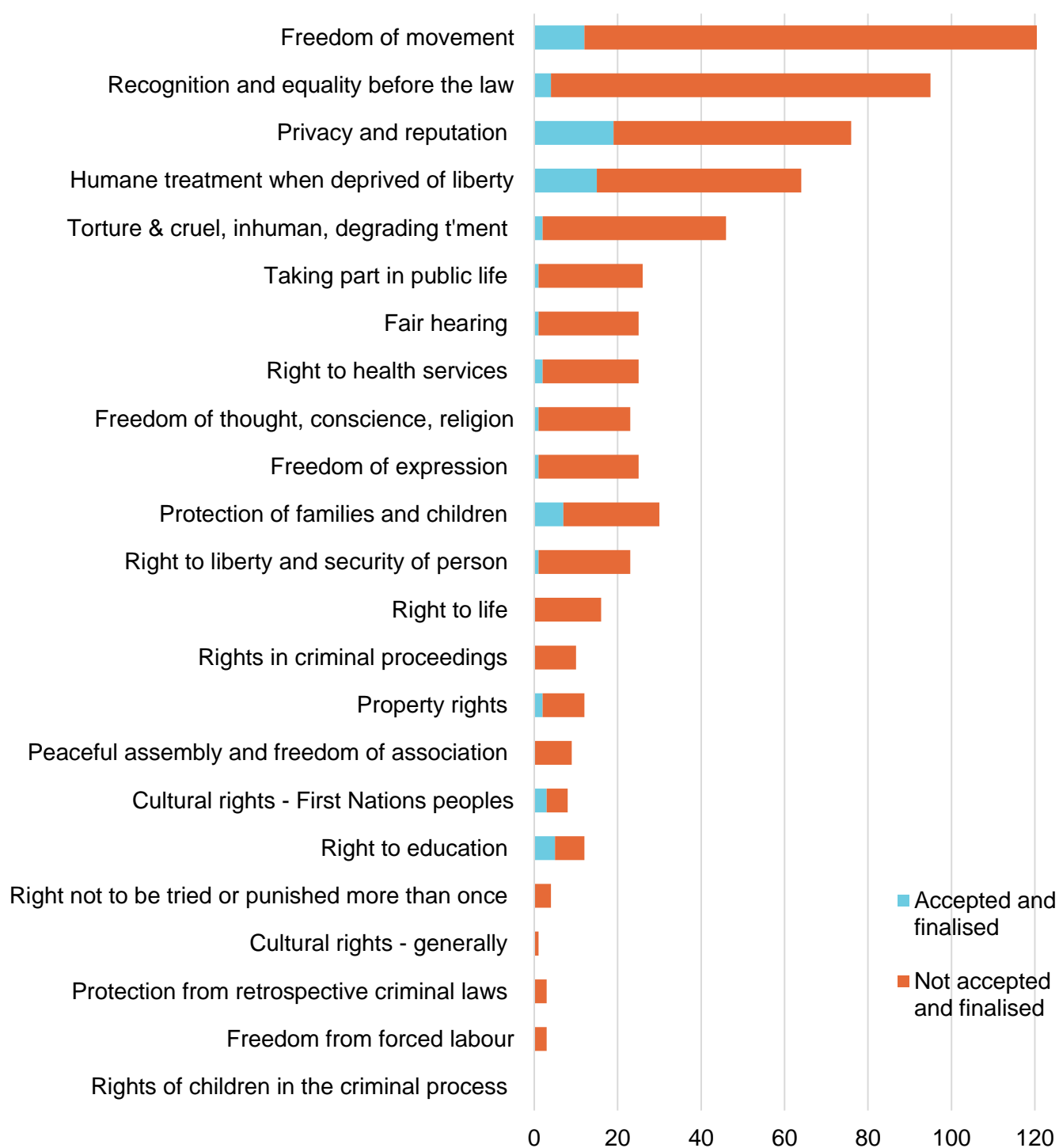
The third most common protected right in complaints was the right to privacy and reputation. As the scope of this right is broad, complaints arise in a range of circumstances from those involving personal information and data collection through to situations involving social housing.

