



Title: External Complaints Management Policy

Responsible Officer: Registrar

Action Officer: Complaints Contact Officer

References:

Family Responsibilities Commission:

- Queensland Public Service Code of Conduct
- Workplace Health and Safety Policy
- Harassment Discrimination and Bullying Policy
- Guideline for Implementing the Fundamental Principles of Justice for Victims of Crime
- Privacy Policy
- Right to Information Guidelines
- Employee Complaints Management Policy
- Workplace Policy
- Discipline in the Workplace Policy – A Guideline for Management and Employees
- Employee Assistance Policy

Relevant Legislation

- *Victims of Crime Assistance Act 2009*
- *Family Responsibilities Commission Act 2008*
- *Queensland Public Service Officers and other Employees Award – State 2015*
- *Public Service Act (Qld) 2008*
- *Crime and Misconduct Act 2001 (Qld)*
- *Public Interest Disclosure Act 2010*
- *Appeals (PSC Directive 03/17)*
- *Public Sector Ethics Act 1994 (Qld)*

- *Anti-Discrimination Act 1991 (Qld)*
- *Information Privacy Act 2009*
- *Ombudsman Act 2001*
- *Right to Information Act 2009*
- *Industrial Relations Act 1999*
- *Work Health and Safety Act 2011*
- *Work Health and Safety Regulation 2011*
- *Human Rights Act 2019*

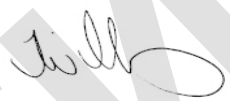
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Version	7
Issued	September 2020
Authorising Signature Commissioner	
Review Date	September 2023

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1.0 Purpose

This policy provides a framework for the management of complaints within the Family Responsibilities Commission. The policy aims to identify and eliminate causes of complaints and improve service and organisational performance.

All FRC Commissioners and employees are expected to be aware of the Commission's complaints management process and that information about the process is readily available to the public. Information has been published on the Commission's website (www.frcq.org.au).

This policy requires that the Commission's complaints management system is well communicated to FRC Commissioners, employees and the general community.

2.0 Scope

This policy applies to all complaints about the service or actions of the Commission or its employees (temporary or permanent), excluding those complaints which are regulated according to legislation, policies and systems such as:

- suspected official misconduct complaints which are dealt with under *Crime and Misconduct Act 2001 (Qld)* and select public interest disclosure complaints which may be referred externally under the *Public Interest Disclosure Act 2010* (refer 12.0 Making Public Interest Disclosures)

- employee grievances and/or conflict including workplace harassment or bullying which are dealt with under the Commission's Harassment Discrimination and Bullying Policy and Employee Complaints Management Policy
- complaints concerning privacy breaches which will be dealt with under the Commission's Privacy Policy which is regulated by the *Information Privacy Act 2009* and the *Right to Information Act 2009*
- complaints that are primarily contractual in nature and which:
 - do not involve alleged breaches of the Code of Conduct and
 - are responded to in a contractual context
- employee appeals that are dealt with under Appeals (PSC Directive 03/17)

Complaints received by the Commission in regard to a breach of the Principles of Justice for Victims of Crime will be dealt with according to the Commission's Guideline for Implementing the Fundamental Principles of Justice for Victims of Crime and within the time constraints as dictated by this Complaints Management Policy.

Complaints received by the Commission about a breach of the *Human Rights Act 2019* will be dealt with according to section 13.0 of this policy.

Where a complaint outcome is that an employee is at fault, managers and employees must refer to the Discipline in the Workplace Policy – a guideline for managers and employees about disciplinary procedures.

3.0 Policy Statement

The Commission will maintain high standards of professionalism and integrity in relation to all people who are notified to the Commission and agencies with which the Commission has dealings in the performance of its functions.

Community members and other people having contact with the Commission can expect:

- fairness, independence and objectivity
- efficiency and effectiveness
- responsiveness and accountability
- honesty
- reasonableness in decision-making
- respect for all opinions and people
- respect for Indigenous customs and
- courteous service to all members of the community.

The Commission takes seriously all complaints against its decisions and actions and the conduct of its employees and:

- actively encourages feedback about how it handles complaints
- takes a client focused approach in handling complaints
- accepts complaints orally or in writing and
- uses information about complaints to improve its business processes.

The Commission ensures an effective, flexible and accessible system for complaints management for employees and the community. All Commissioners and employees must be equipped to inform members of the community how to access the Commission's complaints process.

The Commission supports the right of employees and the community to complain about the Commission's services, decisions or conduct and to make public interest disclosures. Public interest disclosures are an important means of reporting wrongdoings and assist in maintaining the integrity and accountability of the Queensland Public Service.

