Human Rights

Respect · protect · promote

Guide: Planning and reporting for human rights

Version 1: November 2019

Queensland Government

Planning and reporting

Purpose of this guide

The *Human Rights Act 2019* (the Act) imposes obligations on public entities as defined by section 9 of the Act. 'Public entity' is defined to include government departments, statutory bodies and various other entities, including functional public entities (i.e. organisations that perform functions of a public nature). The term 'agency' is used in this document to refer to government entities, such as departments and statutory bodies.

This guide is directed at agencies. While other public entities may find this guide useful please note that some requirements will not apply to all public entities.

This guide will help agencies:

- demonstrate their commitment to human rights through planning processes
- comply with their reporting obligations under the Act.

Aside from references to specific provisions of the Act, this guide is not intended to be prescriptive and agencies are not obliged to adopt the processes outlined in this guide. It provides general guidance only, and may be adapted by agencies to suit their specific needs.

Building a human rights culture

Queensland Government Human Rights Strategy

The Act respects, protects, and promotes the human rights of all people in Queensland. It requires agencies to act and make decisions in a way that is compatible with human rights. Human rights can only be limited in certain circumstances and after careful consideration. The purpose of the Act[1] is to:

- protect and promote human rights
- help build a culture in the Queensland public sector that respects and promotes human rights
- help promote a dialogue about the nature, meaning and scope of human rights.

The Queensland Government Human Rights Strategy sets out the Government's vision for embedding human rights in the Queensland public sector:

> ***Our vision is for a modern, fair and responsive Queensland where we respect, protect and promote human rights.***

[1] This is found in section 3 of the Act.

The Queensland Government is committed to embedding human rights in all that we do. We will exercise public functions in a principled way, compatible with human rights, by putting people first in all our actions, decisions and interactions. Human rights will be part of our culture through both our everyday business, and strategy and planning.

We will achieve this objective by ensuring that:

- every agency is committed to achieving our human rights vision and objectives and follows this framework for how it will be achieved
- human rights are reflected in agency, divisional and business unit visions, values and plans
- respecting human rights is part of what it means to be a public service employee and is incorporated in Queensland Government position descriptions, staff induction and ongoing professional development.

--Queensland Government Human Rights Strategy

Reflecting human rights in planning processes

Strategic planning

Agencies should reflect human rights in their **strategic plan** in line with the *Queensland Government Human Rights Strategy*. This will help agencies to think about how they can respect, protect, and promote human rights when they are renewing the strategies in their strategic plan. Agencies should consider how their strategy and planning can:

- help build a human rights culture within the agency
- promote human rights in everyday business.

For example, strategic plans could identify how objectives, strategies, and performance indicators for customer service, workforce capability, and other relevant areas respect, protect and promote human rights. Agencies could refer to human rights in more than one strategy.

Agencies could include statements in their strategic plan that promote a shared understanding of their commitment to human rights through all levels of the agency. This statement could be adapted for strategic plans:

We will respect, protect and promote human rights in our decision-making and actions.

Agencies could include this with their introductory text, or as a lead-in statement to the agency's objectives.

The Act does not require agencies to reflect human rights in the vision presented in their strategic plan. However, agencies may choose to refer to one or more of the human rights protected by the

Act that are particularly relevant to the agency. Additionally, agencies may choose to include a human rights value statement in their strategic plan.

> *Vision and value statements can be powerful tools for shaping an organisation's culture. These statements have total organisational reach and, when used effectively, can be both aspirational and affirming for staff. Including human rights in vision and value statements can guide staff decision-making in complex situations where the right decision is not clear cut.*[2]

For the minimum information requirements of a strategic plan in relation to human rights, refer to the Queensland Government *Agency Planning Requirements* published by the Department of the Premier and Cabinet.

Operational planning

Operational plans should reflect an agency's commitment to human rights and align with the overarching statements of their strategic plan.

Agencies and business areas are encouraged to consider how operational plans reflect their commitment to human rights through their everyday business and interactions with the community.

Agencies should also consider how their operational plan(s) will support their reporting obligations.[3] The Act requires agencies to report about:

- actions to further the objects of the Act
- certain details about complaints received by the agency
- details of reviews of policies, programs, procedures, practices or services undertaken for compatibility with human rights.

