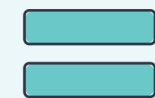
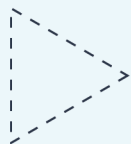




HUMAN RIGHTS | HOUSING AND HOMELESSNESS

Guide: Developing complaints process
The Human Rights Act 2019 (Qld)

QUEENSLAND'S 23 PROTECTED HUMAN RIGHTS



Recognition and equality before the law (section 15)



Right to life (section 16)



Protection from torture and cruel, inhuman or degrading treatment (section 17)



Freedom from forced work (section 18)



Freedom of movement (section 19)



Freedom of thought, conscience, religion and belief (section 20)



Freedom of expression (section 21)



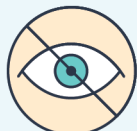
Peaceful assembly and freedom of association (section 22)



Taking part in public life (section 23)



Property rights (section 24)



Privacy and reputation (section 25)



Protection of families and children (section 26)



Cultural rights - generally (section 27)



Cultural rights (section 28)



Right to liberty and security of person (section 29)



Humane treatment when deprived of liberty (section 30)



Fair hearing (section 31)



Rights in criminal proceedings (section 32)



Children in the criminal process (section 33)



Right not to be tried or punished more than once (section 34)



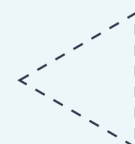
Retrospective criminal laws (section 35)



Right to education (section 36)



Right to health services (section 37)



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This Guide was developed through the Human Rights, Housing and Homelessness Project to build the capacity of the social housing and homelessness sectors to understand and apply the *Human Rights Act 2019 (Qld)* in service delivery. It is a Guide primarily for community sector staff to better understand how they can engage in every day, non-legal advocacy using human rights..

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This Guide was produced on the lands of the Turrbal and Yagera peoples in Meanjin. QCOSS and the Department of Communities, Housing and Digital Economy acknowledge Aboriginal and Torres Strait Islander peoples as the original inhabitants of Australia and recognises these unique cultures as part of the cultural heritage of all Australians. We pay respect to Elders of this land, past and present.

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GENERAL COMPLAINTS PATHWAY

Public entities identified by the *Human Rights Act 2019 (Qld)* are required to accept human rights complaints from individuals or groups of people in Queensland who require access to or receive services from them. Instead of hoping this won't happen, let's have a look at the requirements and see if your internal complaints processes will meet the requirements.



The HRA invites public entities to establish an accessible and streamlined complaints process so that individuals and groups of people can raise human rights concerns with their organisation.

A human rights complaint sits alongside, and within, an existing complaints procedure. Simple adaptations to an existing complaints process may be all that is required to bring it into line with your human rights obligations.

Your organisation can use this quick and easy-to-follow guide to help meet your legal obligations. The guide will also prompt you to think about how your organisation's complaints process can improve service delivery and increase understanding of human rights across your organisation.

The next pages of this workbook will step you through the requirements of three step complaints process, internal complaints, external complaints and conciliation. For information about developing a complaints process you may also want to review additional human rights resources available on Community Door [Home - Community Door](#)

Internal complaint

Public entities should consider equity of access when outlining how an individual, or group, can raise an internal complaint. The process should be adaptable and support real access for all people.

If a person with impaired capacity cannot complain themselves, a complaint should be able to be accepted by an advocate or support person on their behalf.

Internal complaints to public entities do not need to be in writing (however an external complaint to the QHRC does)

Reflection: How does your organisation accept complaints?

Organisations will need to respect the difficulty involved in making a complaint, especially for people who believe their human rights have been breached in situations where, for example, you are their tenancy manager.

Recognising and accommodating the power imbalance between service users and your organisation will make it easier for people to discuss human rights limitations with you.

Reflection: How does your organisation interact when a complaint is made? How is this documented?

A public entity has **45 days** to resolve the complaint directly with the individual, and/or group.