Human rights only complaints

Figure 8 shows human rights only complaints (i.e. does not include piggy-back complaints which also contain allegations about a breach of the Anti-Discrimination Act).

For human rights only complaints, where a person did not also have a complaint under the Anti-Discrimination Act, freedom of movement was the human right most often identified in complaints made to the Commission and finalised in the reporting period, followed by recognition and equality before the law, and then privacy and reputation. However, in the complaints about human rights only that were accepted by the Commission, privacy and reputation was the most common right identified. While we received more complaints about freedom of movement, more complaints were accepted about humane treatment when deprived of liberty, and privacy and reputation, even though they were fewer in number.

Figure 8: Human rights identified in human rights only complaints, 2021-22¹³

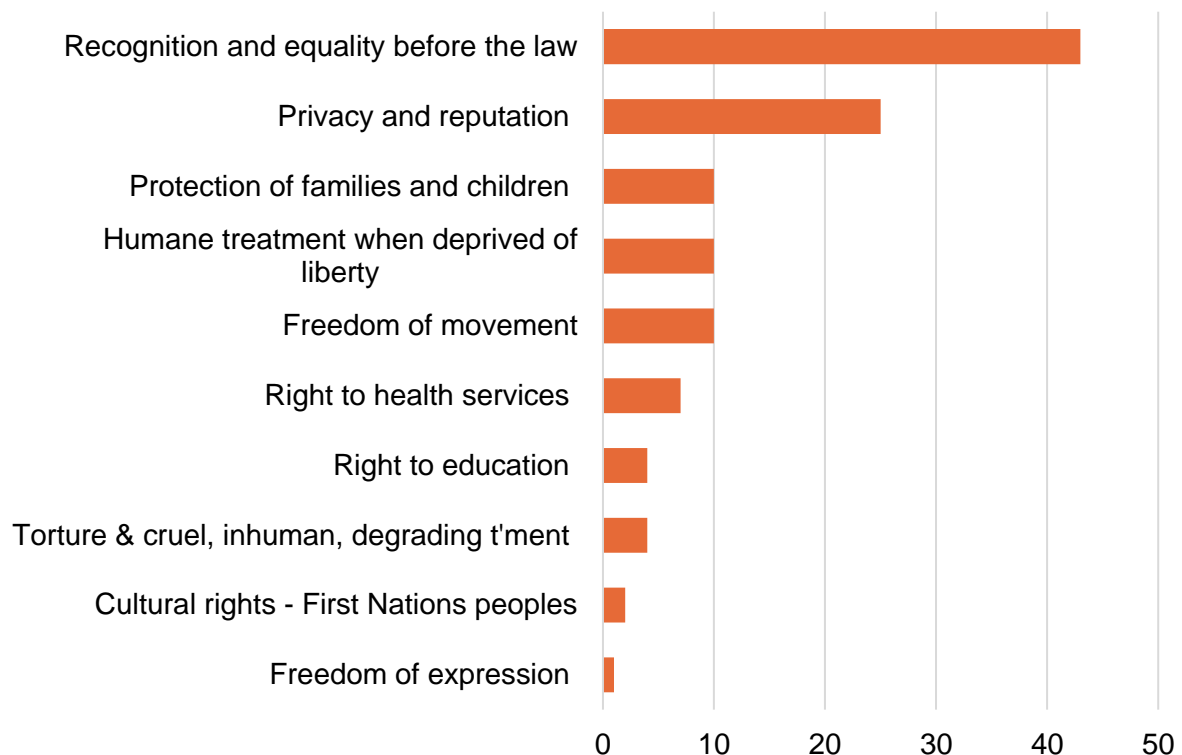


¹³ Note that the names of rights sections are abbreviated. For a full list of rights see section of this report entitled *Introduction to the Human Rights Act - Protected Rights*.

Resolved complaints

Figure 9 shows protected rights identified in complaints that were accepted by the Commission and resolved in 2021–22. This includes all complaints – piggy-back complaints and human rights only complaints – and again the right to recognition and equality before the law, and right to privacy and reputation were the most common.