To build a human rights culture, agencies will have to undertake actions in a range of areas that could be included in an agency's operational plan. Some of these actions will be particularly relevant in the lead up and commencement phase of the Act; however, most actions will have ongoing relevance.

An agency's operational plan could identify specific actions they will undertake. Alternatively, agencies could adapt the following general statement:

> ***We will review policies, programs, procedures, practices and service delivery to ensure that decisions and actions are compatible with human rights and ensure that human rights are central to the work we do.***

Agencies involved in developing policy and legislation may also want to reference how a commitment to human rights is incorporated in this work.

---

[2]Kristen Hilton, Victorian Equal Opportunity and Human Rights Commissioner *2016 Report on the operation of the Charter of Human Rights and Responsibilities – Nov 2017* p.24

[3] This requirement is found in section 97 of the Act.

For the minimum information requirements of an operational plan in relation to human rights, refer to the Queensland Government *Agency Planning Requirements* published by the Department of the Premier and Cabinet.

The following table suggests actions that could be included in operational plans:

Type of activity	Potential action
Communication and awareness raising activities about human rights	• Informing staff about the Act and their obligations under the Act. • Supporting actions to build a human rights culture, such as encouraging human rights champions reporting to Ministers / Executive on compatibility. • Informing clients and customers about their rights.
Education and training activities about human rights	• Supporting staff access to, and encouraging attendance at, relevant training and information sessions. • Evaluating staff awareness of obligations under the Act. • Incorporating respect for human rights into ongoing professional development and performance plans.
Staff recruitment processes	• Incorporating a commitment to human rights in position descriptions and staff inductions.
Engagement with portfolio entities	• Ensuring portfolio entities are aware of their obligations (including entities that perform functions of a public nature). • Including human rights obligations in relevant contracts and procurement processes.
Legislation-related activities	• Reviewing legislation and subordinate legislation for human rights compatibility. • Ensuring human rights are central to the development of policy and legislation.
Review and development of policies, programs, procedures, practices and services	• Reviewing policies for compatibility with human rights. • Ensuring human rights are central to the development of new policies, programs, procedures, practices and services. • Engaging with and consulting the public in the review and development of policies, procedures and services.
Managing human rights complaints	• Maintaining internal processes to effectively and accountably manage human rights complaints. • Recording human rights complaints, including outcomes.
Actions to promote a dialogue about rights	• Pro-actively responding to and monitoring complaints, reports of the Commissioner, and relevant court decisions.
Reporting about human rights	• Recording actions and outcomes related to reporting obligations under section 97 of the Act.

Type of activity	Potential action
Monitoring and evaluation	• Monitoring and evaluating how the agency has achieved the objects of the Act, namely: ○ protecting and promoting human rights ○ building a culture of human rights ○ promoting dialogue about the nature, meaning and scope of rights.

Reporting about human rights

Providing information to the Queensland Human Rights Commission

All agencies have to provide information to the Queensland Human Rights Commission (QHRC) upon request. The Commissioner can request information to prepare:

- the QHRC's annual report
- a report about a matter relevant to the performance of the QHRC or Commissioner's functions under the Act.

The Commissioner can seek information that is within the agency's control, but cannot obtain personal information that is not publicly available. The Commissioner can only use the information for the purpose that it was requested. The Commissioner must also seek the information through a notice that states why the request is being made, and the period of time the agency has to provide the information.[4]

Reporting by the Queensland Human Rights Commission

The Commissioner has powers to publish information about human rights complaints, and is required to prepare an annual report about the operation of the Act. The Act sets out what must be included in the Commissioner's annual report[5], including information about complaints.

The Commissioner's annual report may include other information the Commissioner considers appropriate. This includes the names of agencies and details of actions in cases where human rights complaints have not been resolved.[6] However, the report cannot include personal information about an individual unless it has been previously published or given for the purpose of publication.

Annual reporting by agencies

The Act defines 'public entity' to include government departments, statutory bodies and various other entities, including functional public entities (i.e. organisations that perform public functions). Although all public entities can choose to report on actions they have taken to promote human rights, under the Act, public entities who have to prepare an annual report under section 63 of the

[4] This is found in section 90 of the Act.
[5] This is found in section 91 of the Act.
[6] This is found in section 91(3) of the Act.