While in most circumstances your organisation will have 45 days to respond, exceptional circumstances may allow earlier escalation. A good example in the housing context is where enforcement of an eviction falls within the 45-day period.

Reflection: Does your internal complaints procedure have time limits? Do they align with the Act?

Your organisation may also like to establish clear timeframes for responding to a complaint. This can demonstrate a transparent pathway for attempting to resolve a complaint before the 45 day deadline.

The HRA outlines minimum timeframe requirements for public entities. Your organisation may wish to encourage early resolution by writing response times in your procedures, this can be sooner than the 45 days required.

Reflection: What timeframes do you think are reasonable for responding to a complaint?

The purpose of the complaint mechanism is to allow individuals to access remedies that improve the fulfilment of their human rights. The sooner a remedy can be provided the better the outcome will be for the individual.

External complaint

Should your organisation fail to respond within 45 days, or the individual considers your response to be inadequate, then they can take their complaint to the Queensland Human Rights Commission (**Commission**).

A human rights complaint can be made up to **one year** after an incident, however the Commission may accept complaints made more than one year ago if there is good reason for the delay.

Your organisation may agree to accept complaints after a year has elapsed. This would allow a current or previous service user to complain about their experience at a time when they feel safe and confident to raise the issue.

Complaints made to the Commission must be in writing. Complaints can be made in **any language** and the Commission will translate them, as required.

Complaints sent to the Commission should include the following information:

- *The complainant's name, phone number and address for service of mail or email where you can access mail quickly.*
- *(The address for service will be shared with all parties involved so it may be important for a complainant to use a PO Box, the address of an organisation, lawyer or other reliable person or an email address).*
- *Full details of the complaint, they will identify the limitation or impact upon their human rights, who treated them unfairly, where and when, and what happened. This could include what could have been done differently. The date and other circumstances about the complaint.*
- *A signature, if possible.*
- *The name of the organisation, address and phone number including the names of everyone identified in the complaint.*
- *Details about the prior complaint to the organisation; when it was made and the outcome.*

Public Entities will need to be ready to respond to any request made by the Commission and consider appropriate support for staff who may be named during this process.

A Public Entity is required to consider the human rights of those impacted by a decision or action. You will need to show evidence that proper consideration of human rights was given before a decision or action was taken, as well as documentation of what happened after the complaint was made. Make sure these documents are dated so that the information trail can be shown in chronological order, and so you can demonstrate transparency in all undertakings.

Reflection: What information is important to know in preparation for an external complaint?

Reflection: How does your organisation currently store this information?

Conciliation

If the Commission receives a complaint about your organisation, you may be requested to participate in conciliation. A conciliation is a formal, facilitated discussion between the parties with the aim of reaching an agreed resolution. It is designed for both parties to listen and be heard.

If the Commission contacts you, you can expect to receive a copy of the written complaint and your organisation will have the opportunity to write a response. It will be important for all documentation, and staff requested by the Commission, to be made available.

The Commission will discuss the complaint and potential resolutions with both parties and may call a conciliation conference. The conciliation conference is a compulsory meeting where all parties will have the opportunity to discuss the complaint.

If an agreement is reached in the conciliation stage, the Commission will document the agreement and have everyone sign it to formalise their agreement. There is no compensation available for complainants under the HRA, so conciliation is focused on actions and service responses.

Resolutions might include agreeing to formally apologise to the complainant or agreeing to review and change internal policies because of the complainant's experience.

Reflection: Is your organisation's documentation of human right considerations appropriate for conciliation?

Reflection: How should a staff member be supported should their work be subject to a conciliation process?

COMMISSION REPORTS

If agreement is not reached during the conciliation process, the Commission will prepare a report for all parties. This report may include recommended actions and decisions that could be undertaken to ensure your organisation is acting compatibility with human rights.

Commission reports will exclude personal information however these reports may be published by the Commission.

For more information about the Commission complaints process or to access forms and resources please refer to their website: <https://www.qhrc.qld.gov.au/complaints/make-a-complaint>.

