



Resources Safety & Health
Queensland

Complaints Management Framework

RSHQ Corporate

RSHQ/2024/003

April 2024 | Version 3

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Our commitment to good complaints handling

Resources Safety and Health Queensland (RSHQ) recognises the importance and value of listening and responding to concerns and complaints. We are committed to continuous improvement and achieving the highest standard we can in every area of our work. Receiving complaints is one of the most important ways of learning how we can do our job better. Every effort will be made to understand and resolve the complaint at the initial point of contact.

This Complaints Management Framework (the framework) applies to all our people – temporary and permanent staff including consultants, contractors or any other person that provides us with services on a paid or voluntary basis.

The framework forms part of our service and governance arrangements and aligns with RSHQ's values and vision for a zero serious harm resource sector in Queensland.

The RSHQ complaints framework aligns with the [Queensland Public Service Complaint Management Framework](#) and [Guideline](#).

Scope of the framework

Section 219A of the *Public Service Act 2008* (Public Service Act) requires that RSHQ has a system to manage customer complaints. This framework applies to all employees of RSHQ as defined by the Act. RSHQ is also required to comply with the *Human Rights Act 2019* (Qld) (HR Act) for complaints that relate to a breach of an individual's human rights.

Our system should comply with AS/NZS 10002-2014, Guidelines for complaint management in organisations, providing a process for the appropriate receipt and processing of complaints and communication with complainants.

In Scope

This framework applies to:

- complaints received from both external clients (i.e. the public) and internal clients (i.e. RSHQ work units providing services to other RSHQ work units);
- complaints received anonymously; and
- complaints received via Ministerial or Chief Executive Officer correspondence.

Out-of-scope

This framework does not apply to:

- complaints alleging breach of legislation by other third parties;
- complaints not relating to RSHQ;
- complaints made by staff about decisions affecting their employment, e.g., grievances, appeals (*Public Service Act 2008*);
- matters subjected to internal or appeal processes under RSHQ administered legislation;
- where a matter is being addressed in an external forum or court, e.g. a tribunal, a commission, a court or another agency;
- allegations of corrupt conduct made in accordance with the *Crime and Corruption Act 2001*;
- allegations of serious misconduct made against an employee in accordance with the *Public Service Act 2008*;
- complaints made by an officer in accordance with the *Public Interest Disclosure Act 2010*;
- complaints made in accordance with the *Right to Information Act 2009* and the *Information Privacy Act 2009*.

Definitions – What is a customer complaint?

Under the *Public Service Act 2008*, a customer complaint is a verbal or written expression of dissatisfaction made by a person or organisation about the service or action of a department/agency, or its staff, by a person directly affected by the service or action. This includes complaints received by the Minister and Chief Executive Officer.

Complaints may include, for example, any of the following concerns:

- a decision made, or failure to make a decision by a public service employee of RSHQ;
- an act or failure to act;
- the formulation of a proposal or intention by RSHQ;
- the making of a recommendation by RSHQ;
- the service provided by a RSHQ officer (includes temporary and permanent staff, consultants, contractors or any other person that provides us with services on a paid or voluntary basis)

Key participants involved in the complaints process are described as follows:

Key Participant	Role
Complainant	Any person, organisation or their representative/advocate who lodges a complaint with RSHQ.
Receiving Officer	The officer who receives the complaint and will resolve or address the issue/s during initial contact.
Investigating Officer	The officer appointed to investigate and resolve the complaint.
Managing Officer	The manager or senior officer appointed to oversee/approve the complaint investigation process.
Chief Complaints Officer	The officer responsible for allocating complaints received centrally and recording and reporting of complaints data.

Human Rights Complaints

One of the objectives of the *Human Rights Act 2019* aims to ensure that a culture is built in the Queensland Public Sector that respects and promotes human rights, accordingly placing human rights at the forefront of government decision-making and actions.

The Act protects and promotes 23 human rights, reflecting four basic principles: freedom, respect, equality and dignity. It creates obligations on all public entities, which includes government employees, to properly consider and act compatibly with human rights when making decisions, developing policies, making laws and delivering services.