Complaints received (including anonymous complaints where practicable) will be processed promptly, professionally and fairly, in line with the principles of natural justice and in accordance with this External Complaints Management Policy.

The Commission is committed to continual improvement in its administration and to fostering better relationships with the community through meaningful feedback to Commissioners and employees about the nature, outcomes and causes of complaints.

As required by the *Human Rights Act 2019* the Commission will act and make decisions in a way that is compatible with human rights and will properly consider human rights when making decisions about complaints. Complaints handling processes will be robust and appropriate where they consider human rights in the context of every complaint (and not just those where a breach of a human right is specifically identified by the individual).

4.0 Elements of Effective Complaints Management

4.1 Visibility

The Commission has provided readily available information about where to lodge a complaint, how to make a complaint, and how the complaint will be handled. This Complaints Management Policy is available on the Commission's website, and internally and centrally available to all employees. An electronic register requiring the signature of every employee and attesting that each employee has read and understood the policy is kept and maintained on the Commission's electronic network.

4.2 Access

Assistance will be provided to employees and community members in accessing and processing complaints received by the Commission. Complainants will be informed of the process the resolution will follow and will be given regular updates on progress.

The Commission recognises that complaints can be sensitive and complex and may require considerable and confidential investigation. Timeframes for the investigation and resolution process will be reasonable and flexible. Complainants will be advised of estimated timeframes as soon as reasonably practicable.

It is for the above reasons that the Commission has appointed a Complaints Contact Officer (CCO) who is appointed with the delegated task of complying with complaint management timeframes and reporting frameworks (refer 9.0 Complaints Contact Officer).

4.3 Responsiveness

Complaints can be complicated and may take time to resolve, however, the Commission will ensure that complainants are kept informed about the steps involved in the complaints process, anticipated timeframes and any other factors affecting the progress of a complaint. Timeframes will be monitored to ensure that best practice and accountability is transparent. Legitimate delays may be caused from:

- copious documentation required for investigation
- issues of complexity
- key documents or witnesses being unavailable

- whether it is necessary to obtain legal advice.

Commission employees receiving, investigating and/or resolving complaints are thoroughly trained in the application of this policy and relevant procedures. The Commission has ensured that all Commissioners and employees are aware of expected time constraints, and expect the CCO to resolve complaints in a committed manner affording natural justice to all parties involved.

4.4 Assessment

The Commission recognises the importance of fully understanding the complainant's concerns. Upon receiving a complaint, officers must take reasonable steps to ensure that the complaint is properly understood, seeking clarification or additional information as necessary. Additionally the Commission CCO delegated the task of resolving a complaint is to apprise him or herself of what the complainant recognises as an appropriate outcome.

Outcomes sought could include, for example:

- a simple correction on the Commission's database
- a formal written apology
- counselling
- a change in service provision
- a review of policies and procedures
- additional training for employees.

The Commission will handle complaints in a manner that is culturally appropriate and responsive to any special needs of all parties involved.

The single most effective way to resolve an issue or complaint is to discuss it with the complainant at the first point of contact. Often an apology or explanation can go a long way to resolving an issue or concern.

4.5 Action

Where appropriate the Commission will investigate issues that are not specifically raised in a complaint which may represent a systemic problem. The assessment of a complaint may reveal issues that are not apparent at the time the complaint was received. The CCO must not overlook related causes and/or consequences of the complaint, nor implications for future operational efficiency and improvements.

All complaints received by the Commission will be handled fairly and objectively ensuring that appropriate consideration is afforded to the human rights of the parties involved, and that when making decisions they are compatible with human rights. The Commission will utilise this policy to address all complaints which fall within the scope of this policy (refer 2.0).

4.6 Feedback

Decisions about a complaint will be made as soon as possible following assessment and/or investigation. In accordance with the relevant procedures, decisions about a complaint are to be communicated to the complainant by the CCO as soon as possible.

Where it is found appropriate to decline a complaint, or an investigation reveals little to substantiate a complaint, the CCO must communicate this to the complainant, along with an explanation of the process the decision-making followed and the reasoning reached in the decision. This communication should be delivered in such a manner as a reasonable

complainant would feel their concerns have been dealt with in a serious manner, even if they do not agree with the decision.

