



Referral Arrangements under the Human Rights Act

Between:

Office of the Queensland Ombudsman (the QO)

and

Queensland Human Rights Commission (the QHRC)

RECITALS

- A. The functions of the QO include investigation of complaints about actions and decisions of government departments and agencies, local councils and public universities pursuant to the *Ombudsman Act 2001* (Qld) (the Ombudsman Act).
- B. The functions of the QHRC include dealing with human rights complaints under the *Human Rights Act 2019* (the HR Act) about actions or decisions of public entities, and where possible to effect conciliation.
- C. The parties acknowledge and agree that there may be some overlap between their respective functions.
- D. Section 74 of the HR Act provides that the QHRC and the QO may enter into arrangements about referral of complaints, how to deal with complaints or other matters that could also form the basis of a human rights complaint, and cooperating in the performance of the functions of the QO and the Commissioner to ensure the effective operation of the HR Act and the Ombudsman Act.
- E. This arrangement is entered into pursuant to section 74 of the HR Act with a view to:
 - i. avoiding duplication in dealing with human rights complaints,
 - ii. ensuring that the more appropriate entity deals with a human rights complaint,
 - iii. ensuring that the HR Act and the Ombudsman Act operate effectively; and
 - iv. providing the most streamlined and efficient process for complaints.

1. Definitions

Commencement Date means the date on which this Arrangement is executed by the parties, or if not executed by the parties on the same date, means the later of the dates of execution.

Commissioner means the Queensland Human Rights Commissioner.

Ombudsman means the Queensland Ombudsman.

HR Act means the *Human Rights Act 2019*.

human rights means the rights stated in part 2, divisions 2 and 3 of the *Human Rights Act 2019*.

human rights complaint means a complaint about an alleged contravention of section 58(1) of the *Human Rights Act 2019* by a public entity in relation to an act or decision of the public entity.

Ombudsman Act means the *Ombudsman Act 2001* (Qld).

powers of preliminary inquiry means the powers of preliminary inquiry under section 68 of the *Human Rights Act 2019*.

public entity has the meaning given by section 9 of the *Human Rights Act 2019*.

QHRC means the Queensland Human Rights Commission.

QO means the Office of the Queensland Ombudsman established under the *Ombudsman Act 2001* (Qld).

2. Consideration of human rights

When dealing with complaints about the actions or decisions of public entities, the HR Act will require the QO to consider whether actions or decisions of public entities, the subject of complaints, are not compatible with human rights, or whether, in making a decision, a public entity failed to give proper consideration to a human right relevant to the decision.

3. QO may deal with or refer human rights complaints

In the event the QO receives a complaint under the Ombudsman Act and the QO considers the complaint may also be a human rights complaint, the QO may:

- a. deal with the human rights part of the complaint under the Ombudsman Act; or
- b. with the consent of the complainant, refer the complaint to the QHRC.

4. QHRC may refer human rights complaints to the QO

In the event the QHRC receives a human rights complaint that could be the subject of a complaint under the Ombudsman Act, the QHRC may, if the Commissioner considers the complaint would be more appropriately dealt with by the QO, refer the human rights complaint to the QO, with the consent of the complainant.

5. Preliminary inquiry before referral by the QHRC to the QO

Before seeking consent from the complainant to refer a complaint to the QO, the QHRC agrees to use its powers of preliminary inquiry under section 68 of the HR Act to consult with the QO about the most appropriate entity to deal with a human rights complaint. The preliminary inquiries may include, but are not limited to the following:

- a. whether a complaint has already been lodged with the QO about the subject of the complaint;
- b. whether the QO has jurisdiction to deal with the subject of the complaint; and
- c. the likely processes and timeframes for dealing with the complaint if the complaint is referred to the QO.