Giving proper consideration to a human right in making a decision includes identifying:

- the human rights that may be affected by the proposed decision; and
- whether the proposed decision would be compatible with human rights (see section 58 of the HR Act)

The meaning of *compatible with human rights* is defined in section 8 of the HR Act. It states an act or decision will be compatible with human rights if:

- it does not limit a human right, or
- it limits a human right only to the extent that is reasonable and demonstrably justifiable, in accordance with section 13 of the HR Act.

Making a Human Rights Complaint

If an individual believes their human rights have been breached due to an action or decision (e.g. policy, program or service) of RSHQ, they can raise a complaint through the agency's existing complaints management process.

A complaint is only made to the Queensland Human Rights Commission (QHRC) where the complaint has not been resolved by RSHQ to the reasonable satisfaction of the complainant.

Assessing a Human Rights Complaint

RSHQ will assess all complaints for breaches of human rights, whether the individual has identified a human rights concern or not.

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. If the basis of the complaint is not clear, RSHQ can ask the individual for details on how they believe the decision or action breached their human rights or was not proportionate.

If the person reviewing the complaint is not the original decision-maker, they can seek further information about why the decision was made, and how any limitation on human rights is proportionate.

Three key steps to identify and consider human rights are:

1. Identify the human rights relevant to the complaint.
2. Consider whether the action or decision limits those human rights.
3. Assess whether the limitation is justified and reasonable in the circumstances.

Attachment A and B provide further information of how to apply the *Human Rights Act 2019* in RSHQ.

Further information on human rights complaints is available on the following websites:

Human Rights Portal: <https://www.forgov.qld.gov.au/humanrights>

Queensland Human Rights Commission (QHRC): <https://www.qhrc.qld.gov.au/>

Queensland Ombudsman: <https://www.ombudsman.qld.gov.au/how-to-complain/human-rights-complaints>

Complaints management principles

The following principles are the basis of the RSHQ Complaints Management Framework.

Principle	What this means in RSHQ
People focus	Everybody has the right to complain. We will treat people making complaints with respect and promote and protect human rights. We will involve the complainant in the process, if possible and appropriate.
Visibility	Information about how a complaint may be made is well publicised on RSHQ's website and made available at frontline service locations.
Accessibility	We will ensure that our complaint handling process is accessible and easy to use for all our stakeholders. We will accept complaints verbally and in writing via a range of formats. A complainant will not be charged a fee to lodge a complaint.
Responsiveness	We will acknowledge and respond to all complaints as quickly as possible, recording all actions of the investigation until finalised.
Objectivity	We will address all complaints in an equitable, fair and unbiased manner using evidence submitted by both the complainant and our staff through the complaint handling process. We will identify if any human rights may be relevant to a complaint.
Confidentiality	We will apply strict privacy and confidentiality in complaint handling.
Customer focus	The interests of our stakeholders are foremost in our approach to complaint handling as we are committed to resolving problems, improving relations and building loyalty. We will work together with the complainant to look for a win-win solution that provides the best outcome for all parties within the resource and practical constraints the situation presents.
Accountability and reporting	We will ensure responsibilities are clearly outlined to staff. Our complaints will be reported and published internally and externally, in accordance with relevant legislation.
Continuous improvement	<p>We will:</p> <ul style="list-style-type: none"> • identify trends for the purpose of improving service and business practice; • promote complaint management best practice; • foster a customer-focused approach; • provide training to staff to ensure consistent complaint handling practices; • encourage innovation in complaint handling practices; • recognise exemplary complaint handling behaviour by our staff.

The Complaints Management Model

Initial Resolution – Receiving Officer

- Resolves the issue/s in the first phone or face-to-face contact
- Records the detail and resolution of the complaint and provides this record to the Chief Complaints Officer to enter in the RSHQ Complaints Register
- Reports the complaint and any issues, actions, or improvements if needed
OR
- Refers the complaint to an Investigating Officer for further investigation

Initial Resolution – Investigating Officer

- Assists the complainant with making their complaint
- Assesses and classifies the complaint
- Investigates and takes action to resolve the complaint
- Offers remedies or solutions that are fair and reasonable to all involved
- Explains the process for an internal or external review
- Closes the complaint and provides this record to the Chief Complaints Officer to enter in the RSHQ Complaints Register
- Ensures any issues or improvements are communicated /actioned within the work unit.