Financial Accountability Act 2009 have specific human rights reporting obligations.[7] For the remainder of this guide, the term 'agency' refers to these public entities.

Section 97 of the Act requires agencies to include details in their annual report about:

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

Flowchart: Do you need to report about human rights?

[7] This requirement is found in section 97 of the Act.

What information should an agency's annual report include?

Agencies will have to include details in their annual report about actions they have taken to further the objects of the Act, complaints received and reviews undertaken. Reporting on human rights is an opportunity to promote your agency's leadership and actions in furthering human rights in Queensland. This information will also inform annual reporting by the Commissioner about the operation of the Act.

The Act requires agencies to report about *details* as distinct from numbers. For example, agencies may choose to describe how policies have integrated human rights or include a specific case study rather than simply stating the number of policies that have been reviewed.

The QHRC has indicated that they will be looking for engaging case studies from agencies; for example, case studies where there has been a positive outcome or change made in an organisation (whether it results from a complaint or not). You can find examples of case studies from Victoria on pages 14-15 of this guide.

Reporting about actions to further the objects of the Act

Agencies need to provide information in their annual reports about actions they have taken during the reporting period to further the objects of the Act.[8]

As they prepare for the substantive provisions of the Act to commence on 1 January 2020, agencies will undertake numerous activities that further the objects of the Act. The actions that agencies report on will vary between agencies and between reporting periods; however, many actions will be ongoing as agencies build a human rights culture.

The table below contains actions that agencies could include in their annual reports. Agencies have discretion about how much information to include in their reporting, but should consider including case studies where appropriate.

Reporting requirement	Examples of actions that may be taken
97(2)(a) ***Details of any actions taken during the reporting period to further the objects of the Act***	**At a strategic level:** • reporting on relevant strategies in the strategic plan • encouraging human rights champions at senior leadership level • training for senior leaders • conducting awareness raising throughout agency • incorporating human rights into executive performance agreements • incorporating human rights into strategic plan • engaging with functional public entities to raise awareness of obligations

[8] This requirement is found in section 97(2)(a) of the Act.

Reporting requirement	Examples of actions that may be taken
	• reporting to ministers or the Executive on human rights compatibility and culture initiatives • communicating your commitment to human rights to the public • engaging with community during development of new proposals.
	At an operational level: • reporting on relevant actions in the operational plan • training staff • incorporating human rights into staff performance plans • conducting awareness raising for staff and clients • incorporating human rights into operational plans • incorporating human rights into recruitment processes • including human rights considerations in relevant contracts and procurement processes • reviewing, using or developing evaluation tools to monitor human rights awareness among staff • reviewing legislation and regulations for compatibility • putting human rights issues on meeting agendas • engaging community about service delivery by seeking feedback for potential improvements.

Reporting about human rights complaints and outcomes

Agencies have to include details about human rights complaints in their annual reports.[9] This includes:

- the number of human rights complaints received by the agency
- the outcome of complaints
- any other information prescribed by regulation (no other information is currently prescribed by regulation).

The minimum annual reporting requirements are set out in the *Annual Report Requirements for Queensland Government agencies* published by the Department of Premier and Cabinet.

A human rights complaint is defined as *a complaint about an alleged contravention of section 58(1) by a public entity in relation to an act or decision of the public entity.*[10] People who manage and report on human rights complaints should refer to complaints procedures relevant to their business area and agency (as supported by guidance from best practice complaints handling resources including the Australian Standard for handling of customer complaints, and the Queensland Ombudsman). Agencies can find current best practice complaints handling resources at the website of the Queensland Ombudsman. Complaints procedures relevant to your agency will help you assess

[9] This requirement is found in section 97(2)(b) of the Act.
[10] The definition is in section 63 of the Act.

whether a complaint is a human rights complaint, including whether an expression of dissatisfaction meets the threshold for a complaint, or is simply part of normal client or employee interaction where concerns may be resolved at the point of contact.

Information about managing human rights complaints is also contained in the *Guide: Handling human rights complaints*. People who manage human rights complaints should record the details required by their agency. This information will inform reporting on human rights complaints.

