

CULTURAL RIGHTS UNDER THE QUEENSLAND HUMAN RIGHTS ACT

What is the Human Rights Act?

The Queensland Human Rights Act recognises and seeks to protect 23 human rights. This includes the right to life, the right to privacy, the right to a fair hearing, and cultural rights for Aboriginal and Torres Strait Islander peoples.

What human rights do Aboriginal and Torres Strait Islander people have?

Any of the rights recognised under the Human Rights Act could apply to Aboriginal and Torres Strait Islander peoples.

Section 28 of the Human Rights Act recognises that Aboriginal and Torres Strait Islander peoples hold distinct cultural rights, both as individuals and collectively. This includes the rights to:



How are human rights protected?

The Human Rights Act requires ‘public entities’ to act and make decisions in ways which are compatible with these human rights. If they fail to do so, they may be acting unlawfully. However, human rights are not absolute and can be limited, but only in a way that is justifiable and proportionate.

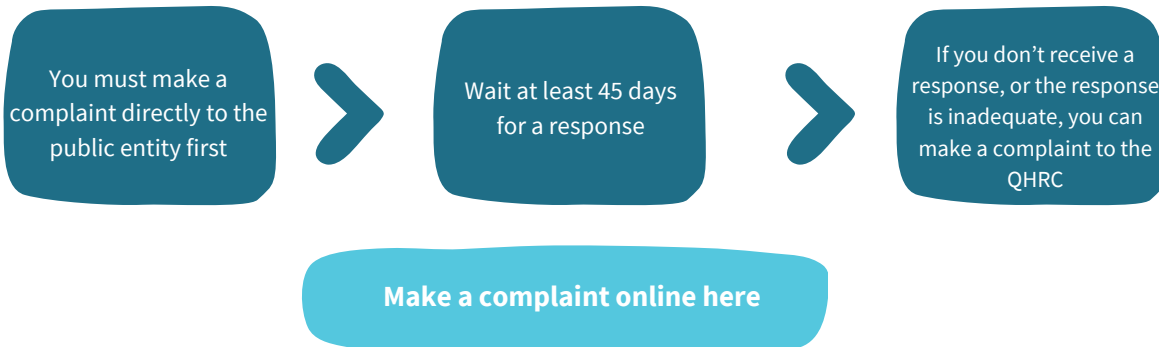
A **public entity** is an organisation or body performing a public function in and for Queensland. Public entities include State government departments, Ministers, health services, educational institutions and police officers.



What can I do if my human rights have been limited?

If you think that a **public entity** has made a decision or acted in a way that limits or failed to consider your human rights, then you may be able to protect your rights in two ways.

1. Make a human rights complaint



What should you include in your complaint?

When making a complaint to the QHRC, make sure you include details about:

- The date and time of the incident
- The people involved
- The impact on you and your human rights
- Any evidence you have
- The complaint you made to the public entity
- Any reply you received from the public entity
- How you would like the complaint to be resolved

What will the QHRC do?

After receiving a complaint, the QHRC will:

- Assess the complaint to decide if there may have been a contravention of the *Human Rights Act*
- Decide whether to accept or reject the complaint, and provide reasons for the decision
- Hold a conciliation conference, where the parties can talk about the complaint in a respectful way, in the presence of an impartial conciliator, and try to reach a resolution
- Refer the complaint to a tribunal if it is not resolved through conciliation

2. Piggy-back a human rights claim to another court action

A court action for unlawfully limiting human rights cannot be brought on its own. You have to ‘piggy-back’ it onto a different cause of action, such as judicial review or an injunction.

We strongly recommend you seek legal advice before going to court, as it can be resource and time consuming with possible costs risks.

You can call the Environmental Defenders Office on **1800 626 239** for free legal advice

 1800 626 239

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