Internal Review Process (if requested by complainant)

- If a person or entity is not satisfied with RSHQ's response to a complaint, they may request that RSHQ conduct an internal review
- The Internal Review officer should be independent of and equivalent or more senior to the original decision-maker
- A review of the management of the complaint will inform the internal review
- Clarify the grounds for the review
- Undertake a merits review

External Review (if requested by the complainant)

- If the person or entity is not satisfied with the outcome of an internal review, they can contact the Queensland Ombudsman or QHRC to request an independent review
- The Chief Complaints Officer will assist the Queensland Ombudsman or the QHRC with an external review process
- RSHQ will provide any requested information or copies of complaint documentation.

How to make a complaint

RSHQ always endeavours to resolve concerns prior to their escalation to a formal complaint. If this cannot be achieved, complaints can be communicated as follows:

- **In person** with a RSHQ officer
- **By telephone** to the Queensland Government switchboard 13 QGOV (13 74 68)
- **By email** to ethics@rshq.qld.gov.au
- **Via the Queensland Government website** <https://www.complaints.services.qld.gov.au/>
- **By mail to** Resources Safety and Health Queensland, GPO Box 1321, Brisbane QLD 4001
- **Facebook and Twitter** – comments that could be considered a complaint, will be assessed by the communications team who will request that the complaint is lodged formally.
- **Verbal complaints** - officers will assist the complainant to put their complaint in writing or to record it for them. Where verbal complaints are recorded in this way, the contents should be read to the complainant to verify the details are accurate.

Accessibility and interpreter assistance

For deaf and hearing-impaired persons, we recommend the following communication options:

- TTY users' phone 133 677
- Speak and listen (speech-to-speech relay) 1300 555 727
- Internet relay users connect to the [National Relay Service](#).

For English language assistance, we recommend the following options available:

- Telephone interpreters - Translating and Interpreting Service (TIS) National /available 24 hours/ 7 days a week, for the cost of a local call on 131 450
- Directory of Accredited Practitioners of Translating and Interpreting - National Accreditation Authority for Translators and Interpreters on 1300 557 470.

How we handle complaints

RSHQ aims to resolve complaints quickly at the frontline or the point where the complaint is received. We will make every reasonable effort to ensure a complaint is fully understood and to investigate all the circumstances and information surrounding it.

We will show empathy for the complainant, but we will not attempt to take sides, lay blame, become defensive or create false expectations. We will treat complainants with respect and will maintain their privacy and confidentiality.

All complaints will be dealt with using the principles of natural justice, fairness and objectivity. Anonymous complaints can be made, however our ability to investigate them may be limited. Complaints will be recorded according to the classification set out in the following table:

Type of Complaint	Description
Service Delivery	A complaint relating to how a service is provided including timeliness, quality or cost of the service.
Staff Conduct	A complaint about the behaviour of a RSHQ staff member when providing a service.
Administrative Decision	A complaint about a decision made by a RSHQ staff member when providing a service.
Policy / Procedure	A complaint about the process followed to provide a service.
Statutory	A complaint about a decision/ actions that is covered by a process provided for outside this framework.
Human Rights	A complaint by an individual about an alleged contravention of section 58(1) of the <i>Human Rights Act 2019</i> , that RSHQ has: <ul style="list-style-type: none"> • acted or made a decision that is not compatible with human rights; or • in making a decision, failed to give proper consideration to a human right relevant to the decision.

Complaints that won't be investigated

Some circumstances exist where a complaint will not be investigated. Where these circumstances exist, the complainant must be notified and given the reasons as to why the complaint has been declined. In these cases, the complainant may pursue the issues through other avenues such as lodging the complaint with the Office of the Queensland Ombudsman or Queensland Human Rights Commission (QHRC).