Figure 9: Human rights identified in resolved complaints, 2021-22



Finalised complaints by sector

The public entities named as respondents in human rights complaints are categorised by their sector as part of the Commission's data collection.

'Not a public entity' was recorded when the person complained about a respondent not covered by the Act. For example, a towing company that towed a car impounded by police. It may also apply where it is a federal body such as Australia Post.

'Other government services' are services provided by public entities that do not fit into the key categories as provided in the Commission's database. For example, an organisation delivering community services.

'Other state laws and programs' means government programs that are not services provided to an individual. For example, an entity that enforces fines or regulates individuals or industries such as the Queensland Racing Integrity Commission or the State Penalty Enforcement Registry.

'Corrections' includes prisons and youth detention, but this year, all finalised complaints in this area were about prisons and none were about youth detention.

'Work' is where a public sector worker is complaining about issues arising in their workplace. In most instances a person is complaining about discrimination or sexual harassment as their primary concern, but their workplace is a public entity.

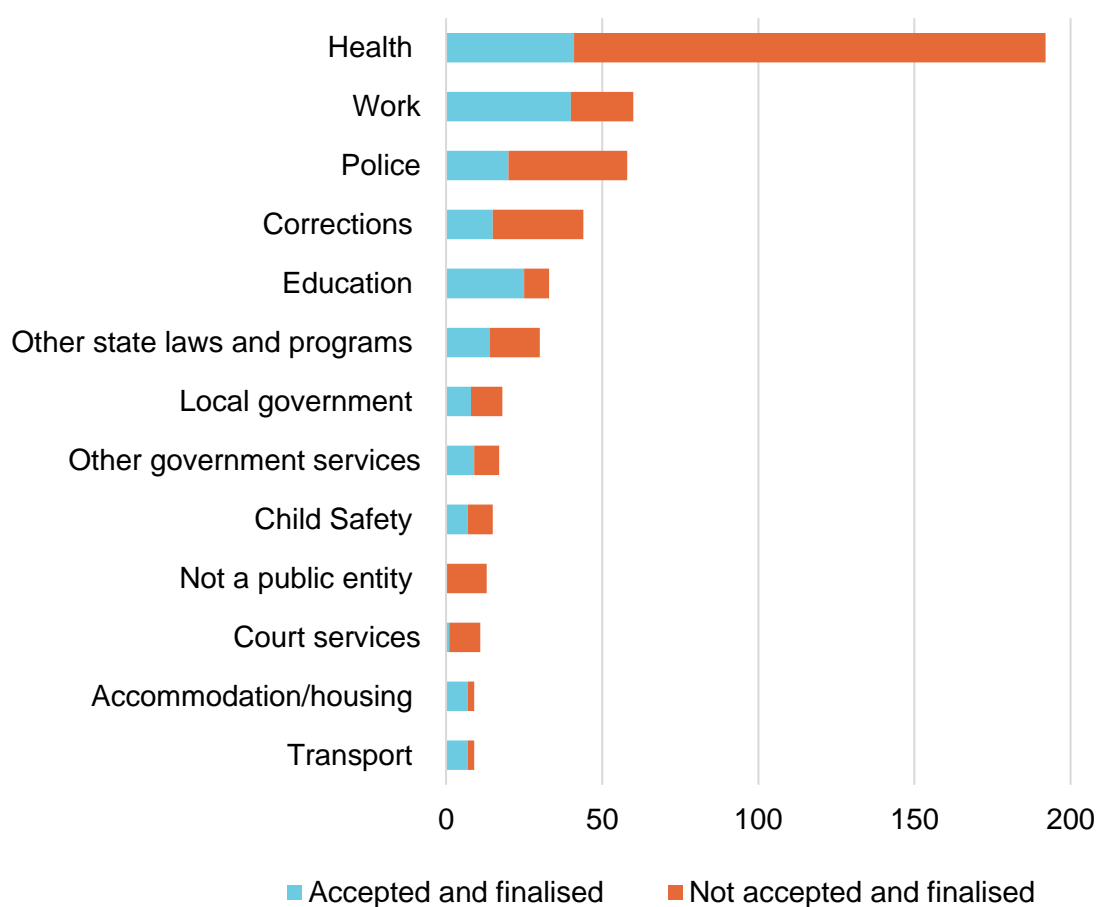
All human rights complaints

Figure 10 includes all complaints – piggy-back and human rights only complaints – by the sector of the public entity named.