Agencies must report on outcomes of complaints received. This requirement will be satisfied if agencies report on the numbers of human rights complaints resulting in **further action**, and the number of complaints resulting in **no further action,** or report other information that indicates the outcome of the complaint. Recording and reporting additional information may help agencies identify trends over time.

Agencies are encouraged to include additional narrative or context for human rights complaints received by the agency. Agencies should also consider including case studies that identify the situation, the human right(s) involved, and how the complaint was resolved (mentioning outcomes for the agency and/or the complainant).

The following tables provide information and suggestions about how to report on the number and outcome of complaints received by agencies.

Reporting requirement	How to report on number of complaints received
Number of complaints[11]	• Report any human rights complaint[12] received that is assessed to be a human rights complaint. Include any complaint assessed by the agency as a human rights complaint even if the complainant did not identify it as one. • Include all human rights complaints made by people external to the agency (such as customers), or by people internal to the agency (such as staff). • Include human rights complaints that that have been referred back to the agency by the QHRC if that complaint has not already been reported as a human rights complaint by the agency. • Each human rights complaint should only be reported once, even if it raises more than one human right. • Do not include complaints that are not about an act or decision of your agency or staff—misdirected complaints should be referred to the correct agency. Agencies should record the following information for their own purposes. Agencies may choose to report this information but are not required to: • How a human rights complaint was identified (such as whether it was identified by the complainant or by the agency).

[11] This requirement is found in section 97(2)(b)(i) of the Act.
[12] Section 63 defines human rights complaint.

	• Identifying which type of complaints raised the human rights complaint (such as whether the complaint was a customer complaint, or an employee complaint, or may be classed some other way, such as a public interest disclosure).

Section 219A of the *Public Service Act 2008* requires departments to report on the number of customer complaints which result in further action and the number which result in no further action. Many complaint record systems are organised around this categorisation of action or no further action. An agency may find it expedient to continue to use these categorisations to report on outcomes of human rights complaints.

Agencies that report on the outcome of human rights complaints using these outcome categories are strongly encouraged to make it clear what sorts of actions are included within the 'further action' category.

Reporting requirement	How to report on outcome of complaints received
Outcome of complaints[13]	Agencies are required to report information which indicates the outcome of complaints received. The following actions are examples of outcomes agencies may choose to report:[14] • explanation • change original decision • apology • business improvement (such as review or development of policy or procedure; staff training or education; service improvement; modifications to improve accessibility) • disciplinary action. Agencies may choose to report by using the overarching categories of *Further action* and *No further action*. Agencies who report this way are strongly encouraged to indicate what outcomes/actions they include within these categories.

Reporting about reviews undertaken for compatibility

Agencies have to include information about reviews undertaken for compatibility with human rights in their annual reports.[15] This includes details about reviews of policies, programs, procedures, practices, or services.

[13] This requirement is found in section 97(2)(b)(ii) of the Act
[14] Please note that these actions are not mutually exclusive.
[15] This requirement is found in section 97(2)(c) of the Act.

As they prepare for the substantive provisions of the Act to commence, agencies will be undertaking reviews; however, these activities will also be ongoing. To build a human rights culture, agencies should regularly examine how they conduct their everyday business to ensure their actions, decisions and interactions are compatible with human rights.

The table below contains actions that agencies could include in their annual reports. Agencies have discretion about how much information to include in their reporting, but should consider including case studies where appropriate.

Reporting requirements	Examples of actions that may be taken[16]
Review of policies for human rights compatibility	• Review or development of strategic or operational policies. • Incorporating human rights into complaint handling policies. • Incorporating human rights into workplace policies.
Review of programs for human rights compatibility	• Review of eligibility criteria for programs. • Review of who accesses programs to identify potential access issues.
Review of procedures for human rights compatibility	• Review of procedures. • Incorporating human rights issues into decision-making frameworks. • Incorporating human rights into complaint handling procedures.
Review of practices for human rights compatibility	• Review practices of administrative decision-makers. • Training decision-makers (including in response to concerns or complaints). • Ensuring contracts and procurement processes incorporate human rights.
Review of services for human rights compatibility	• Consulting with community to identify human rights issues and expectations. • Responding to concerns or complaints. • Review of service delivery models.