These circumstances are:

- RSHQ is not the correct agency to address the concern
- the complainant does not have sufficient direct interest in the issue
- there are no sufficient demonstrated grounds for a complaint
- there is an existing right of appeal or review available to the complainant
- the resources required to handle the complaint are disproportionate to the likely outcome
- the matter has been previously investigated and internal review options have been exercised

- the matter is currently being managed through a statutory process, or has already been adequately managed by an external agency, court or tribunal, for example, the Queensland Civil and Administrative Tribunal (QCAT)
- it is impracticable to investigate a matter due to the length of time that has passed since its occurrence
- if, after assessment, the complaint is determined to be frivolous or vexatious.

Withdrawing a complaint

A person or entity can request for RSHQ to stop dealing with their complaint at any time during the process. No-one else can withdraw a complaint except the complainant.

Written advice is required to withdraw a complaint and RSHQ will respond to confirm that the complaint has been withdrawn.

Depending on the nature of the complaint and evidence provided, RSHQ may still carry out an investigation or enquiry, however the complainant will not be advised any further on the matter. The extent of the investigation may vary depending on the circumstances of the complaint and the reasons for its withdrawal. In some cases, a preliminary assessment may be sufficient, while in others, a more thorough investigation may be warranted. RSHQ will consider the specific details of each situation when determining the appropriate course of action.

Timeframes

RSHQ aims to address complaints as quickly and reasonably as possible within the following timeframes:

- Within **one business day** of receipt of the complaint by RSHQ, allocate the complaint to the relevant work unit (if not resolved in first point of contact).
- Within **five business days** of receipt of the complaint by RSHQ, the complainant must be advised the complaint has been received and the expected timeframe for review and resolution.
- Where possible, within **30 business days** of receipt of the complaint by RSHQ, the work unit must resolve the complaint or have made a genuine attempt to resolve the complaint.

In the event of an investigation proving more complex and requiring more time than previously advised, RSHQ will communicate the rationale for the extended time to the complainant. The complainant will be informed on a regular basis of the progress of their complaint.

Timeframes for Human Rights Complaints

An individual must make a complaint directly to RSHQ in the first instance. After 45 business days, the individual can then take their complaint to the Queensland Human Rights Commission (QHRC). This does not mean that complaints must be resolved within 45 business days; there may be situations where a process extends beyond this time. The individual will be advised of the reason for the extended time and regularly updated on the progress/status of their complaint.

Unreasonable complainant conduct

The complainant must work productively with RSHQ officers so the complaint can be resolved, and the complainant's conduct must not be unreasonable. Safety and wellbeing is paramount and if complainant conduct creates unacceptable risk, RSHQ may discontinue contact with them.

Such instances might include:

- frequent, lengthy, repeated or abusive telephone calls, which occupy significant staff time and resources
- frequent letters, emails, faxes or visits seeking resolution of issues beyond the scope of the original complaint or before the decision due date
- seeking information, advice or resolution from a variety of staff about the same issue
- any contact which involves abusive or threatening language or behaviour
- the complainant continues to contact RSHQ after feedback has been provided regarding the complaint and all avenues of review have been exhausted.

To note: Any strategies used to manage unreasonable complainant conduct should be considered for compatibility with any relevant human rights to prevent a breach of an individual's human rights.

Further action / internal review

If a person or entity is not satisfied with the response to a complaint, they may request an internal review. The complainant must explain why the review is appropriate, i.e. why the original complaint outcome was not reasonable and/or the complaint handling process was unfair or deficient. The internal review will be conducted by an officer equivalent or more senior to the original decision-maker and will be independent of the original decision.

If the person or entity is not satisfied with the outcome of an internal review, they may contact the Queensland Ombudsman or QHRC to request an independent/external review.

