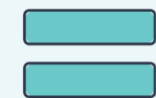




HUMAN RIGHTS | HOUSING AND HOMELESSNESS

Guide: Developing a 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)



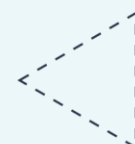
Retrospective criminal laws (section 35)



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)* (HRA) in service delivery. It is a Guide primarily for community sector staff to looking to enhance their organisations complaint process, ensuring it aligns with the HRA.

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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

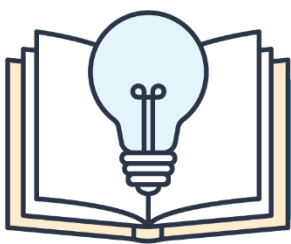
Public entities identified by the *Human Rights Act 2019 (Qld)* are required to accept human rights complaints from individuals or groups of people who use their services. It is important for organisations to comply with the HRA when responding to complaints so let's look at the requirements and see 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 can sit within an existing complaints procedure. Simple adaptations to an existing complaints process may be all that is required to bring it into line with human rights obligations.

The guide will prompt you to think about how your organisation's complaints process can improve service delivery and increase understanding of human rights across your organisation.



For information about understand the HRA's complaint requirements, you may want to review videos and other resources on [Community Door](#).

Internal complaint

Public entities should consider equity of access when outlining how an individual or groups raise internal complaints. 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 accepted by an advocate or support person on their behalf.

Internal complaints to public entities do not need to be in writing. This will enable people to raise a complaint easily.

How does your organisation accept complaints? Is it accessible to everyone?

It can be difficult for some people to raise a complaint. Organisations should think about difficulty involved when making a complaint. Difficulty can be exacerbated when a person believes their human rights have been breached and/or the organisation is in a position of power, for example, the person's tenancy manager.

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

How does your organisation interact when a complaint is made? Would it be easy for service users?

Public entities have **45 days** to resolve a complaint directly with the individual and/or group. If the complainant is still unhappy with the outcome, they may choose to raise the issue with the Queensland Human Rights Commission (the Commission).

While your organisation will usually have 45 days to respond, exceptional circumstances may allow earlier escalation to the Commission, e.g. when the enforcement of a notice to leave falls within the 45 day period.

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

It will be important to publish clear information about your organisation's complaints process. This transparency will reassure service users and show them the pathway for resolving an issue.

The HRA outlines minimum timeframe requirements for public entities. Your organisation may wish to encourage early resolution, committing to shorter timeframes than the 45 days required.

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 Commission.

A human rights complaint can be raised 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 they 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.
- 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 for information 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.

It will be important for this documentation to be dated, showing decisions and actions in chronological order.

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

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.

Conciliation is a formal, facilitated discussion supported by an independent third party (the Commission) between all parties. This process aims to reach an agreed resolution. The process is designed so that all parties listen and all parties can be heard.

If the Commission contacts you, you can expect to receive a copy of the complaint in writing. Your organisation will have the opportunity to write a response to the complaint. You may also need to provide documentation and access to staff, as requested by the Commission.

The Commission will discuss the complaint and potential resolutions with both parties. The Commission 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 during the conciliation stage, the Commission will document the agreement and have everyone sign it to formalise the agreement.

There is no compensation available for complaints made under the HRA, so conciliation is focused on actions and service responses. Resolutions might include a formal apology, review or change to an internal policy, change to a service decision or other similar actions.

If you had to provide information to the Commission, would your organisation's documentation outline the human rights consideration given? Could you provide this information quickly and easily?

Conciliation can be a stressful time for staff named in a Commission complaint. It is important for organisations to think ahead when developing their procedures to ensure staff are supported during this time.

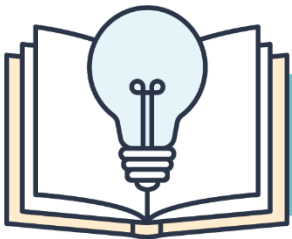
How should a staff member be supported if their work is subject of a conciliation process?

COMMISSION REPORTS

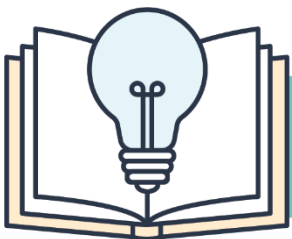
If an agreement is not reached during the conciliation process, the Commission will prepare a report for all parties. This report may include recommended actions and decisions that could be undertaken by the public entity to ensure they act compatibly with human rights in the future.