Complaints about health bodies predominated, making up the highest portion of complaints (represented in 192 complaints). This continues the trend from previous years, and has been strongly influenced by the COVID-19 pandemic. Of the health-related complaints, a small number (10) related to mental health services. Complaints about police were probably higher this financial year because of their role in enforcing Public Health Directions (58 complaints).

This year, work was the second most common category of complaint (represented in 60 complaints).

Figure 10: Finalised complaints by sector – all complaints, 2021-22



Education complaints included allegations of human rights breaches by primary, secondary, and tertiary institutions, with most arising in the secondary school setting.

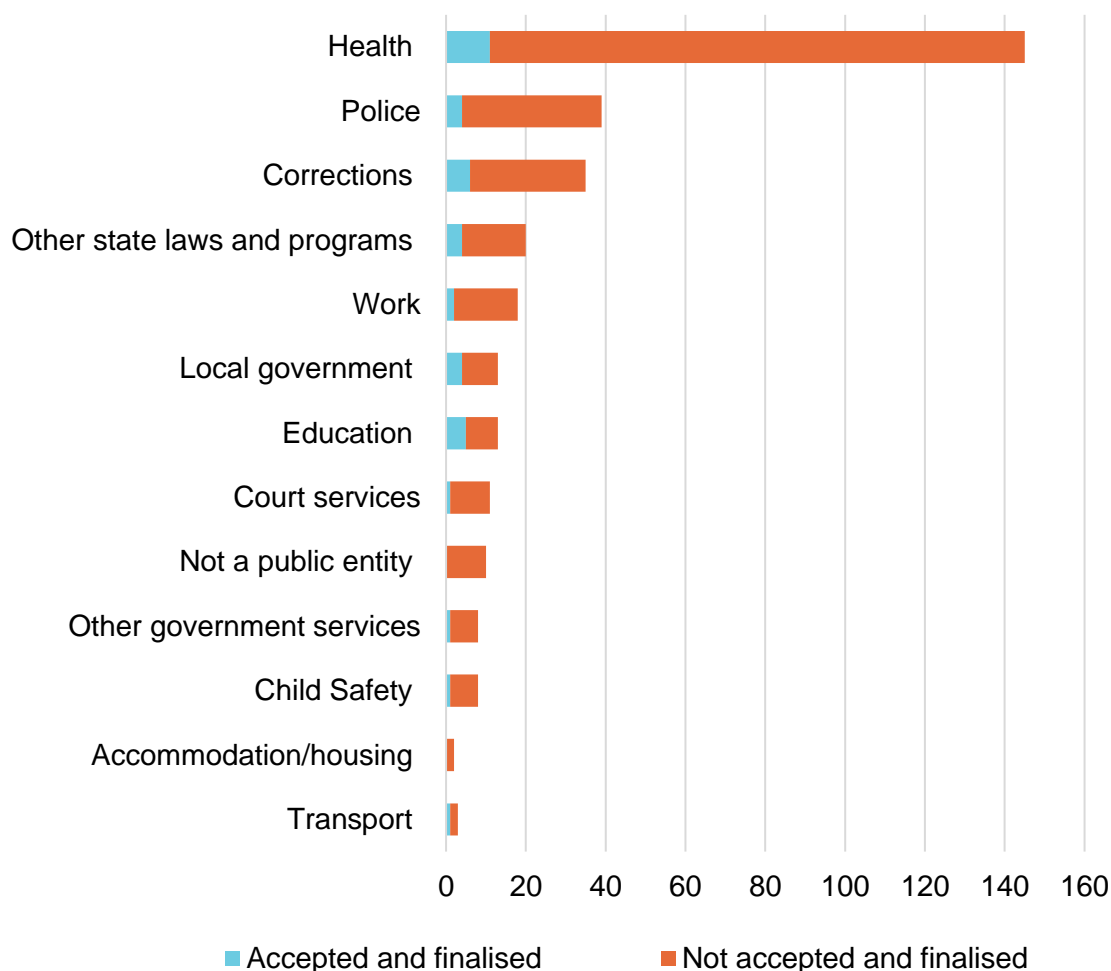
Table 6: Human rights complaints to the Commission about the education sector 2021-22