The Queensland Ombudsman

GPO Box 3314
Brisbane QLD 4001

Tel: 07 3005 7000 or 1800 068 908
(toll free outside Brisbane)

The Queensland Human Rights Commission

PO Box 15565
City East QLD 4002

Tel: 1300 130 670 (toll free in Queensland)

Remedies

When a complaint is considered justified, an appropriate remedy should be determined taking into consideration the available options including any remedies that are provided in legislation; the outcome sought by the complainant and/or the degree of detriment to the complainant. Informal resolution and compromise are attempted wherever possible.

If it is determined that the complainant's human rights have been limited in a way that is not reasonable or demonstrably justifiable, the next step is to determine how the complaint can be resolved to the satisfaction of both parties.

Possible remedies, alone or in combination, may include:

- acknowledgement of an error made
- apology
- change of decision
- change of policy, procedures, practice or product
- compensation or financial assistance such as an ex-gratia payment
- correction of misleading or incorrect records
- explanation of how and why the problem occurred and what steps RSHQ is taking or has taken to avoid it recurring
- staff training and education
- provision of information or technical assistance
- advising that disciplinary or management action has been taken (if appropriate)
- repair/rework
- provision of a substitute product or service.

Recording and reporting complaint data

RSHQ will keep accurate records documenting the complaint investigation in a central Complaints Register, managed by the Chief Complaints Officer. These records will include evidence of the process used to consider the complaint, records of meetings, telephone conversations and interviews, findings from the investigation and recommendations and approvals.

Complaint records will be available for internal and external review, subject to information privacy, right to information considerations and legislative obligation, e.g. *Ombudsman Act 2001*.

Complaints data will be reported to the Chief Executive Officer to inform activities such as strategic and operational planning, and drive service delivery improvements.

Annual Publishing of Complaints Data

In accordance with section 219A of the *Public Service Act 2008*, by 30 September after each financial year, RSHQ must publish the number of complaints received in the year, including the number of those complaints resulting in further action and those complaints that resulted in no further action. This data is included in the RSHQ Annual Report.

The *Human Rights Act 2019* (HR Act) includes reporting obligations on public entities that are required to prepare an annual report under section 63 of the FAA.

In accordance with section 97 of the HR Act, RSHQ must disclose in the Annual Report:

- details of actions taken to further the objects of the Act
- details of human rights complaints received by RSHQ, including number and outcome of complaints and other information prescribed by regulation
- details of reviews of policies, programs, procedures, practices or services undertaken for compatibility with human rights.

Business improvement

Continuous business improvement requires analysis of complaints and trends so that business practices and behaviours can be evaluated and, through feedback to business areas, improved where necessary.

Managing Officers involved with a complaint will ensure that staff are informed of the circumstances of the complaint and its resolution to ensure processes are improved and rectified.

Staff education

This framework applies to all staff in RSHQ and officers with particular responsibilities in complaint management are trained in its application.

The Queensland Ombudsman provides complaints management training for officers who deal directly with the public with training focussed on why people complain, how to handle complaints better and how to prevent complaints escalating in an organisation. Training includes human rights considerations following the introduction of the *Human Rights Act 2019*.

For assistance with Complaints Management training, please contact the Chief Complaints Officer.