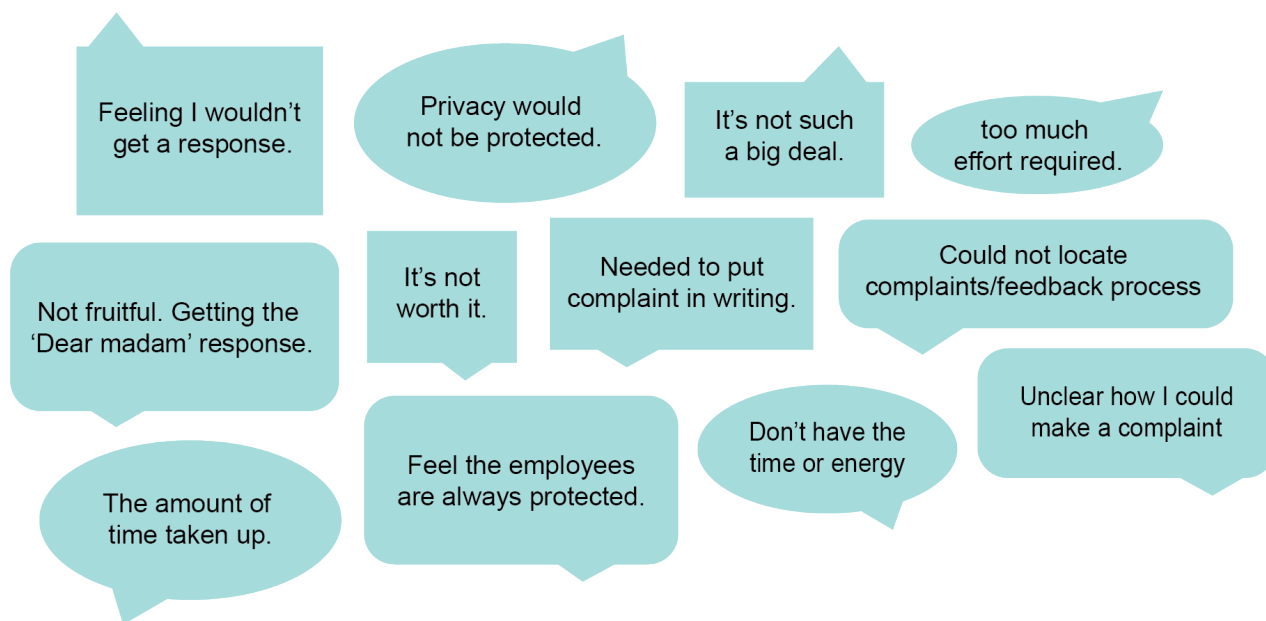
Commission factsheet on complaints:

https://www.qhrc.qld.gov.au/_data/assets/pdf_file/0007/19816/QHRC_factsheet_Complaints_ComplaintsProcesses.pdf

Reflection: Does your current complaint procedure prepare you for a human rights complaint with the Commission? What needs to be added or changed?

BARRIERS TO ACCESSING A COMPLAINTS PROCESS

When we design a complaints process for our organisation, we are determining how easy (or not) it is for people to tell us about their experience. Barriers come in many forms, and not all of them are obvious. When we asked a group of workers about barriers that have prevented them from complaining in the past, they told us:



In reviewing your complaints process, your organisation will need to consider:

- Who do you need to hear from to improve your service delivery?
- How would you want to raise a complaint?
- When do you want to hear about an issue or concern?

**Reflection: How accessible is your organisation's complaints process?
Who might struggle to access it? How could you improve access for them?**

Think about a time when you accessed a government service and were not happy with the outcome (or service) and you did not make a complaint...

Reflection: Why didn't you make a complaint? What were the barriers?

DESIGNING A COMPLAINTS PROCESS

Be clear about your complaints process and be transparent about timeframes, authority and the steps involved. Complaints processes need to consider a situation holistically, use trauma-informed practices and be considered a human rights lens.

