Human rights complaints procedure

1. Purpose

The Department of State Development, Infrastructure and Planning (the department) is committed to respecting, protecting and promoting human rights.

This procedure describes the processes for human rights complaints and should be read in conjunction with the department's Complaints management policy.

2. Scope

This procedure applies to all employees of the department and non-employees including contractors, consultants, volunteers and any other person or entity who provides the department with services on a paid or voluntary basis.

3. Procedure

3.1 Making a complaint

Under the *Human Rights Act 2019* (the HR Act), an individual can submit a complaint if they believe the department has breached their human rights. The complaint must be submitted to the department before it is provided to the Queensland Human Rights Commission (QHRC).

3.2 Timeframe for response

The department has 45 business days to respond to a human rights complaint. After this time frame has lapsed, section 65 of the HR Act allows for the complaint to be progressed to the QHRC.

3.3 Making a complaint

The following steps should be followed in responding to a human rights complaint:

Steps	Process
Receive the complaint	• A complaint is received that alleges the department has acted or made a decision that is not compatible with human rights. Complaints can be received both verbally and in writing through a variety of channels, including face to face, telephone, letter, email or via the online form. • For individuals requiring assistance to make a complaint, there are services available: – Translation and Interpreting Service – for language assistance – National Relay Service – for people with hearing or vision impairments.
Report complaint to Integrity and Workplace Relations (IWR) Unit	• Advise the IWR unit of the initial complaint via email at complaints@dsdip.qld.gov.au for reporting purposes.
Assess the complaint	• An initial assessment of the complaint may consider the context and circumstances of the complaint (and the individual who made the complaint) to determine its priority, how it should be managed, and who should respond. It is the responsibility of the recipient of the complaint to assess the matter. The IWR and Legal Services units can help on this initial assessment.

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Steps	Process
	• The complaint should be acknowledged in the first instance by the recipient of the complaint and provide advice to the individual around timeframes for response.
Consider	• Identify the human rights relevant to the complaint (refer to Part 2, and divisions 2 and 3 of the Act and Appendix B of this document). • Consider whether the department's action or decision limits those human rights. • Assess whether the limitation is justified and reasonable in the circumstances (refer to section 13 of the Act).
Resolve	• If an individual's human rights have been limited, some possible remedies are: – acknowledging the error and apologising – providing a more thorough explanation for a decision or action – changing the decision – updating policies – training for staff – advising that disciplinary or management action has been taken (where appropriate).
Respond	• The response to the complaint should: – explain the outcome using plain English – clearly explain how and why decisions were made – list any remedies and/or other changes made as a result of the complaint – provide information about the individual's rights of review.
Report	• The department maintains a register of complaints (managed by the IWR unit). All documents associated with complaints are to be provided to IWR for recording and reporting. • The department is required to report on human rights complaints in the annual report, including the number and outcomes of complaints.

3.4 Appeal rights

If the department has not responded to a human rights complaint within 45 business days, or if the complainant does not consider the department's response to be satisfactory, the complainant can then submit their complaint to the QHRC.

For further information, refer to the whole-of-government guide on handling human rights complaints at the following link Human rights complaints.

4. Delegations

Delegations are to be exercised in accordance with the department's Human Resources, Financial, Procurement, Contract Signing and Business Support Delegations, and/or as defined in this procedure. Delegation Schedules are reviewed on a regular basis to ensure they remain current and relevant to the operational needs of the department. It is recommended that delegate authority levels are confirmed prior to exercising any powers in relation to this policy and supporting procedures.

5. Responsibilities

See the **Complaints Management Policy** for responsibilities related to this procedure.

6. Human rights compatibility

The department is committed to respecting, protecting and promoting human rights.

Under the HR Act, the department has an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights.

When making a decision about human rights complaints decision-makers must comply with this obligation.

For further information on the HR Act see**:** https://www.qhrc.qld.gov.au

7. Definitions

Refer to **Appendix A** for definitions of key terms referred to in this procedure.

8. Related documents, forms and templates

- Complaints management policy
- Customer complaints policy and procedure

9. References

- *Public Sector Act 2022*
- *Human Rights Act 2019*
- Whole-of-government human rights resources

10. Further information

For further information or clarification, please contact complaints@dsdip.qld.gov.au.

11. Storage of information

All information must be managed in accordance with the *Public Sector Act 2022*, and the whole-of-Government Records Governance policy. In addition, personal information must be managed in accordance with the *Information Privacy Act 2009*.