6. Consultation with QHRC before referral by the QO to the QHRC

In the event the QO considers referring a complaint to QHRC, the QO will consult with the QHRC before seeking the complainant's consent to refer the complaint. The consultation may include, but is not limited to the following:

- a. whether a complaint has already been lodged with the QHRC about the subject of the complaint;
- b. whether the QHRC has jurisdiction to deal with the complaint; and
- c. the likely processes and timeframes for dealing with the complaint if it is referred to the QHRC.

7. Nominated officers

The QHRC and the QO nominate the following persons and/or positions for the purpose of consultation and liaison under this agreement:

QHRC	QO
<p>[REDACTED]</p> <p>Director, Complaint Management</p> <p>[REDACTED]</p>	<p>[REDACTED]</p> <p>Acting Manager Registration and Preliminary Assessment Team</p> <p>[REDACTED]</p>
<p>[REDACTED]</p> <p>Manager, Brisbane Complaints Team</p> <p>[REDACTED]</p>	<p>[REDACTED]</p> <p>Assistant Ombudsman Intake and Major Projects</p> <p>[REDACTED]</p>
<p>[REDACTED]</p> <p>Manager, Brisbane Complaints Team (Intake)</p> <p>[REDACTED]</p>	<p>Registration and Preliminary Assessment Team</p> <p>[REDACTED]</p>
<p>[REDACTED]</p> <p>Regional Manager, Rockhampton Office</p> <p>[REDACTED]</p>	
<p>[REDACTED]</p> <p>Regional Manager, Townsville Office</p> <p>[REDACTED]</p>	
<p>[REDACTED]</p> <p>Regional Manager, Cairns Office</p> <p>[REDACTED]</p>	

8. Information to be given to the QO upon referral

Should the QHRC decide to refer a complaint the QO, the QHRC will:

- a. obtain written consent to the referral from the complainant, or make a transcript or summary of the oral consent to refer;
- b. seek consent from the complainant to give the QO information about the complaint including the complaint;
- c. send the complaint, consent and information agreed by the complainant to the QO; and

- d. give the complainant a notice confirming that the complaint has been referred to the QO.

9. Information to be given to the QHRC upon referral

Should the QO decide to refer a complaint to the QHRC, the QO will:

- a. obtain written consent to the referral from the complainant, or make a transcript or summary of the complainant's oral consent to refer;
- b. seek consent from the complainant to give the QHRC a copy of the complaint or the transcript or summary of an oral complaint, and any other information relevant to the complaint;
- c. send the complaint, consent and the complainant's name and address to the QHRC; and
- d. give the complainant a notice confirming that the complaint has been referred to the QO.

10. Mail or email for giving information upon referral

The giving of information and documents on referral of a complaint under this arrangement, may be given by email, at addresses agreed between the QHRC and the QO.

11. Prompt progress after referral

If referral of a complaint occurs pursuant to this arrangement, the party receiving the referred complaint will act promptly to deal with the complaint according to their usual processes and legislative requirements.

12. Communication Regarding Outcome of Referred Complaint

If a complaint is referred between the agencies, they each agree to inform the other, as far as legislative provision allow, about the outcome of the referred complaint.

13. Regular meetings

- a. The parties agree to meet at agreed intervals to discuss any issues arising under the arrangement.
- b. The agenda for the meeting and the attendees for the meeting will be agreed between the parties at least 48 hours before the meeting.

14. Review of arrangements

The parties agree to review this arrangement from time to time as required. Either party may request that the arrangement be reviewed.

15. Termination

This arrangement may be terminated by either party giving 30 days written notice to the other party.

16. Amendment

This arrangement may only be amended, supplemented or replaced by further written arrangement signed by both parties.

17. Operation of this arrangement

This arrangement contains the entire arrangement between the parties about its subject matter. Any previous arrangement, understanding or agreement relating to that subject matter is replaced by this arrangement and has no further effect from the Commencement Date.



Phil Clarke
Queensland Ombudsman
Office of the Queensland Ombudsman



Scott McDougall
Human Rights Commissioner
Queensland Human Rights Commission

17 December 2019.