Type	Finalised	Accepted & finalised
Primary	8	6
Secondary	16	13
Tertiary	9	6

Human rights only complaints

Figure 11 shows human rights only complaints finalised in 2021–22 by the sector of the public entity named.

Figure 11: Finalised complaints by sector – human rights only complaints, 2021-22



Of the complaints made only about human rights, the most common sectors represented in complaints were health, followed by police and corrections.

Demographic information for finalised complaints

The information in this section breaks down complaints by the complainant's country of birth, sex, and age, based on information provided to the Commission. Demographic data has not been collected for every complaint, but the information captured may demonstrate general trends. The demographic information in this section is about

complainants who made piggy-back complaints, as well complainants who made human rights only complaints.

Complaints finalised in the 2021–22 period were lodged mainly from within Queensland. Compared with last year, more complaints were lodged from interstate and particularly from Melbourne and Sydney, reflecting COVID-19 related complaints about border entry restrictions.

Most of the complainants living in Queensland were from the south-east region, and some from smaller regional coastal areas. Few complaints were received from people living in remote areas.

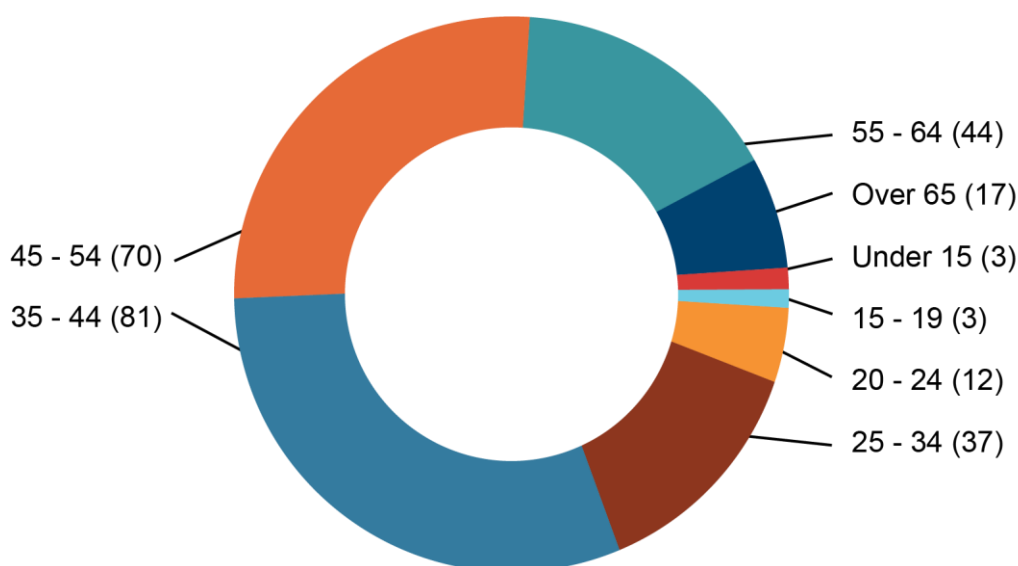
Of the finalised complaints, 50.39% were from female complainants and 46.91% were from male complainants.

Around 75% of complainants were born in Australia, and 25% were born overseas. This was a similar result to last year.

Complainants with a primary language other than English accounted for 5%.

Most complainants were in the age brackets of 35 to 44 years (30.5%) and 45 to 54 years (25.9%).