If a complainant is dissatisfied with any action taken by the Commission in relation to a complaint, and after they have exhausted all available avenues of review within the Commission, they have the right to seek external review via the Office of the Queensland Ombudsman:

Telephone: 3005 7000
Toll-free: 1800 068 908

Matters involving employee discipline should be processed according to the Discipline in the Workplace Policy – a Guideline for Management and Employees. If an employee is dissatisfied with any action taken by the Commission in relation to a complaint received against them, and after they have exhausted all available avenues of review within the Commission (i.e. the Commissioner), they have the right to seek external review via the Public Service Commission by completing the appropriate [Notice of Appeal](#) and forwarding to:

Telephone: 3221 6074
Email: qirc.registry@justice.qld.gov.au

The appeal may be made and argued on the grounds that the decision to discipline and/or the penalty were unfair or unreasonable. For further information refer to the Discipline in the Workplace Policy – a Guideline for Management and Employees.

4.7 Monitoring Effectiveness

The Commission will capture and analyse information in relation to its complaints management and complaints history in order to identify complaint trends and any possible systemic issues that need to be addressed. Additionally, the analysis of complaints information will be utilised to assess the effectiveness of employee performance, training and commitment to complaints handling. Corrective measures will be initiated if required.

This External Complaints Management Policy will be reviewed and updated as required every three years from the date of endorsement or within a reasonable time thereafter. All Commission policies are considered living documents which are subject to growth and change as required by the community, strategic objectives and relevant legislative requirements.

5.0 Principles of Natural Justice

Natural justice comprises three basic principles which the Family Responsibilities Commission uses as the foundation for this policy, and indeed as a foundation for its role in supporting the rebuilding of satisfactory social responsibilities in the Cape York Welfare Reform communities:

- Any person who is likely to be adversely affected by a decision should be given notice of the issues and relevant information. The notice to the person must identify the critical issues and contain sufficient information for the person to be able to participate meaningfully in the decision-making process.
- The person must be given a reasonable opportunity to respond to the issues/information. A fair hearing not only requires that the affected person is given a fair opportunity to speak or respond, but also that the decision maker can show they have given genuine consideration to the affected person's submission.

- The person making the decision must act impartially (without bias) in considering the matter. Bias could arise if the decision-maker has some financial or other personal interest in the outcome of the decision (conflict of interest) or has given the impression that they have prejudged the issue ahead of time (prejudgement).

6.0 Factors for Consideration in Assessing a Complaint

In assessing complaints received, the CCO will consider:

- whether the complaint suggests a significant injustice
- whether the complaint is considered frivolous, vexatious or trivial
- the amount of time that has elapsed since the incident occurred
- the extent to which the complaint is serious or significant for the Commission
- whether the complaint involves an issue of broad public interest
- the amount of resources likely to be required, and whether the resources are proportionate to the significance of the complaint
- remedies the Commission can provide to the complainant if the complaint is substantiated
- whether an investigation could lead to improvements in the Commission's processes.

7.0 Confidentiality

Matters concerning the complaint, process of determination and any other matters are to remain confidential, and all parties are required to comply with the confidentiality requirement. Personal information which is accessed through the complaints process and in investigating and responding to complaints will be managed in accordance with the Commission's Privacy Policy and Guidelines for Right to Information, together with the relevant legislative provisions of the *Information Privacy Act 2009* and the *Right to Information Act 2009*. Any breach of confidentiality will be dealt with under the Commission's Privacy Policy.

8.0 Complaints the Commission will not action

Decisions relating to the management of a particular complaint reside with the Commission CCO subject to any relevant legislative requirements.

The Commission will not accept complaints in respect of:

- matters already being dealt with or currently being dealt with by the Commission, another Department or agency, Court, or Tribunal
- matters that are considered impractical to investigate
- matters that are considered frivolous or vexatious
- matters that are outside the Commission's jurisdiction.

9.0 Complaints Contact Officer

The Complaints Contact Officer (CCO) for the Commission is:

The Registrar
PO Box 5438
CAIRNS QLD 4870
Ph: (07) 4081 8412

10.0 Complaints Process

Human rights complaints - unless as otherwise specified in section 13.0 of this policy, timeframes and processes are to be followed as below.

The process for dealing with complaints is determined by the category of complaint being made. Minor complaints and queries should, where possible, be resolved by the Commission employee receiving the complaint, without progressing through the formal complaint process. The Commission has determined the following categories of complaints to ensure that complaints are dealt with appropriately:

- Level 1 – complaints that are generally straightforward with minimal potential to impact on an operational area. Such complaints are able to be resolved at the point of service or may require some assessment and/or investigation.
- Level 2 – complaints that are of a more complex or serious nature and have the potential to impact negatively on the operational area. Such complaints require assessment and/or investigation.
- Level 3 – Complaints that are complex and significant and have the potential to impact negatively on the Commission and/or cause lasting detriment. Such complaints will require comprehensive assessment and/or investigation.

