



# HUMAN RIGHTS POLICY

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## **1. INTRODUCTION**

### **1.1 Policy Statement**

The Goondiwindi Regional Council ("Council") is committed to protecting and promoting human rights. Council, its Councillors and employees must act and make decisions in a way that is compatible with human rights and must consider human rights when developing new laws, policies and procedures and when performing its/their functions and services.

### **1.2 Objective**

The objective of this Policy is to ensure Council, its Councillors and employees upholds its/their human rights obligations and complies with all applicable legislation, particularly the *Human Rights Act (QLD) 2019* ("the Act").

### **1.3 Background**

The Act commenced in full on 1 January 2020. The Act protects 23 human rights.

Human rights apply to all individuals and are based on principles of freedom, respect, equality and dignity. Human rights recognise the inherent value of each person, regardless of background, where they live, what they look like, what they think or what they believe. In other words, human rights belong to all people by virtue of being human. Everyone is entitled to these rights, without discrimination.

The Act states that public entities have to act compatibly with human rights and give proper consideration to human rights when making decisions.

Section 9 of the Act sets out the meaning of "public entity". The section states that a local government, a Councillor of a local government and a local government employee are a "public entity".

Pursuant to the Act, as public entities, Council, Council's Councillors and Council's employees must:

- a) Act and make decisions in a way that is compatible with human rights; and
- b) In making a decision, give proper consideration to a human right relevant to the decision.

An act or decision is compatible with human rights if the act or decision:

- a) Does not limit a human right; or
- b) Limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of the Act.

## 2. THE ACT

### 2.1 Objectives of the Act

The main objects of the Act are:

- a) To protect and promote human rights; and
- b) To help build a culture in Queensland's public sector that respects and promotes human rights; and
- c) To help promote a dialogue about the nature, meaning and scope of human rights.

### 2.2 Protected Human Rights

Pursuant to section 11 of the Act, all individuals in Queensland have human rights. A corporation does not have human rights.

The Act protects 23 fundamental human rights. They are outlined below:

1. *Right to recognition and equality before the law*  
Every person has the right to recognition as a person before the law and the right to enjoy their human rights without discrimination. Every person is equal before the law and is entitled to equal protection of the law without discrimination. Every person is entitled to equal and effective protection against discrimination.
2. *Right to life*  
Every person has the right to life and the right not to be deprived of life. The right not to be deprived of life is limited to arbitrary deprivation of life.
3. *Right to protection from torture and cruel, inhuman or degrading treatment*  
A person must not be tortured or treated in a way that is cruel, inhuman or degrading.
4. *Right to freedom from forced work*  
A person must not be made a slave or forced to work.
5. *Right to freedom of movement*  
Every person lawfully within Queensland has the right to move freely within Queensland, enter or leave Queensland, and choose where they live.
6. *Right to freedom of thought, conscience, religion and belief*  
Every person has the right to think and believe what they want and to have or adopt a religion, free from external influence.
7. *Right to freedom of expression*  
Every person has the right to hold and express an opinion, through speech, art, and writing (or other forms of expression) and to seek out and receive the expression of others' opinions.
8. *Right to peaceful assembly and freedom of association*  
Every person has the right to join or form a group and to assemble. The right to assembly is limited to peaceful assemblies.
9. *Right to take part in public life*  
Every person in Queensland has the right and opportunity without discrimination to take part in public life. Every eligible person has the right to vote, be elected, and have access to general terms of equality to the public service and public office.

10. *Property rights*

All persons have the right to own property alone or in association with others. A person must not be arbitrarily deprived of their property.

11. *Right to privacy and reputation*

A person's privacy, family, home and correspondence must not be unlawfully or arbitrarily interfered with. A person has the right not to have their reputation unlawfully attacked.

12. *Right to protection of families and children*

Families are recognised as the fundamental unit of society and are entitled to protection. Every child has the right, without discrimination, to the protection that is in their best interest as a child. Every person born in Queensland has the right to a name and to registration of birth.

13. *Cultural Rights – Generally*

All persons with particular cultural, religious, racial or linguistic background, must not be denied the right, in community with other persons of that background, to enjoy their culture, declare and practice their religion and to use their language.

14. *Cultural Rights – Aboriginal Peoples and Torres Strait Islander Peoples*

Aboriginal peoples and Torres Strait Islander peoples hold distinct cultural rights as Australia's first people. They must not be denied the right, with other members of their community, to live life as an Aboriginal or Torres Strait Islander person who is free to practice their culture.

15. *Right to liberty and security of person*

Every person has the right to liberty and security. This right protects against the unlawful or arbitrary deprivation of liberty. If a person is arrested or detained, they are entitled to certain minimum rights, including the right to be brought to trial without reasonable delay.

16. *Right to humane treatment when deprived of liberty*

A person must be treated with humanity and respect when deprived of liberty.

17. *Right to a fair hearing*

A person has the right to have criminal or civil proceedings decided by a competent, independent and impartial court or tribunal after a fair and public hearing.