Complaints processes are required in many regulatory frameworks to achieve two equally important outcomes.

1. Empower service users to have a voice and a say in how they are treated, and to ensure a situation can be independently scrutinised.
2. Open up communication between two, or more, parties so that a situation can be understood and all parties can attempt to resolve the important issues.

When designing a pressure up system, you will need to think about all of the interactions and activities that service users must undertake to access your services. You would need to make every attempt to alleviate the stresses and demands placed service users, even when this results in service providers taking on more work.

Pressure up system

Pressure can be alleviated across the system if this approach is considered in policies and procedures, workforce development, organisational culture, inter-agency collaboration and more.

The complaints process presents another opportunity for organisations to alleviate some of the stress and burden a service-user experiences when making a complaint.

Reflection: How much could a complaints process alleviate stress and burden for service users?

As providers of social services, it is important to remind ourselves of the many barriers our service users face. As we design an equitable complaint process, we need to think about how we (collectively) can reduce these barriers.

Systemic power-imbalance

Social services, particularly housing and health services are systems with a particularly challenging systemic power imbalance.

On one side, you have a service user that desperately needs a service that they are unable to provide for themselves. On the other side, organisations deliver services with scarce resources and staff are required to determine how best to distribute those resources.

When designing your complaints process you will need to address the systemic power-imbalance to service users have the permission they need to make complaints and be heard.

Accessibility is a very broad ranging topic. You will need to consider accessibility from many perspectives.

Technology has created barriers for many who are unable to access online services but it has expanded access for others. Translation software, audio readers, search capabilities and adjustable settings help many people access the information they need.

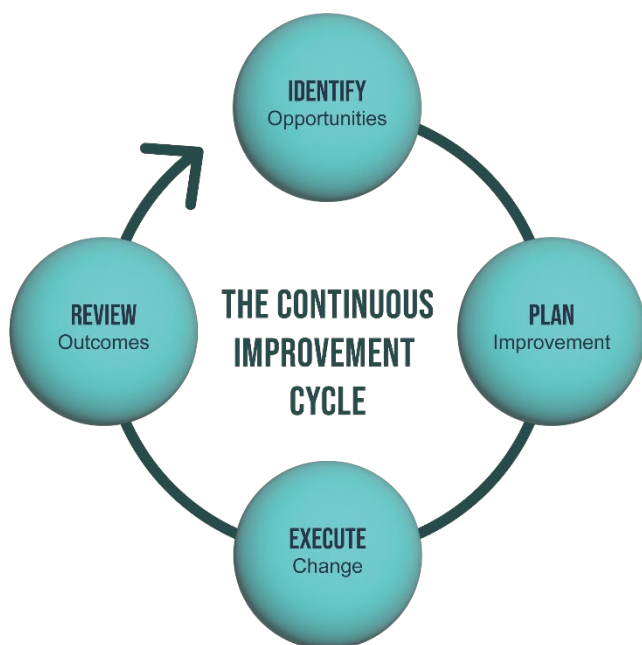
Being accessible, really accessible

Physical accessibility considers how people access services. It includes ramps, transport (for example, public transport and disability parking) as well as distance. It also incorporates service availability, resources, opening hours, phone access and outreach services.

Reflection: How can you make your organisation's complaint process more accessible?

COMPLAINTS AS AN OPPORTUNITY

Receiving a complaint presents your organisation with an opportunity to hear about your service from an important and different perspective. In this section we invite you to consider linking your complaints process with continuous improvement activities and organisational governance.



Continuous improvement models, like this one, demonstrate all of the steps to successfully and quietly evolve the operational practices of your organisation.

Linking your complaints process to a continuous improvement activity will naturally focus your energy on person-centred improvements.

As the value of service user perspectives grows within your organisation, your approach and response to complaints will follow.

Creating structural links between service users and improvement activities will support the ongoing development of your organisation's human rights culture.