In the event of a more serious or complex complaint (levels 2 or 3), the complaint handling procedures are as follows (refer Appendix A):

1. When a complaint is received by the Commission, in the first instance refer the complainant to the Commission CCO (as detailed in 9.0 above), or in the absence of the CCO, or if in relation to a complaint involving the CCO, the Commissioner. The CCO will then:
2. provide the complainant with a complaint form for completion and explain the complaints process (where a detailed complaint has been received in writing – i.e. letter or email – the CCO may act on the detailed document in lieu of an official complaint form)
3. upon receipt record the complaint in a Complaints Management Register (all complaints regardless of their level must be recorded)
4. acknowledge the complaint in writing within fourteen (14) days
5. if the complaint is in regard to an employee, forward the complaint upon receipt to the employee concerned requesting their response within fourteen (14) days
6. when all information is to hand (including the response if relevant to the particular complaint) investigate and resolve the complaint **if possible** within thirty (30) days from receiving completed complaint form (depending on the category of the matter and depth of investigation required the timeframe may extend beyond the 30 days)

considered desirable, however, the Commission will endeavour to complete the complaint process within 30 days)

7. Where it is determined that an employee is at fault, refer to the Discipline in the Workplace Policy – a Guide for Management and Employees to determine whether management or disciplinary process is appropriate and proceed according to that guideline
8. provide the complainant with the written decision within seven (7) days from the decision being made (include reasons and review and appeal rights).

In investigating the complaint the CCO will consider all relevant factors. After having given due consideration to the matter, the CCO may determine a resolution to the complaint. Alternatively the CCO may determine that the matter deserves a more detailed investigation and may elect to refer the matter for external investigation to the Corporate Administration Agency (CAA) or other agency. Due consideration will be given to each of these outcomes subject to each particular circumstance (i.e. should the complaint concern an employee, consideration will be given to the employee's response which will be requested within 14 days of the complaint being received).

A complaint will be reviewed once only.

Complaints made about decisions or actions of other agencies, such as a community support service provider will be referred to the relevant agency.

A complainant aggrieved by a decision of the CCO in regard to an **operational complaint** may seek a review of the decision by the Family Responsibilities Commissioner within twenty-eight (28) days of the CCO's decision being advised. The CCO is to update the Complaints Register.

An employee aggrieved by a decision of the CCO/Commissioner should refer to the Discipline in the Workplace Policy – a Guideline for Management and Employees and proceed according to that policy. External appeal is available to employees through the Queensland Industrial Relations Commission.

A person aggrieved by a decision of the Commissioner in regard to a **conference-related complaint** or an **operational complaint** may seek a review of the decision via the Ombudsman (refer 4.6).

10.1 Operational complaints

Operational complaints are complaints about actions or attitudes of Commission employees (for example, concerns about the treatment of a community member during the issue of a notice to attend a conference, or issues of employee-related conflict of interest).

Operational complaints are to be considered by the CCO.

10.2 Conference-related complaints

Conference-related complaints are complaints about actions or attitudes of the Commission or Family Responsibilities Commissioners, including for example, a decision to hold a conference, conflict of interest relating to Commissioners, actions at a conference and conference outcomes.

Conference-related complaints will be considered by the Commissioner. There is no right to further *internal* review of the Commissioner's decision in relation to the complaint.

11.0 Resolution

Resolutions to a complaint may include:

- changing the decision
- explaining the outcome of the complaint process
- providing a better explanation for a decision or action
- a written / verbal apology about the complaint
- explaining why or how the error occurred and the steps that the Commission is taking to prevent it happening again
- advising that disciplinary or management action has been taken (if appropriate)
- informing the individual about their rights of review
- counselling
- changes to service provision of the business unit that was the subject of the complaint
- review of policies and procedures when the Commission was the subject of the complaint or
- employee training.

12.0 Making Public Interest Disclosures

A Public Interest Disclosure (PID) is a report of suspected wrongdoing or danger. In the interests of encouraging open and transparent governance the Queensland Government has enacted the *Public Interest Disclosure Act 2010* effective from 1 January 2011. The *Public Interest Disclosure Act 2010* (PID Act) replaces the prior legislation which provided for public interest disclosures, the *Whistleblowers Protection Act 1994 (Qld)*.

The PID Act provides protection from the threat of reprisal or punishment for those who wish to reveal suspected wrongdoing. This protection was deemed necessary following the Fitzgerald Inquiry in 1989 which brought to light the difficulties people faced in disclosing information about wrongdoing, either in their agency or in external agencies.