18. *Rights in criminal proceedings*

A person charged with a criminal offence has the right to be presumed innocent until proven guilty according to law, and is entitled without discrimination to receive certain minimum guarantees.

19. *Rights of children in the criminal process*

Children in the criminal process are entitled to special protections on the basis of their age.

20. *Right not to be tried or punished more than once*

A person must not be tried or punished more than once for an offence in relation to which they have already been finally acquitted or convicted according to law.

21. *Protection from retrospective criminal laws*

A person must not be prosecuted or punished for conduct that was not a criminal offence at the time the conduct was engaged in.

## *22. Right to education*

Every child has the right to have access to primary and secondary education appropriate to their needs. Every person has the right to have access, based on their abilities, to further vocational education and training that is equally accessible to all.

## *23. Right to health services*

Every person has the right to access health services without discrimination. A person must not be refused necessary emergency medical treatment.

### **2.3 Application of the Act**

As outlined above, pursuant to the Act, as public entities, Council, Council's Councillors and Council's employees must:

- a) Act and make decisions in a way that is compatible with human rights; and
- b) In making a decision, give proper consideration to a human right relevant to the decision.

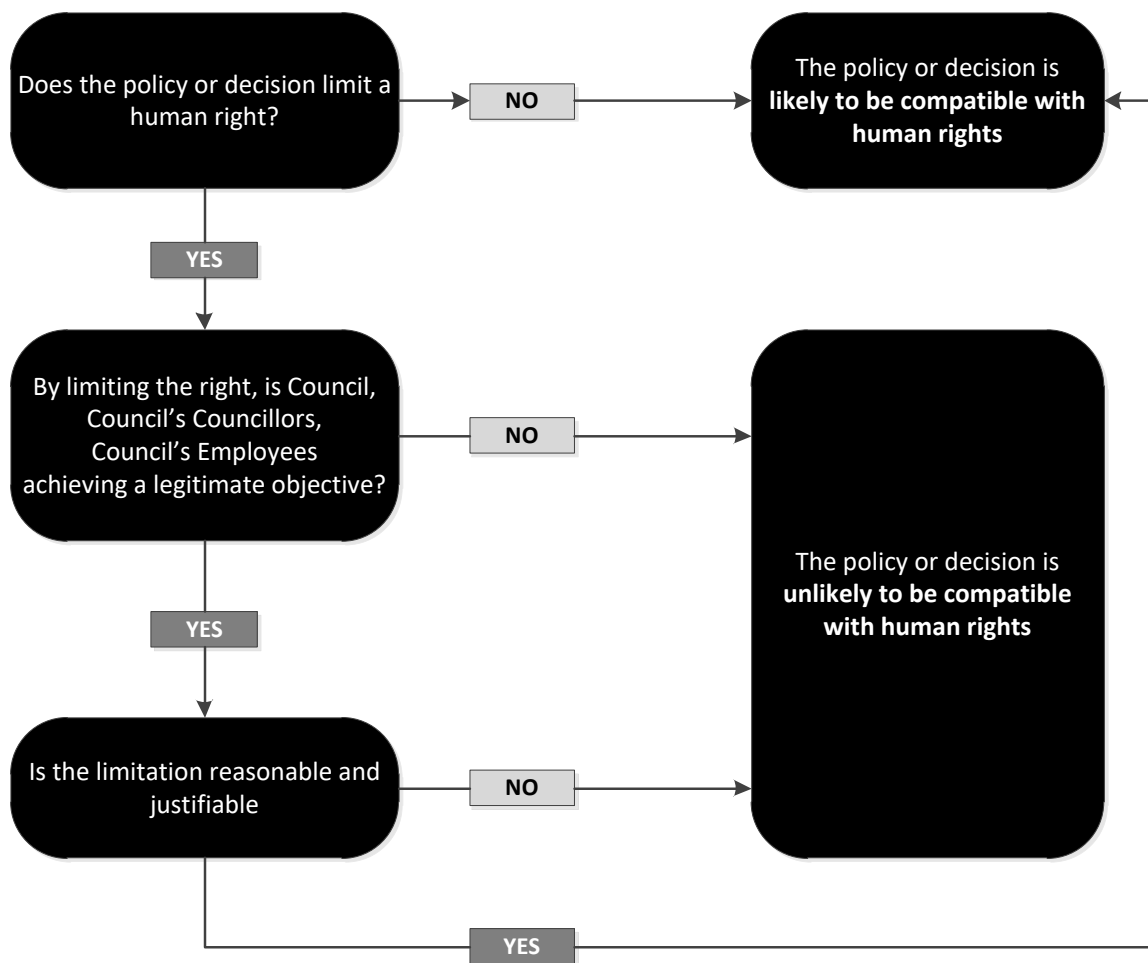
An act or decision is compatible with human rights if the act or decision:

- a) Does not limit a human right; or
- b) Limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of the Act.

Section 13 of the Act states that when deciding whether a limit on a human right is reasonable and justifiable, the following factors may be relevant:

- The nature of the human right;
- The nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom;
- The relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose;
- Whether there are any less restrictive and reasonably available ways to achieve the purpose;
- The importance of the purpose of the limitation;
- The importance of preserving the human right, taking into account the nature and extent of the limitation on the human right; and
- The balance between the matters mentioned in the last two dot points above.