12. Document control

Policy owner	Director, Integrity and Workplace Relations (IWR), People and Performance, Corporate
Contact details	complaints@dsdip.qld.gov.au
Next review	November 2027
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Version	Issue Date	Reason	Author	Approver
1.0	15/09/2020	New procedure	Senior Ethics Advisor, Corporate	Deputy Director-General, Corporate
1.1	01/07/2021	Update branding – following Machinery of Government Changes	Senior Project Officer, Ethics	Director, Ethics

Version	Issue Date	Reason	Author	Approver
1.2	21/11/2023	Annual Review (light review only)	Principal Advisor, Workplace Relations	Executive Director, People and Performance
1.3	14/03/2024	Machinery of Government change to department name only	Senior Governance Officer, Corporate Governance, People and Performance	Director, Integrity & Workplace Relations, People and Performance
1.4	12/11/2026	Minor updates with transfer to new departmental template	Senior Advisor, Integrity & Workplace Relations, People and Performance	Director, Integrity & Workplace Relations, People and Performance

Appendix A: Definitions

The key terms referred to in this procedure are as follows:

Term	Definition
Complaint	• As defined under section 264 of the *Public Sector Act 2022*
Delegate	• Departmental officer at Executive Director level and above who is impartial to the matter.
Human rights	• As stated under part 2, and divisions 2 and 3 of the Act.

Appendix B: List of human rights

Consider this human right	when complaints involve
Recognition and equality before the law **(Section 15)**	• a service delivered to some groups and not others • a policy, program or service with the potential to have a disproportionate impact on a group or individuals who have a particular attribute (for example, elderly people, people with a disability, or people who are not fluent in English) • eligibility criteria for programs, entitlements or plans (for example, payment plans under the State Penalty Enforcement Register) • a policy, program or service that engages any of the other protected human rights in a discriminatory way. For example, a policy aimed at people living in relationships should, where relevant, apply equally to married couples, de facto couples, and same-sex couples.
Right to life **(Section 16)**	• a decision that deals with withdrawal or withholding of life sustaining treatment • the use of force by law enforcement officers, including the use of weapons • a policy that deals with the use of deadly force (for example, the law relating to self-defence).
Protection from torture and cruel, inhuman or degrading treatment **(Section 17)**	• how people are treated at sites where an agency is responsible for their care (e.g. public hospitals, mental health services or facilities, prisons, state schools, state operated aged care services) • a policy, program or decision about medical treatment for people without their consent (e.g. under mental health or guardianship law) • a decision affecting the physical or mental well-being of a person in a way that may cause serious physical or mental pain or suffering, or humiliate the person • a policy, program or decision that involves a person being searched (including intrusive searches).
Freedom from forced work **(Section 18)**	• a policy or program that involves people doing work or providing services under threat of a penalty • any policy, program or service that allows an agency to employ or direct people to perform work in a vital industry or during a state of emergency (for example, requiring military service).
Freedom of movement **(Section 19)**	• a policy, program or decision that restricts movement or where a person can live • a policy or program that restricts people's movement based on national security considerations • a policy, program or decision that monitors a person's movements • a policy, program or decision that limits movement in public spaces • imposing planning controls, such as by zoning residential locations away from commercial, industrial or agricultural areas
Freedom of thought, conscience, religion and belief **(Section 20)**	• a policy, program or decision that promotes, restricts or interferes with a particular religion or set of beliefs • a policy or statutory provision that requires people to disclose their religion or beliefs • a policy, program or service that regulates conduct in a way that affects a person's worship, observance, practice or teaching of their religion or belief (for example, a dress code that does not accommodate religious dress)

Consider this human right	when complaints involve
	• a policy, program or service where conditions of receiving a benefit or accessing a service prevent a person from adhering to their religion or belief • a policy or decision that restricts people under state control from observing their religion (e.g. prisoners).
Freedom of expression **(Section 21)**	• a policy that requires prior approval before a person can express themselves (for example, to hold a protest or busk in a particular area) • a policy that regulates the contents of speech, publication, broadcast, display or promotion, or regulates offensive speech • a policy, program or service that imposes a dress code (for example, a dress code that prohibits staff from wearing t-shirts displaying political messages) • a policy or decision that restricts or censors media coverage (for example, on the reporting of judicial proceedings).
Peaceful assembly and freedom of association **(Section 22)**	• a policy, program or decision that restricts people from having public or private gatherings (for example, restricting areas or times for demonstrations, pickets or public events) • a policy or decision that requires a person to belong to a professional body or workplace association (a requirement for compulsory membership of a professional body has not generally violated this right, particularly if the association is responsible for professional regulation) • a policy, program or service that treats people differently because they are a member of a group or association • a policy, program or service that prohibits membership in a group or association with certain persons (for example, in a criminal justice context).
Taking part in public life **(Section 23)**	• a policy or decision that limits participation in elections • a policy or statutory provision that sets eligibility requirements for the public service and public office • a policy or statutory provision that sets processes and procedures for voting.
Property rights **(Section 24)**	• a policy allowing a person's property to be acquired, seized or forfeited under civil or criminal law (for example, confiscations proceedings) • a policy or decision allowing an agency to access private property • a policy decision that implements Government control over its own property (for example, resumption of land).
Privacy and reputation **(Section 25)**	• a policy, program or decision that involves surveillance of people for any purpose (for example, CCTV) • a policy, program or service that collects and/or publishes personal information (for example, results of surveillance, medical tests, electoral roll) • a policy, program or service that regulates a person's name, private sexual behaviour, sexual orientation, or gender identity • a policy, program or service that regulates storage, security, retention and access to personal information • a policy that requires mandatory reporting of injuries or illnesses • a policy or decision that interferes with or inspects mail and other communications, or prevents or monitors correspondence between categories of people • a policy, program or service that requires mandatory disclosure or reporting of information (including disclosure of convictions) • a policy that establishes powers of entry and search (including personally invasive powers, such as strip searches)