The Commission is committed to promoting the public interest by facilitating disclosures of wrongdoing and ensuring that public interest disclosures are correctly assessed, appropriately and thoroughly investigated, and dealt with in accordance with the PID Act.

For further information in regard to how the Commission will deal with a PID, refer to the Commission's Public Interest Disclosure Policy and Procedure.

13.0 Human Rights Complaints

A complaint about an alleged breach of human rights must be directed to the Commission in the first instance. Should the Commission fail to respond to the complaint within 45 business days, or the complainant believes the response is inadequate, the complainant may then direct the alleged breach of human rights to the Queensland Human Rights

Commission (QHRC) for independent resolution. In exceptional circumstances, the QHRC may accept a complaint before that deadline is met. This process is defined in section 65 of the *Human Rights Act 2019*.

The QHRC will accept complaints that include enough details to indicate that the Commission has acted or made a decision in a way that is not compatible with human rights, or has failed to give proper consideration to human rights, even if a complainant does not identify human rights when complaining to the Commission. However, the QHRC will work with complainant and the Commission, encouraging complaints to be resolved internally, and may give the Commission more time to resolve the complaint.

The process for handling human rights complaint is shown in the diagram below. Included as Appendix 1 is a Queensland Government complaints handling flowchart for assistance in completing the complaints process.



13.1 Receiving a human rights complaint

The *Human Rights Act 2019* does not specify how a complaint should be made, therefore the Commission will receive a human rights complaint as specified in this policy (section 4.2 Access).

13.2 Assessing and considering human rights complaints

All complaints are different. Not all complaints will have the same level of priority or need the same level of investigation. An initial assessment of the complaint may consider the context and circumstances of the complaint (and the individual who has made the complaint) to determine its priority, how it should be managed, and who should respond. The Commission will assess a human rights complaint as specified in this policy (section 4.4 Assessment and 4.5 Action). If the basis of the complaint is not clear, the CCO will ask the complainant 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.

There are three key steps to identifying and considering human rights complaints:

1. Identify the human rights relevant to the complaint

Consider whether the complainant specifically mentioned human rights in their complaint. If so, which ones? Are there others that might also be relevant that the complainant has not identified? If not, does the action or decision that the individual has complained about engage a human right? Individuals may complain holistically about the action or decision that they are unsatisfied with; they may not explicitly identify or allege a human rights breach. Consider the purpose and underlying values of the human right/s relevant to the complaint, including whether there are any internal limitations or exceptions within the human rights.

Example scenarios that may engage each human right are included in Appendix 2 – as provided on the Queensland Government Human Rights portal. These examples are not exhaustive. Find more information about the rights in the guide *Nature and scope of the protected human rights* on the Human Rights Portal: www.forgov.qld.gov.au/humanrights.

2. Consider whether the action or decision limits the human right/s relevant to the complaint
Has the human right been limited? If the human right has not been limited in any way, then the action or decision is compatible with human rights. If human right/s have been limited, then the Commission must consider the factors set out in 3 below.
3. Assess whether the limitation is justified and reasonable in the circumstances.
Consider what law (if any) allows the Commission to limit the human right/s. Does the limitation achieve the Commission's purpose? Are there less restrictive ways to achieve the same outcome without limiting the human right/s – or limiting to a lesser extent? Does the importance of achieving the Commission's purpose outweigh the harm caused by limiting the human right/s?

The decision and considerations must be recorded as these details may be examined if a complaint is made to the QHRC.

13.3 Resolving human rights complaints

If after assessing the complaint it is determined that the action or decision has limited an individual's human rights in a way that does not meet the requirements of the Act, then appropriate remedies must be considered. Refer to section 11.0 Resolutions for options which may be appropriate.

13.4 Responding to human rights complaints

The Commission will respond to complaints within a reasonable timeframe. An individual must complain to the Commission first and can then complain to the QHRC after 45 business days. The 45 business days begins from when the individual makes their complaint to the Commission. 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 QHRC can accept complaints before the 45 business days elapses in exception circumstances. The QHRC may also delay dealing with the complaint if it thinks the Commission has not had an adequate opportunity to deal with the complaint. The QHRC will seek the views of the complainant and the Commission when deciding whether to issue an extension.

When they receive a complaint, the QHRC will decide whether to deal with it immediately (where the Commission's response is insufficient) or delay dealing with it (where the Commission needs more time to resolve the complaint). This decision will include consideration of the Commission's existing processes (for example, whether an internal review of the original decision is underway) and information received from the complainant and the agency.

The key aim of responding to a complaint should be to help the individual understand what the outcome is, and the Commission's reasons for the decision. Providing clear reasons for decisions shows fairness, transparency and accountability. A response to a complaint may include options as detailed in section 11.0.