Commission reports will exclude personal information however these reports may be published by the Commission and will name the public entity involved.

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



For more information about the Commission complaints process or to access forms and resources, please visit their [website](#).

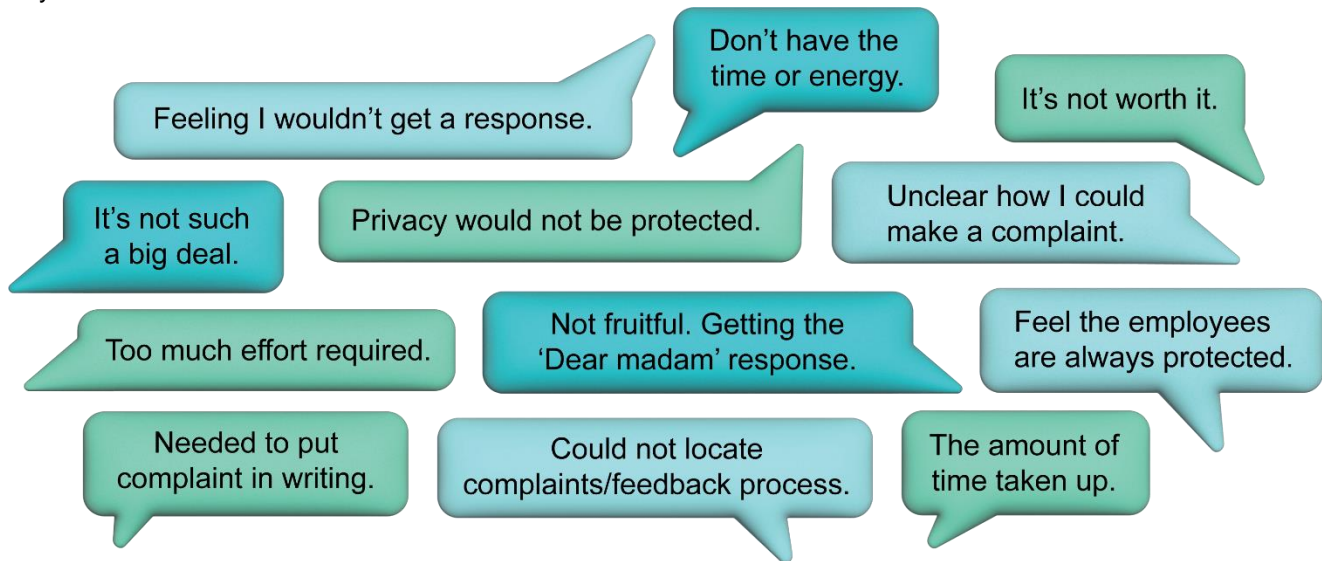


The Commission has [factsheets](#) for public entities and service users. Share them and ensure everyone has the information they need to exercise their rights!

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, it is worth considering a few other questions to explore how it can be improved:

- Who do you need to hear from to improve your service delivery?
- How would you want to raise a complaint if you need to?
- How can you encourage people to raise a complaint, so you can hear about issues early?

Who might struggle to access your organisation's complaints process? 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...

As an activity, think about why you didn't make a complaint. What were the barriers?

DESIGNING A COMPLAINTS PROCESS

When designing a complaints process, first and foremost, be clear about the process and be transparent about timeframes, authority and the steps involved. This will be important for those accessing your service, and it will also help your staff deliver the process effectively.

Review regulatory requirements. In this guide we have outlined requirements from the HRA, but also consider other regulatory requirements, Human Service Quality Framework (HSQF), or other service standards. Be sure you take the time to check requirements as you design your complaints process, as every organisation is different.

Take time to consider the broader function of a complaints process. It needs to deliver two equally important outcomes:

1. It will need to empower service users to have a voice in how they are treated, and to ensure a situation can be independently scrutinised.
2. Support open communication between two or more parties so that a situation can be understood and all parties can attempt to resolve the issue.



To support service users in understanding their rights, display our [protected human rights and complaints posters](#).

