

Human Rights Complaint



What are human rights?

Human rights are based on principles of equality, respect, and dignity and recognise everyone's inherent value. Human rights belong to everyone equally, regardless of how old you are, where you are from, your disability or anything else. In Queensland, everyone has the same 23 human rights protected by the *Human Rights Act 2019* (Qld) (HRA).

What can I do if I feel as though someone has breached my human rights?

If you think someone may have breached your human rights, you may be able to make a complaint to the Queensland Human Rights Commission (QHRC) under the HRA. The HRA began on 1 January 2020 and is not retrospective in operation. While the HRA protects the rights of all people in Queensland, it only requires "public entities" to act and make decisions in a way that is compatible with human rights.

Before you make a complaint to the QHRC about a breach of human rights, you need to make a complaint to the particular public entity. You must then allow them 45 business days (or 9 weeks) to respond, unless your matter is urgent (in which case you may be able to have it fast-tracked). If the public entity does not respond, or their response is not adequate, you can then complain to the QHRC.

What rights are protected by the HRA?

The HRA protects a number of civil and political rights, as well as some economic, social and cultural rights. These rights are:

Civil and political rights

- Right to life
- Freedom of movement
- Freedom of expression
- Taking part in public life
- Privacy and reputation
- Cultural rights – generally
- Rights in criminal proceedings
- Protection from torture and cruel, inhuman or degrading treatment
- Cultural rights of Aboriginal and Torres Strait Islander peoples
- Freedom of thought, conscience, religion and belief
- Right not to be tried or punished more than once
- Peaceful assembly and freedom of association
- Humane treatment when deprived of liberty
- Recognition and equality before the law
- Retrospective criminal laws
- Freedom from forced work
- Property rights
- Protection of families and children
- Right to liberty and security of person
- Fair hearing
- Children in the criminal process

Economic, social and cultural rights

- Right to education
- Right to health services

What is a public entity?

Public entities are defined by the HRA to include:

- core public entities, such as state government departments and statutory authorities. They are public entities all the time; and
- functional public entities providing services to the public on behalf of the state government, which includes tribunals acting in an administrative capacity. They are only public entities when they are performing a function of a public nature (i.e. a function that is carried out in connection with a government responsibility).

Can my human rights be limited?

The HRA allows for human rights to be subject to “reasonable limits that can be demonstrably justified”. This balancing of limitations against human rights is known as the proportionality test.

In determining if a limitation is reasonable, a court or tribunal will consider all relevant factors. Reasonable grounds for limiting human rights can include protecting the life, health and safety of a person.

In deciding if a limitation is reasonable, the following matters will be considered:

- Is the limitation necessary?
- Is the limitation proportionate?
- Does the limitation comply with existing laws (including discrimination laws)?
- Is the limitation transparent?
- Is the limitation open to scrutiny?
- Does the limitation protect the human worth and dignity of the most vulnerable people in our community?

What can be achieved by making a human rights complaint?

Making a human rights complaint can prompt the QHRC to make preliminary inquiries with the public entity about your complaint, which can help to address or resolve the matter. If your complaint is accepted, it will go to a confidential conciliation with the public entity where you will be able to discuss your complaint and try to resolve it. If it is resolved, you will enter a settlement agreement, which may include any terms as agreed by the parties. Remedies can include a public or private apology or an order to stop or to do a specific thing. If your matter does not resolve at the conciliation conference, the QHRC may publish a report about the complaint, which can include recommendations that the QHRC considers the public entity should take to ensure its actions are compatible with human rights.