13.5 Learn

The Commission's complaints handling processes will consider human rights from start to finish. It is important that the Commission reflect on human rights complaints to ensure

compliance with the Act and to ensure no systemic issues arise which may compromise best practice.

Following a human rights complaint the Commission will review relevant policies and procedures to ensure any future limitations on human rights are reasonable and justified.

13.5 Reporting human rights complaints

Recording complaints and outcomes with sufficient detail is important for identifying trends within Commission operations, specifically whether particular areas or practices are resulting in more human rights complaints than others.

The Commission will record the following details:

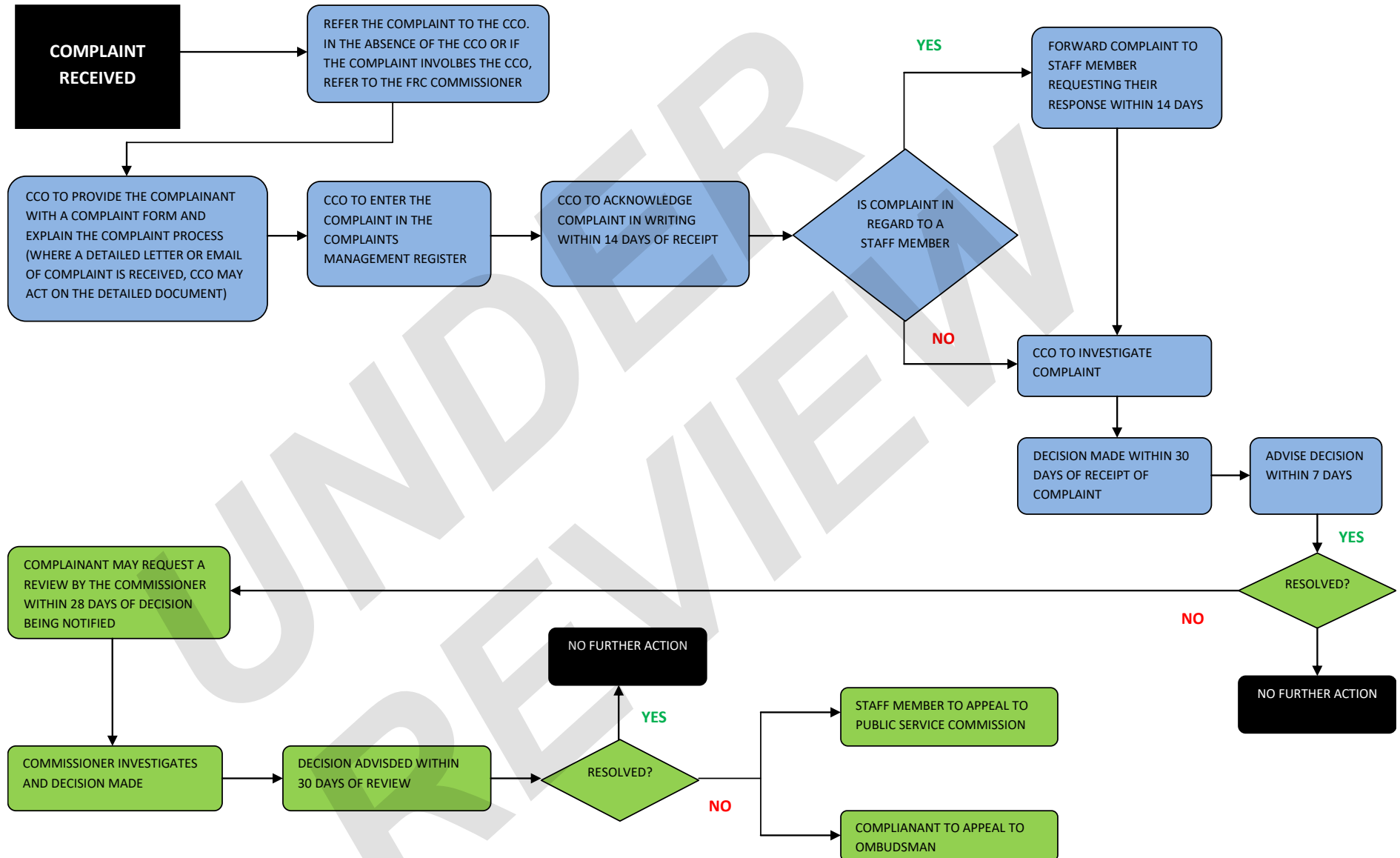
- Details of each human rights complaint
- Actions taken in dealing with the complaint
- The outcome of all complaints
- Details of reviews of services, policies or procedures in relation to compatibility with human rights

The Commission will report in its Annual Report on activities during the reporting period to further the objects of the *Human Rights Act 2019* including reviews of policies, procedures, practices or services for their compatibility with human rights.