Reflection: How would you change your current approach, to ensure you receive important feedback when a service user makes a complaint?

What questions would you ask?

How much time would you invest?

Who would you involve in 'giving considering' in these situations?

How would you monitor the complaints process?

What benefits could you see?

TIPS FROM SECTOR COLLEAGUES AND THE COMMISSION

To achieve an effective complaint resolution, we invite you to consider how your policies and procedures could incorporate the following tips and ideas.

Understand the situation

- Make early contact with the complainant so that your organisation fully understands the person's concerns and any related factors.
- What is the complainant's preferred method of communication? Consider the best method of contact, respecting the complainant's wishes and any support people involved. You may need to clarify this with the complainant.

Internally review the decision, giving proper consideration

- Take the time to review the consideration that was given when making the decision or choosing the course of action that led to the complaint. Review the human rights that were identified and engaged, and check if there are additional relevant human rights that may have been overlooked.
- It is recommended you use the Commission's flowchart for assessing compatibility with human rights. Take time to consider the purpose of the action or decision, considering all of the human rights that could be engaged in the situation and whether a limitation has been identified.

Communicate openly

- As soon as possible, provide the complaint with your organisation's response and an explanation of the justification and consideration that was given.
- Make sure you consider the complainant's preferred method of communication. It may be necessary to communicate using a number of channels, for example, you may discuss a situation with the requested advocate and clarify these discussions using written correspondence.
- Ensure there is further opportunity to hear the complainant's response, to understand if the complaint has been successfully resolved or if there are additional factors that need to be considered.

Transparent actions

- If the complainant is not satisfied with the internal decision made by your organisation, they can proceed to the Commission. If this happens, it will be important that your actions preceding the complaint and during complaint handling process are well documented.
- The Commission will expect a public entity to provide information easily and in a timely fashion. They will expect a public entity to be proactive in the resolution of a complaint.

Promote and celebrate

- Regularly promote human rights information and your organisation's feedback mechanisms to service users.
- Ensure services users understand your complaint process and help them to feel comfortable to raise an issue.
- Encourage staff to understand the process for complaints by regularly explaining procedures and providing guidance at staff induction, with opportunities for 'refresher' training as policies change.
- Celebrate when services are adapted to accommodate service users.

Tip: International Human Rights Day is observed on 10 December each year, marking the United Nations General Assembly adoptions of the Universal Declaration of Human Rights on 10 December, 1948. This might be a great day for your organisation to celebrate human rights!

CHECKLIST:

DEVELOPING A COMPLAINTS PROCESS

Access

The complaints process is accessible:

- To all people who use your service.
- To all people within your local community.

The complaints process accepts information:

- Online.
- In person.
- Verbally
- Through advocates.

Timeframes

- Complaints are responded to (with attempts to resolve) within 45 days.
- Records relating to decisions and actions taken by the service provider are kept longer than a year.
- All records relating to a complaint, or a complainant, are retained until the complaint is resolved to the satisfaction of both parties.

Understanding the complaint

- Complaint documentation allows you to clearly understand the issue from the complainant's perspective.
- Procedures require staff to document proper consideration of human rights *before* making a decision or taking an action.
- Consideration documentation includes a date and the people involved.
- Procedure requires further consideration to be given after a complaint has been received.

Information

- Information about your complaints process is provided to the complainant.
- The complainant is informed of (all) of their human rights and provided with information to take away.
- The information provided to a complainant is in a language or form they can understand independently.
- If a person is unable to understand a written or audio explanation, information should be provided to their guardian and/or a person they trust to support them to understand their human rights.

Responsibilities

- The procedure clearly articulates the steps involved in the complaints process.
- The procedure clearly outlines those who hold responsibilities.
- Ensure complaints are logged in one location.
- Ensure complaints are monitored by the CEO and/or Board.

Workforce

All staff are trained to:

- Respond to complaints in a trauma-informed manner.
- Understand the complaints process.
- Give consideration to human rights before making a decision or taking action.