[16] Reviews may be conducted proactively (such as preparing for the Act to commence); in response to a complaint where an issue is identified; or as part of ongoing business activities.

Reporting about the work of functional public entities connected to your agency

The Act does not create new requirements to report about functional public entities in annual reports. Agencies do not need to report about whether functional public entities comply with their obligations under the Act. An agency that funds a functional public entity to do work on their behalf may include auditing or quality assurance management for human rights compliance during procurement and funding processes.

For example, a Department may engage a non-government organisation (NGO) to provide particular services to vulnerable people. The Department does not currently report on the NGO in their annual report. The Act does not require the Department to report on work the NGO does to respect, protect and promote human rights, or human rights complaints received by the NGO. The Department may choose to include a periodic reporting obligation or conduct an audit of the NGO's progress towards respecting, protecting and promoting human rights.

Case studies

Agencies are encouraged—but not required—to include in their annual reports examples of how they have furthered the objects of the Act, dealt with complaints, or undertaken reviews for compatibility with human rights. The following case studies are included for illustrative purposes only. They are examples of reporting taken from the Victorian Equal Opportunity and Human Rights Commission 2010 Report on the operation of the *Charter of Human Rights and Responsibilities*.[17]

Case study: The Department of Human Services

The Department of Human Services has produced a Child Protection Practice Manual, which it provides to community organisations contracted to provide child protection services. The manual highlights the obligation to consider human rights when making decisions and provides guidance on balancing competing rights and determining the best interests of the child.

Case study: The Office for Youth

The Office for Youth has incorporated compliance with the Charter into major funding agreements for youth participation services and intends to include compliance with the Charter in all its major funding agreements.

Case study: The Department of Education and Early Childhood Development

The Victorian Government Schools Reference Guide, developed by the Department of Education and Early Childhood Development, includes information on the benefits of applying human rights principles to a school policy on students' dress and appearance. The Guide provides guidance to schools on developing a dress code and notes that under the Charter, when developing and implementing dress codes, schools need to balance the rights of individual students against the best interests of the school community as a whole.

Rights may be subject to reasonable limits that can be demonstrably justified in a free and democratic society taking into account factors such as the nature of the right, the purpose of the limitation and whether any less restrictive means could reasonably achieve the same purpose. These include creating a safe and inclusive school environment and allowing all students, regardless of their backgrounds, to take part in school life.

[17] Talking rights: 2010 report on the operation of the Charter of Human Rights and Responsibilities - Mar 2011

Case study: Victoria Police

Victoria Police reported that it has developed a Good Practice template and a Human Rights Risk Assessment template, in addition to a Human Rights and Privacy Impact Assessment, to guide a best practice approach to police work.

Not only does this approach provide police with clear rules and direction for undertaking their work, which can often be challenging, it can also help build public confidence and minimise potential risks.

Case study: The City of Whittlesea Council

One of the goals of the City of Whittlesea in its Disability Action Plan is to ensure that "[a]ll residents have the opportunity to participate equally in the planning and consultation processes which shape our community".

However, when a local man with a disability wanted to attend a Council meeting to pose a question to councillors about the discriminatory nature of one the Council's Procedural Matters Local Laws, he found no services available to help him attend.

He was a local resident, ratepayer and community advocate for people with disabilities. He also had a disability that meant he needed assistance to attend Council meetings in the evening.

The Whittlesea man was concerned about public question time procedures for Council requiring all questions to be submitted in writing. He raised the question of whether the local law requiring this was consistent with the Charter in that it discriminated against residents who rely on other forms of communication. The requirement that all questions are put in writing means that residents who cannot write have no chance of asking questions during council meetings. This effectively excludes them from participating equally in the consultation processes shaping the City of Whittlesea.

In response to the concerns raised, the Council has helped the resident attend a Council meeting through providing carer support, a hearing loop and the cost of a taxi. In response to the issues of procedure he was raising, the Council reiterated its strong commitment to ensuring that everyone in the community is able to participate in the affairs of the Council and will consider ways the Council could facilitate access to meetings and question time by persons with disabilities. This will form part of a broader review of the compatibility of procedural local laws with the Charter in the next six months.