Council has adopted the approach illustrated below to assess the compatibility of its, its Councillor's and its employee's decisions with legislative requirements.



### 3. HUMAN RIGHTS COMPLAINTS

Under the Act, a person who believes a public entity has breached its human right obligations has the right to complain and seek remedies. There are three ways a person can make a complaint:

1. Internal Complaints.
2. Independent Complaints; and
3. Raising the Act in courts and tribunals.

#### 3.1 Internal Complaints

An individual must first raise a complaint directly with Council. Council has 45 days to respond, after which the individual can make a formal complaint to the Queensland Human Rights Commission (QHRC) if the complaint has not been responded to or the person is not satisfied with Council's response.

In order to ensure that a complaint is handled in the most efficient manner, Council requests that complainants:

- Clearly identify the issues of complaint, or ask for help from Council employees to do this;
- Give Council all the available information in support of the complaint in an organised format and not provide any information that is intentionally misleading or knowingly wrong or vexatious;

- Cooperate with Council's inquiries or investigations; and
- Treat Council employees with courtesy and respect.

A person can make a human rights complaint to Council as follows:

- In person by attending Council's Customer Service Centre located at 4 McLean Street, Goondiwindi, Qld, 4390;
- by telephoning Council's Customer Service Centre on (07) 4671 7400;
- in writing by post which is addressed to the Chief Executive Officer, Goondiwindi Regional Council, LMB 7, Inglewood, QLD, 4387 or by email to mail@grc.qld.gov.au.

Council's human rights complaint management flow chart is **Attachment 1** of this Policy.

### **3.2 Independent Complaints**

A person can also raise a complaint about human rights with the QHRC or another independent body. In order to accept complaints under the Act, the QHRC must be satisfied that:

- A complaint has first been made to the public entity alleged to have breached the Act.
- At least 45 business days have elapsed since the complaint was made to the public entity.
- The complainant has not received a response to their complaint, or has received an inadequate response.

For further details on QHRC's complaint process, please refer to:  
<https://www.qhrc.qld.gov.au/>.

### **3.3 Raising the Act in courts and tribunals**

In some cases, the complaint can be taken to a court or tribunal. While people cannot make complaints directly to courts or tribunals for breaches of the Act, it is possible to raise breaches of the Act in the process of a hearing based on another law.

### **3.4 Remedies**

Where there is a breach of the Act, a person cannot claim financial compensation. However, where the complaint is not resolved, the QHRC can make recommendations regarding actions required of the respondent to uphold human rights.

## **4. Roles and Responsibilities in regards to Human Rights Complaints**

### **4.1 Councillors**

A Councillor who receives a human rights complaint is obliged to report the complaint to Council's Legal Officer in accordance with this Policy.

### **4.2 Council Employees**

If a Council employee receives a human rights complaint, they are obliged to report the complaint to Council's Legal Officer in accordance with this Policy.

All Council employees have a duty and responsibility to perform their function on behalf of Council, including the making of decisions, in a professional manner and in compliance with the Act. Council employees are to assist those individuals who request assistance with making a human rights complaint to Council. Council employees may also be asked by Council to assist with the investigation of, and response to, the complaint.



### **4.3 Council Directors**

A Council Director who receives a human rights complaint is obliged to report the complaint to Council's Legal Officer in accordance with this Policy. If required and appropriate, a Council Director is to support Council's Legal Officer with assessing, investigating and responding to any human rights complaint within their team.

### **4.4 Council's Legal Officer**

Council's Legal Officer is to assess, investigate and respond to the human rights complaint in accordance with the necessary timeframes and pursuant to legislative requirements.

Council's Legal Officer is also responsible for:

- Maintaining a human rights complaints register;
- Coordinating the complaints process;
- Providing appropriate human rights training for the organisation.

### **4.5 Chief Executive Officer**

The Chief Executive Officer (CEO) will only get involved in human rights complaints if the matter is exceptionally complex or requires input from the CEO.

### **4.6 Complainant**

Complainants are entitled to:

- A prompt acknowledgement of Council's receipt of the complaint;
- A prompt response to the complaint;
- Be kept informed of the progress and outcome of the complaints process;
- Confidentiality of personal details (where possible within the law); and
- A thorough and objective investigation or review of the complaint.

## **5. Relevant Legislation, Policies & Documents**

- *Human Rights Act 2019*
- *Anti-Discrimination Act 1991*
- *The Judicial Review Act 1991*
- *The Ombudsman Act 2001*
- *The Crime and Corruption Act 2001*
- *The Right to Information Act 2009*
- *The Information Privacy Act 2009*
- *Local Government Act 2009*
- *Local Government Regulation 2012*
- Councillor Code of Conduct
- Council Employee Code of Conduct
- Council Complaints Management Policy

ATTACHMENT A: HUMAN RIGHTS COMPLAINTS MANAGEMENT FLOWCHART