There are a few additional things you can employ when designing or reviewing your complaints process to improve its effectiveness:

Pressure up system

When designing processes for social services, it might be helpful to think about system pressure. Pressure up is system that absorbs stress and work away from service users and places it on the organisation.

An easy way to start is to think about all the interactions and activities that your service users must undertake to access services. Consider which steps are necessary and how you can make the process easier for them. Alleviating pressure may involve staff taking on different work, but the result will be a pressure up system that can be accessed easily and supports those reaching out for service.

Development of the complaints process presents another opportunity for organisations to reduce some of the stress and burden experienced by service users. Creating a pressure up system will make it easier for you to hear the perspectives of those you assist.

Systemic power-imbalance

As providers of social services, it is important to remind ourselves of the many barriers our service users face. One that is difficult to overcome, but needs to be acknowledged, is power imbalance. As we design systems and processes, we need to think about how to reduce these barriers to make our social service system as equitable and accessible as possible.

Social services, particularly housing and health services are systems with particularly challenging systemic power imbalances. On one side, you have service users who desperately need services that they are unable to provide for themselves. On the other side, there are organisations delivering services with scarce resources, whose staff determine how best to distribute those resources.

When designing your complaints process you will need to address systemic power imbalances in favour of service users. They need to have permission to make complaints and be heard without fear of recrimination.

Being accessible, really accessible

Accessibility is a broad ranging topic, with a lot to consider. It is important to revisit accessibility regularly, as available tools and resources change.

Technology has made information more accessible to many, overcoming barriers of distance, language, visibility, hearing and other many other limitations.

Translation software, audio readers, search capabilities and adjustable settings help many people access the information they need. However, moving to online streaming and self-service systems leaves many people behind in the digital divide.

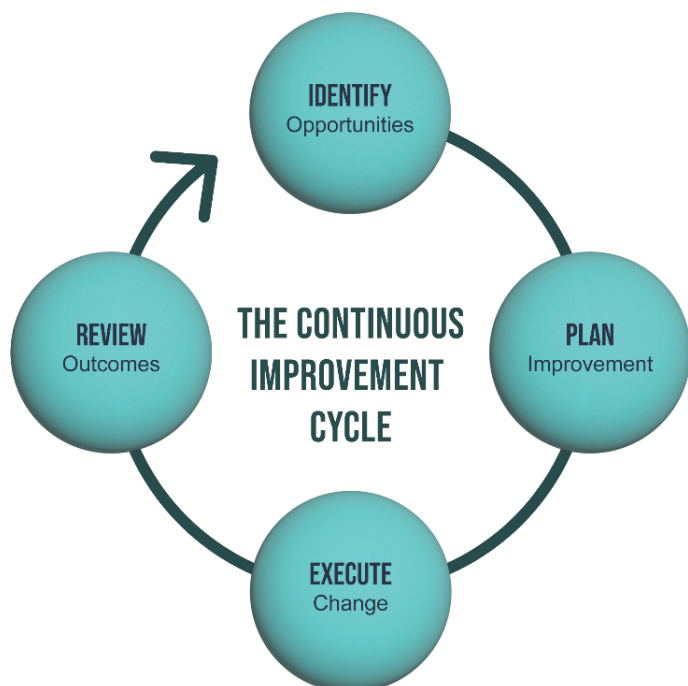
Our reliance on online services and information creates barriers for those who are unable to afford and/or use technology. It is important for social services to think very carefully about the people they support. As we embrace online service delivery and all that it offers, we need to ensure that access is maintained for everybody. Maintaining a range of access points is key to being truly accessible. In person, over the phone, at home and on the street remain key access points for many people.

Physical accessibility is an ongoing consideration. This can include ramps, transport (for example, public transport and disability parking) and distance.

Physical accessibility may also extend to service availability, resources, opening hours, phone access and outreach services.

When developing your complaints process, think specifically about how people lodge a complaint with your organisation. Are they able to phone in a complaint or meet with a senior leader? How many ways can people access your process and do that enable all service users to lodge a complaint? All of these questions are important when developing your complaints process.

COMPLAINTS AS AN OPPORTUNITY



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

Continuous improvement models demonstrate the steps to successfully evolve your organisation's operational practices.

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 YOUR COLLEAGUES

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 that 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 complainant 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. 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.