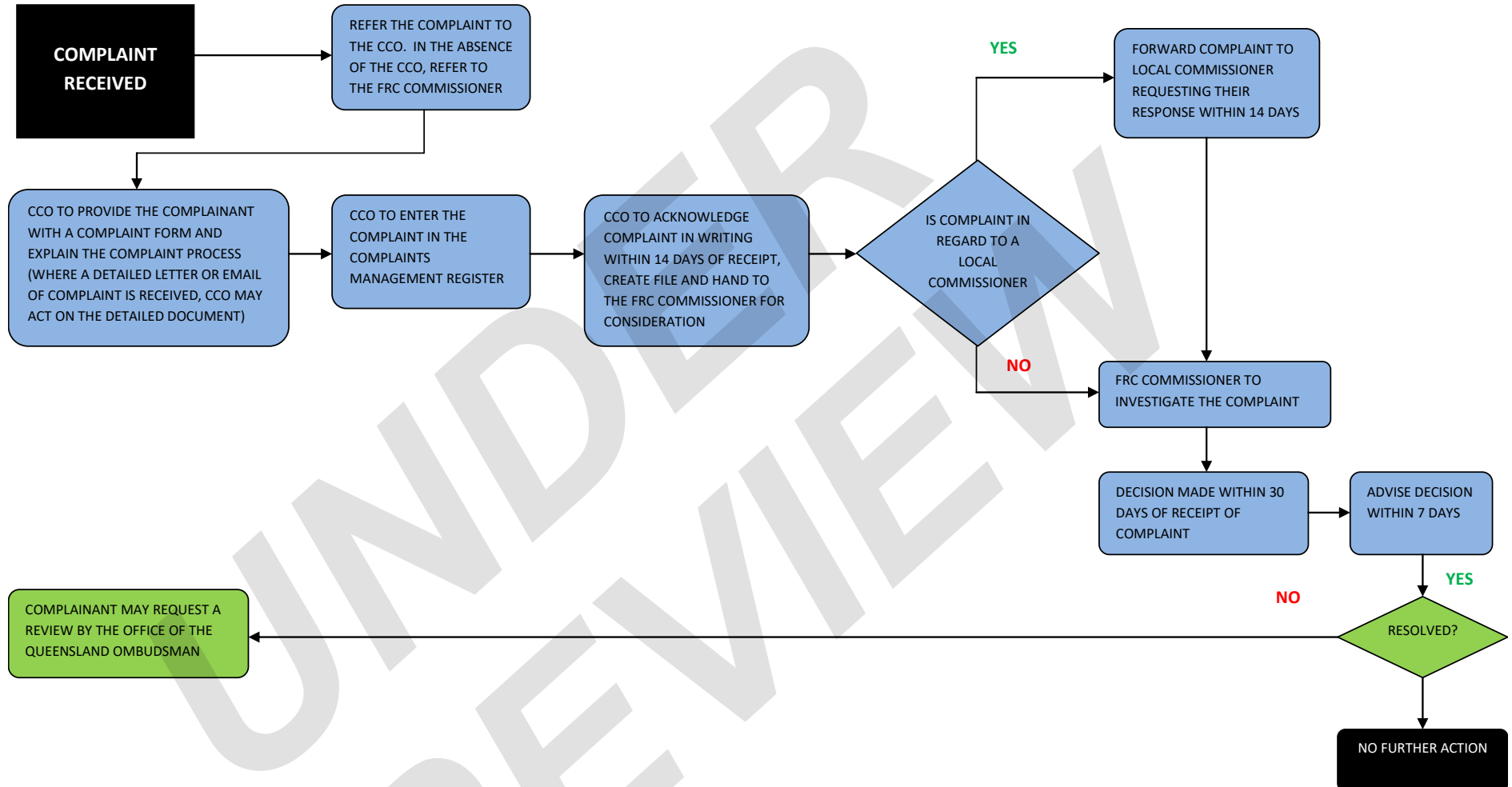
For further information and assistance contact:

Registrar
Family Responsibilities Commission
Level 3, 107 Lake Street, Cairns
Telephone (07) 4081 8400 Fax (07) 4041 0974