Figure 12: Finalised complaints by complainant age, 2021-22



The Commission finalised 25 complaints from people who were Aboriginal or Torres Strait Islander, of whom 20 were of Aboriginal descent, 3 were Torres Strait Islander, and 2 were Aboriginal. This is a similar result from last year, in which we finalised 23 complaints from Aboriginal or Torres Strait Islander people.

Dispute resolution process: conciliation and early intervention

Compared to the Anti-Discrimination Act, the Human Rights Act offers a more flexible approach to complaint handling. For urgent situations in human rights only complaints, early interventions have replaced conciliation conferences.

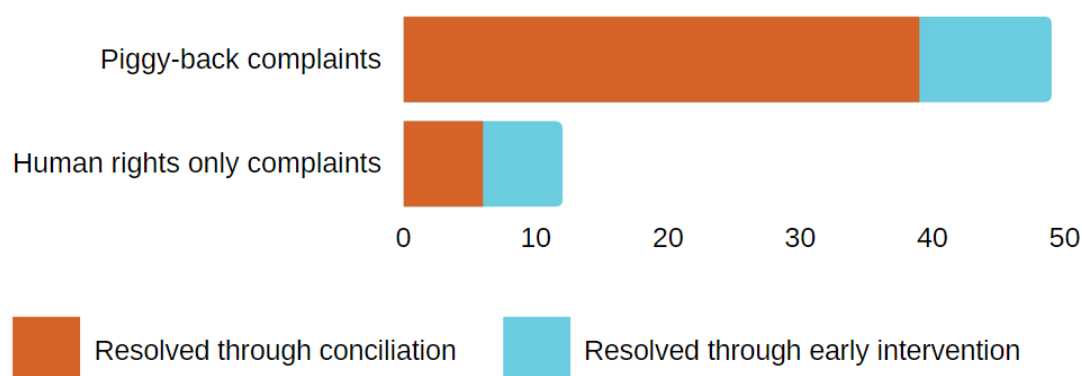
In the reporting period, 61 complaints were resolved and finalised by the Commission, comprising:

- 12 human rights only complaints
- 49 piggy-back complaints.

Of these, 6 of the human rights only complaints were resolved through early intervention (50% of the human rights only matters resolved), and 10 piggy-back complaints were resolved by early intervention (approximately 20% of the piggy-back complaints).

Our Priority Complaints Team has continued to demonstrate the value in deploying early intervention. The benefits can include reduced waiting times and a flexibility in approach that accommodates the needs of the parties, the urgency of the matter, and the suitability for a conference.

Figure 13: Finalised complaints by dispute resolution mode, 2021-22



Corporations carrying out public functions

In the committee report on the Human Rights Bill in 2018, the Legal Affairs and Community Safety Committee commented that it would be beneficial for the Commission to monitor complaints raised against private corporations undertaking public functions in light of some concerns raised that the definition of public entity under section 9 may create uncertainty regarding which entities may be captured.¹⁴

Of the accepted and finalised human rights complaints, we identified three in which a corporation was named as a respondent. They were:

- a security company working for a courthouse
- a service provider in a prison
- a public transport provider contracted to the government.

Complaints to other agencies

Aside from the Commission, other oversight bodies reported receiving complaints about human rights in 2021–22.

The Office of the Queensland Ombudsman received 1,583 cases that were assessed as involving a human rights element. The most common complaint topics were property rights, protection of families and children, right to health services, freedom of movement, and humane treatment when deprived of liberty.¹⁵

The Office of the Health Ombudsman (OHO) identified 12 health service complaints in the reporting period that potentially engaged at least one human rights issue. The OHO noted that they intend to undertake further work on processes to identify human rights issues in health service complaints.¹⁶

¹⁴ Legal Affairs and Community Safety Committee, Queensland Parliament, *Human Rights Bill 2018* (Report No 26, February 2019) 13.

¹⁵ Queensland Ombudsman, *Annual Report 2021-22*, p7.