Roles and responsibilities

Role	Responsibility
Chief Executive Officer (CEO)	<p>The Chief Executive Officer will be accountable for:</p> <ul style="list-style-type: none"> • promoting complaints management best practice within RSHQ • publishing (in the RSHQ Annual Report) data on all complaints received, by 30 September each year to comply with section 219A of the <i>Public Service Act 2008</i> • publishing (in the RSHQ Annual Report) data on any human rights complaints received by RSHQ to comply with the <i>Human Rights Act 2019</i>
Chief Operating Officer/ Chief Inspectors/ Executive Directors	<p>Chief Operating Officer/ Chief Inspectors/ Executive Directors will:</p> <ul style="list-style-type: none"> • be accountable for the complaints management framework being followed in each division • ensure that all complaints are registered with the Chief Complaints Officer • ensure timely and effective resolution of complaints in accordance with this framework • decide if a complaint will NOT be investigated • ensure that appropriate action, including preventative action is taken to address sources of complaints, adverse issues and trends identified and foster continuous improvement • promote/support attendance of staff at training courses such as those offered by the Queensland Ombudsman and QHRC
Deputy Chief Inspectors/ Directors	<p>Deputy Chief Inspectors/ Directors will:</p> <ul style="list-style-type: none"> • allocate sufficient resources to ensure complaints are effectively managed • register all complaints with the Chief Complaints Officer • ensure that staff with roles in handling complaints are provided with appropriate information and training • ensure that all actions, outcomes and communications with complainant are documented and recorded • immediately refer allegations of official misconduct, fraudulent activity and public interest disclosures to Human Resources for assessment • decide if a complaint will NOT be investigated or refer the complaint to the relevant Chief Operating Officer/ Chief Inspector/ Executive Director • designate an internal reviewer or conduct the review if an internal review of a complaint is required • ensure that all human rights complaints are identified, considered and handled accordingly • ensure that the approved resolution actions are implemented • ensure that appropriate action, including preventative action is taken to address sources of complaints, adverse issues and trends identified and foster continuous improvement

<p>Chief Complaints Officer</p>	<p>The Chief Complaints Officer will:</p> <ul style="list-style-type: none"> • allocate complaints received centrally within 1 day of receipt • ensure that all complaints are entered in the Complaints Register and MECS for tracking and reporting purposes • maintain and update the Complaints Management Framework and Handbook and assist with their application in the agency <p>Annual Reporting and Publishing Complaints Data - the Chief Complaints Officer will assist the Office of the CEO to compile data on complaints received in RSHQ to support the following annual reporting and publishing requirements:</p> <ul style="list-style-type: none"> • In accordance with section 219A of the <i>Public Service Act 2008</i>, by 30 September after each financial year, RSHQ must publish the number of complaints received in the year, including the number of those complaints resulting in further action and those complaints that resulted in no further action. • In accordance with section 97 of the <i>Human Rights Act 2019</i>, RSHQ must disclose in the Annual Report: <ul style="list-style-type: none"> - details of actions taken to further the objects of the Act; - details of human rights complaints received by RSHQ, including number and outcome of complaints and other information prescribed by regulation; and - details of reviews of policies, programs, procedures, practices or services undertaken for compatibility with human rights
<p>Managing Officer (decision-maker)</p>	<p>The Managing Officer will:</p> <ul style="list-style-type: none"> • assess complaint and undertake immediate corrective action if necessary • register all complaints with the Chief Complaints Officer • ensure that all actions, outcomes and communications with complainant are documented and recorded • ensure that every complaint is considered and assessed as a possible human rights complaint • attempt to address the complaint through an informal process • undertake an investigation into the complaint, or assign to an officer to manage the complaint if the informal process proves unsuccessful • ensure that natural justice is applied throughout the complaints process • approve the resolution and response for each complaint • advise the complainant of the outcome • ensure that relevant staff attend the complaints training courses offered by the Queensland Ombudsman and QHRC.
<p>Investigating Officer</p>	<p>The Officer assigned to assess and investigate the complaint will:</p> <ul style="list-style-type: none"> • acknowledge receipt of the complaint with the complainant within five business days and advise service standard timeframe for resolution of response • register the complaint with the Chief Complaints Officer

	<ul style="list-style-type: none"> • ensure that all actions, outcomes and communications with complainant are documented and recorded • if possible, explore informal resolution with the complainant • liaise with complainant to obtain further information and provide advice regarding the progress of complaints • assess and investigate complaint • ensure that every complaint is considered and assessed as a possible human rights complaint • apply natural justice to complainant and staff throughout the complaints process • recommend the resolution and response for each complaint to the Managing Officer • attend complaints management training courses offered by the Queensland Ombudsman • attend human rights complaints training courses offered by the QHRC
All Staff	<p>All staff will:</p> <ul style="list-style-type: none"> • deal with matters raised locally in the first instance in order to minimise formal complaints • register all complaints with the Chief Complaints Officer • ensure that all actions, outcomes and communications with complainant are documented and recorded • ensure that every complaint is considered and assessed as a possible human rights complaint • inform the complainant of the process for lodging a complaint • provide assistance to complainants to lodge complaints • maintain privacy and confidentiality • record and submit verbal complaints received to their Manager • undertake training courses to expand skills and knowledge on dealing with complaints

Review of framework

This framework will be reviewed and updated by the Chief Complaints Officer annually, unless circumstances indicate it should be reviewed earlier.