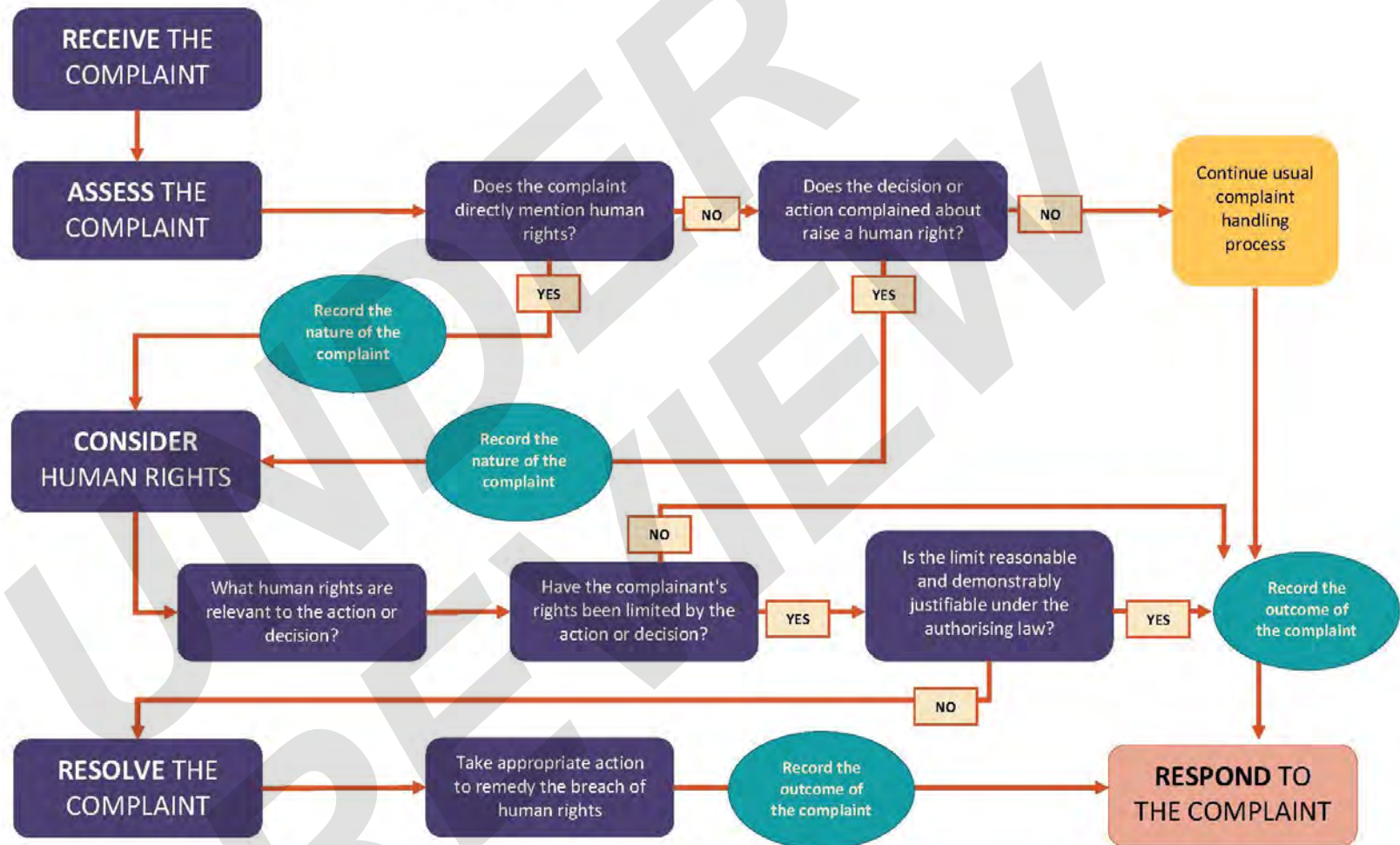
Annexure A(i)
COMPLAINTS MANAGEMENT PROCESS
 OPERATIONAL COMPLAINT FLOW CHART



Annexure A(ii)
COMPLAINTS MANAGEMENT PROCESS
CONFERENCE RELATED COMPLAINTS



Appendix 1: Complaints handling flowchart



Appendix 2: Human rights triggers

For more information about the rights, read the guide *Nature and scope of the protected human rights* at forgov.qld.gov.au/humanrights.

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.

Human Rights

Respect · protect · promote

Consider this human right...	...when complaints involve:
	• 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). • 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.

Human Rights

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Consider this human right...	...when complaints involve:
	• 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). • 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.

Human Rights

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Consider this human right...	...when complaints involve:
	• 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). • 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).

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Consider this human right...	...when complaints involve:
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).