Consider this human right	when complaints involve
	• a requirement for compulsory physical examination or intervention (for example, DNA, blood, breath or urine testing).
Protection of families and children **(Section 26)**	• a policy, program or decision that regulates family contact for people in care or relates to intervention orders between family members • a policy, program or decision that regulates adoption and surrogacy • a policy, program or decision that deals with removing children from a family unit or separating children from parents, guardians, or other adults responsible for their care.
Cultural rights – generally **(Section 27)**	• a policy, program or service that restricts people from observing religious practices • a policy, program or service that restricts people from declaring their affiliation to a particular racial, religious or cultural group • a policy or service that limits or prohibits communication in languages other than English, including through the provision of information • a policy that restricts the provision of services or trade on religious holidays • a policy or program that regulates cultural or religious practices in public education • a policy, program or service that provides government information only in English and allows for access to services only by English speaking persons • a policy that licences or restricts food preparation and service.
Cultural rights – Aboriginal peoples and Torres Strait Islander peoples **(Section 28)**	• a policy, program or service that prohibits the use of a traditional language • a policy, program or decision that allows or limits the ability of Aboriginal or Torres Strait Islander persons to take part in a cultural practice, or otherwise interferes with their distinct culture practices • a policy or decision that interferes with the relationship between Aboriginal or Torres Strait Islander people and land, water and resources • a policy or decision that protects Aboriginal and Torres Strait Islander cultural heritage, including Aboriginal human remains and secret or sacred objects.
Right to liberty and security of person **(Section 29)**	• a policy or decision that authorises a person with a mental illness to be detained for treatment • a policy that allows a person to be detained on safety grounds, such as intoxication • a policy or statutory provision that provides powers of arrest • a policy or statutory provision that provides for detention on remand or release on bail conditions.
Humane treatment when deprived of liberty **(Section 30)**	• a policy setting out the conditions for detention of individuals • a policy setting out standards and procedures for treatment of people who are detained (for example, use of force, dietary choice, access to private shower and toilet facilities) • a policy or statutory provision that allows people who are detained to be searched.
Fair hearing **(Section 31)**	• a policy or proposal that reverses the onus of proof • a policy or program that creates or restricts reviews of administrative decision-making and appeal processes • a policy, program or service that provides special procedures for witnesses giving evidence in a court or tribunal (such as special measures for children and other vulnerable persons)

Consider this human right	when complaints involve
	• a policy or statutory provision that regulates the procedures for challenging the impartiality and independence of courts and tribunals • a policy that restricts the publication of cases or decisions • a policy, program or service that disadvantages or doesn't consider the particular circumstances of a litigant (for example, a litigant with a disability).
Rights in criminal proceedings **(Section 32)**	• a policy or decision that impacts on the presumption of innocence • a policy that deals with the admissibility of evidence • a policy that deals with reverse onus of proof • a policy or decision that delays trial proceedings • a policy or service that restricts cross examination • a policy or decision that deals with the provision of legal aid • a policy or decision that restricts access to information and material to be used as evidence • a policy that limits appeal rights • a policy that regulates the procedures for investigation and prosecution of offences • a policy, program or service that deals with the provision of assistants and interpreters.
Children in the criminal process **(Section 33)**	• a policy or decision that detains children for any length of time • a policy or decision that detains children in locations that have limited facilities or services for their care and safety (for example, watch houses) • a policy or decision that relates to sentencing laws • a policy or statutory provision that relate to standards in detention centres.
Right not to be tried or punished more than once **(Section 34)**	• a policy or statutory provision that creates new offences • a policy or decision that is related to the double jeopardy exceptions under the Criminal Code.
Retrospective criminal laws **(Section 35)**	• a policy or decision that sanctions a person for conduct that was not unlawful at the time of the conduct • a policy or decision that fails to apply less severe penalties for a person's conduct if penalties have decreased since the time of the conduct.
Right to education **(Section 36)**	• a policy, program or service that provides education and training to young people in detention • a policy, program or service providing access to schools that has a disproportionate impact on people with a particular attribute (for example, people with a disability).
Right to health services **(Section 37)**	• a policy, program or service that deals with access to health care for prisoners or other persons in care • a policy, program or service providing health services that has a disproportionate impact on people with a particular attribute (for example, people with a disability).