¹⁶ Office of the Health Ombudsman, *Annual Report 2021-22*, p33.

Resolved complaint case studies

The following case studies are a selection of resolved outcomes of complaints finalised in the financial year 2021–22.

Apology for offensive comments based on gender identity

A transgender woman complained that paramedics made inappropriate comments about her gender identity while she was being transported in an ambulance. This left her feeling agitated and insulted. The complaint was resolved through early resolution, with the respondents agreeing to pay her compensation. The ambulance service apologised for any offence or hurt suffered as a result of the situation and the staff member involved also participated in discrimination training in the workplace.

Relevant rights: Recognition and equality before the law (section 15), right to health services (section 37)

Complaint type: Piggy-back complaint

Attribute: Gender identity

Dispute resolution mode: Early intervention

Improving processes to apply for disability parking

A mother lodged a complaint on behalf of her adult son who has an intellectual disability, autism, and other health issues that result in severe pain and extreme behaviour. The mother applied for a disability parking permit to allow her to park closer to the shops to keep her, her son, and members of the public safe. The parking permit was initially refused because the son did not seem to meet the criteria, which are primarily directed at mobility, and the mother subsequently made a complaint to the Commission.

The woman and a representative of the department responsible for the permit scheme participated in a conciliation conference. In the meantime, the mother made a fresh application and received a permit. During the conference, the mother explained that her son's life was much more difficult during the period when they did not have a permit, but that she felt unable to pursue a formal appeal of the rejection.

because of her own personal history. She explained her desire for a system that is not so isolating and is more focused on the people involved and their needs, rather than something that is purely bureaucratic. The department's representative outlined recent reviews to the permit scheme, including consultation and weighing of various needs and interests that occurred.

The complaint was resolved with the parties agreeing that the woman's feedback about her experience would be given anonymously to the relevant areas of the department (both in policy and customer service).

Relevant rights: Recognition and equality before the law (section 15), protection of families and children (section 26).

Complaint type: Piggy-back complaint

Attribute: Impairment

Dispute resolution mode: Conciliation conference

Treatment of family with disabilities prompts training review

A complaint was made by four members of a family, three of whom have learning disabilities and one who has a physical disability and uses a wheelchair. The family attempted to board a public bus and alleged in their complaint that the driver said there was a 'bad odour here' and asked the complainants if they ever took baths and that they needed to use deodorant. Insulted and embarrassed, the complainants got off the bus and in their rush the wheelchair tipped. They alleged the driver said he didn't want to see the wheelchair on his bus again and it was best that they took a taxi. The complainants felt that they could not catch local public transport after the incident.

At the conciliation conference, the respondents did not agree with all the complainants' assertions, but nonetheless provided written apologies expressing their regret for the incident and confirming that the complainants are genuinely welcome on the bus. The respondents also provided compensation and travel vouchers to the complainants and agreed to review the discrimination training provided to staff to ensure it highlights the impact of discrimination on people who live with disabilities.

Relevant rights:	Recognition and equality before the law (section 15), privacy and reputation (section 25).
Complaint type:	Piggy-back complaint
Attribute:	Impairment, family responsibilities.
Dispute resolution mode:	Conciliation conference

More responsive health services for man with Klinefelter syndrome

The Commission received a complaint from a man who is neurodiverse and has Klinefelter syndrome, which is a term that describes people with XXY chromosomes. The man requires testosterone injections of a certain dose and regularity to avoid symptoms such as lethargy, depression, anxiety, and fatigue. As he had been in and out of prison, the man had not received the required testosterone dose at various times, and he lodged a complaint that this was a breach of his right to health services.

The health service responsible for health care in the prison participated in a conciliation conference and agreed to the following:

- apology for any miscommunication regarding his syndrome
- training for prison health staff about the syndrome
- assurances that his medical records/discharge summaries would be available when needed
- referral to see a medical officer to refer for ultrasound and physiotherapy as needed.