Version history

Date	Version	Action	Description / comments
Aug 2020	1.00	Framework development for RSHQ	
Aug 2021	2.00	Annual review of Framework	Carried out and published Aug 2021
April 2024	3.00	Revisions/updates	

ATTACHMENT A

How to apply the *Human Rights Act 2019* in RSHQ

The *Human Rights Act 2019* (the Act) aims to ensure that respect for human rights becomes part of the culture of the Queensland public sector by putting human rights at the forefront of government decision making and actions. The Act protects and promote 23 human rights, reflecting four basic principles: freedom, respect, equality and dignity. It creates obligations on all public entities, which includes government employees, to properly consider and act compatibly with human rights when making decisions, developing policies, making laws and delivering services. To carry out these obligations, a public entity should:

1. Determine if the decision or action is about people

Only individuals have human rights. Non-human legal entities, such as corporations, do not have human rights.

2. Identify the relevant human rights affected

Identify which of the human rights may be relevant to your decision or action (the relevance question). To do this, become familiar with the nature and scope of the human rights likely to be engaged in your work and the possible policy triggers. For more detail, see the DJAG guide at <https://www.forgov.qld.gov.au/file/46691>

3. Determine whether the decision or action limits or interferes with the human rights

Does the decision or action you are proposing do anything that limits or interferes with the scope of the rights you have identified? **(the limitation question)**

NO: If rights are not being limited, you are acting compatibly with human rights.

YES: If human rights are being limited, go to step 4. Human rights are not absolute and may be lawfully limited in the manner described under the Act.

4. To lawfully limit a human right

A. Identify the law you are relying on to limit the human right

Human rights may only be limited under law. Any limiting act or decision must conform to the legislation that authorised the decision-maker's action. If you can't identify a law, you may not be able to limit the human right.

B. Identify if an exemption to the obligation to properly consider human rights and act compatibly with human rights applies

The section 58(2) exemption applies if, because of a law (includes law of Commonwealth or

another state) the public entity could not have reasonably acted differently or made a different decision. It applies in cases where a law requires a public entity to act or make a decision in a particular way that limits human rights. Determine if you are obliged by law to act or make a decision in a particular way which limits the human rights. If not, go to step C and properly consider the human rights affected.

C. Determine if the limit is reasonable and justified the proper consideration test

You must properly consider human rights affected before making a decision. You will need to apply the justification exercise under section 13 to determine if the limit on the person's human rights and its impact on the person is reasonable and demonstrably justified after weighing up the relevant factors in section 13 described below. Supporting evidence will be required to demonstrate the justification.

a) Nature of the right/s

What interests do the human rights protects?

b) The importance of the objective of the limitation

Is the objective behind the limitation on the right important and significant?

c) The relationship between the limitation and its objective?

Is the limitation (the means used) rationally and proportionally connected to the objective you are trying to achieve? (the proportionate question)

d) Are there less restrictive ways to achieve the objective?

Is there a less restrictive way reasonably available to achieve the objective that the limitation seeks to achieve? If so, take the less restrictive option.

e-g) The balance between the importance of the objective of the limitation and the importance of preserving the human right.

Do the benefits gained by the limitation outweigh the harm caused to the human right?

h) Any other relevant factors (social, legal, moral, economic, administrative factors).

If the justification exercise concludes the limitation is reasonable and justified, then there is no breach of the Act.

5. Keep a record

Make a record to show how you justified any limitation

ATTACHMENT B

Human rights protected under the *Human Rights Act 2019*

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 — Aboriginal peoples and Torres Strait Islander peoples (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)	