We note that is a complaint that could have also been accepted as discrimination on the basis of ‘sex characteristics’ which is not currently a protected attribute under the *Anti-Discrimination Act 1991* (Qld). Inclusion of ‘sex characteristics’ as an attribute has been recommended by the Commission in its recent Review of the Anti-Discrimination Act,¹⁷ to ensure better protections of people with variations of sex characteristics, such as Klinefelter syndrome.

¹⁷ Queensland Human Rights Commission, *Building Belonging: Review of Queensland’s Anti-Discrimination Act 1991* (Report, July 2022) 312–315.

Relevant rights:	Recognition and equality before the law (section 15), right to health services (section 37).
Complaint type:	Piggy-back complaint
Attribute:	Impairment
Dispute resolution mode:	Conciliation conference

Resolution to complaint promoted family and kinship rights

A prisoner's mother made a complaint against a prison service provider¹⁸ about a breach of human rights, including the right to maintain family and kinship relationships. Her son was in a prison far from where she lived, and she also cared for his child. Because of the distance, the only way that the woman could keep in touch with her son and ensure her grandchild could maintain a relationship with their father was through phone contact.

Phone calls are made by prisoners through an account that other people are able to deposit funds into. However, the service provider's rules automatically banned a prisoner from receiving funds after there had been a 'drawback' of funds. A drawback occurs when a person outside of the prison deposits money, which is then spent by the prisoner but in the meantime the depositor disputes the charge, leaving the account in a deficit. Even though the drawback had not happened when the mother was depositing funds, the policy meant that she was unable to put money onto her son's account to allow him to make phone calls to his family.

Through the conciliation process the prison service provider committed to review their policies to ensure they were compliant with the human rights of family members as well as those of prisoners. The mother was also reinstated as a person who was able to send funds to her son.

Relevant rights:	Protection of families and children (section 26), right to privacy and reputation (section 25), cultural rights – Aboriginal
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¹⁸ The Commission ascertained that the prison had provided alternative options such as money orders or other forms of deposit, and so Queensland Corrective Services was not a respondent to this complaint, only the service provider.

peoples and Torres Strait Islander peoples
(section 28)

Complaint type: Human rights only

Dispute resolution mode: Conciliation conference

Access to health services for a man with disability seeking vaccination booster

The Commission received a complaint from a man with autism who was unable to attend a clinical setting to receive a COVID-19 booster vaccination because of sensory and environmental factors relating to his disability. His anxiety also prevented him from answering phone calls.

He had requested a home visit for a booster shot but was experiencing challenges in getting an appointment. He felt at extreme risk due to his disability and because he was avoiding leaving home, it was causing him to experience social isolation. While he had stated that his preference was for email contact, he was receiving calls by phone from the booking service. Because he did not answer his phone, the appointment was not being booked in and he was becoming increasingly stressed about the situation.

Through the conciliation process, the health service helped arrange for the man to get his booster shot at home. The service also agreed to review the contact centre booking process to ensure that the most appropriate method of communication is used in future.

Relevant rights: Recognition and equality before the law
(section 15), right to health services
(section 37)

Complaint type: Piggy-back complaint

Attribute: Impairment

Dispute resolution mode: Conciliation conference

Perceptions of cultural safety in health service provision improved

A First Nations man detained in prison told us that he was not receiving culturally safe health care. Through early resolution, the prison health service agreed to continue to work with Queensland Corrective Services to ensure a Cultural Liaison Officer is present during future health-related consultations, and put in place a process where the Nurse Unit Manager would directly request the liaison officer's presence at all appointments.

The man communicated to the Commission he felt that there had been significant improvement in the way he experienced health care as a result of lodging the complaint. The conciliator sought the assistance of a member of the Aboriginal and Torres Strait Islander Unit at the Commission to manage the complaint process, and the conciliator reflected that the Unit's involvement had been crucial in ensuring that the complainant felt comfortable and safe during the complaint process.

Relevant rights:	Right to protection from torture, cruel, inhuman and degrading treatment (section 17), humane treatment when deprived of liberty (section 30), right to health services (section 37)
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Complaint type:	Human rights only
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Dispute resolution mode:	Early intervention
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