



Human Rights - Council Policy (Statutory)

1. PURPOSE

The purpose of this Policy is to outline Balonne Shire Council's obligations under the Queensland *Human Rights Act 2019* to:

- promote a dialogue about the protection and promotion of human rights;
- build a culture and work environment that respects and promotes human rights; and
- give proper consideration to human rights when making decisions and carrying out all functions and responsibilities.

2. SCOPE & AUTHORITY

This policy applies to all elected members and Council employees.

This policy applies to all council interactions including but not limited to:

- dealing with customers or community members when providing day-to-day services;
- processing and dealing with human rights complaints;
- making decisions, interpreting and applying laws;
- developing policies and procedures; and
- inducting new employees of Council

The Queensland *Human Rights Act 2019* contains 23 distinct human rights that the Queensland Parliament specifically seeks to protect and promote. Public entities must uphold these rights when they make decisions, create laws, set policies and provide services.

3. POLICY STATEMENT

3.1 Council's position on Human Rights

Council is committed to:

- respecting, protecting and promoting the human rights of individuals;
- complying with applicable legislation that supports human rights;
- providing a fair, safe and healthy working environment for council employees that is free from unlawful discrimination, harassment, bullying or victimisation;
- being an inclusive employer, promoting and valuing diversity within our workforce, among our customers, suppliers and in the communities in which we operate;
- respecting our customers' privacy and protect their personal information.

3.2 Considering Human Rights in Decision Making

Under the Act, section 58(1), it is unlawful for a public entity:

- a) to act or make a decision in a way that is not compatible with human rights; or
- b) in making a decision, to fail to give proper consideration to a human right relevant to the decision.

Councillors and Council employees are therefore required to act and make decisions at all times in a way that is compatible with human rights. When making a decision, Council must give proper consideration to any human right relevant to that decision.



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Council acknowledges that the Act allows for any of the human rights to be reasonably limited. Just because a human right is impacted by a decision or action does not mean that the decision or action is incompatible with the Act or invalid.

Deciding what is reasonable is a matter of balancing the rights of the individual and the rights of the community. The following principles underpin Council's commitment to human rights:

- the inherent dignity and worth of all human beings;
- the equal and inalienable human rights of all human beings;
- human rights are essential in a democratic and inclusive society that respects the rule of law;
- human rights must be exercised in a way that respects the human rights and dignity of others;
- human rights should only be limited after careful consideration and in a way that can be reasonable, justified, proportionate, rational, and balanced; and
- human rights have a special importance for the Aboriginal peoples and Torres Strait Islander peoples of Queensland as Australia's first people, particularly the right to self-determination.

All statutory provisions (eg. laws, regulations) are to be interpreted so far as is possible in a way that is compatible with human rights. If laws or regulations can be understood in a number of ways, the Act requires that the interpretation that takes human rights into account should be preferred.

3.3 Complaints regarding Human Rights

Council will investigate and attempt to resolve any complaints made internally or by external clients;

All internal complaints will be dealt with through the implementation of defined internal grievance procedures. Managers and the Human Rights Contact Officer are available to provide further details, support and advice. It is important to raise the issue of any potential or possible breach as soon as practicable;

For all external complaints, alleged breaches of Human Rights, a complaint is to be made initially to Chief Executive Officer. The complaint will be given a high priority and a written response will be provided, together with a statement of reasons;

Where a complaint is not resolved to the complainant's satisfaction, the complaint may be escalated to the Human Rights Commission as the independent arbitrator;

A person cannot claim financial compensation for a breach of their Human Rights; and

If the complainant is dissatisfied with the response, or after 45 business days has elapsed, the complainant may refer the matter to the Queensland Human Rights Commission. However, such a complaint may only be made if the person has firstly made a complaint to the public entity about the alleged contravention.

The process outlined in the Balonne Shire Council's Administrative Complaints Policy will be followed when responding to a human rights complaint.

4. RESPONSIBILITIES

4.1 All Council Employees:

- are obliged to respect, promote and act compatibly with human rights;
- must take the Act into account when developing and implementing Council guidelines, policies, local laws, procedures, decisions and services. New Policies will be required to include a statement explaining whether they are compatible or incompatible with the Human Rights Act and the fundamental rights identified.



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4.2 Managers and Directors

- must consider relevant human rights when developing policy. This should include undertaking a human rights impact assessment for new policies and considering whether any proposed limitations on rights are reasonable;
- must identify areas of concern for their Branch; and
- must implement actions to comply with the Act for those areas identified of concern.

4.3 Director, Finance & Corporate Services.

- Shall be the custodian of this policy
- Shall act as the Human Rights Contact Officer;
- Shall respond to all enquiries/complaints about Human Rights;
- Shall provide advice and options to staff on human rights issues as required; and
- Shall provide assurance to the Chief Executive Officer that the Council acts in accordance with the Act.

4.4 Chief Executive Officer

The Chief Executive Officer is to ensure, through the Director, Finance & Corporate Services that the Council is complying with the Act.

4.5 Councillors

All Councillors must consider the relevant elements of the Act when making decisions and providing information or advice to the community.

5. RISK

The Queensland Human Rights Act 2019 (Qld) and this policy aim to reduce the risk that public functions are exercised in a non-principled way or that public power is misused. The Act compliments a number of other pieces of legislation that are aimed at regulating the relationship between individuals and the state. The policy defines criteria for decision making consistent with obligations under the act, and provides mechanisms for lodging and processing internal and external complaints.

6. IMPACTS

Corporate Plan: Goal – 5. Governance; Program Areas – 5.4 High levels of accountability and compliance

Human Rights Compatibility Statement: This Policy has been assessed as compatible with the Human Rights protected under the Human Rights Act 2019; and

Engagement: This policy has been developed with guidance from Qld State Government Human Rights resources, and in consultation with the Senior Leadership Group.

7. RELATED LAWS

This policy refers to the Queensland Human Rights Act 2019 (Qld), also with linkages to:

- Age Discrimination Act 2004 (Cwth)
- Anti-Discrimination Act 1991 (Qld)
- Crime and Corruption Act, 2001 (Qld)
- Disability Services Act 2006 (Cmwith)
- Information Privacy Act 2009 (Qld)



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- Integrity Act 2009 (Qld)
- Local Government Act 2009 (Qld)
- Local Government Regulation, 2012 (Qld)
- Ombudsman Act 2001 (Qld)
- Public Interest Disclosure Act 2010 (Qld)
- Public Sector Ethics Act 2019 (Qld)
- Racial Discrimination Act 1975 (Cwth)
- Sex Discrimination Act 1984 (Cwth)

8. RELATED COUNCIL DOCUMENTS

- Councillors Code of Conduct
- Employee Code of Conduct
- Administrative Complaints Management Policy
- Public Interest Disclosure Policy
- Grievance Management Policy
- Community Engagement Policy
- Induction Manual

9. REVISION HISTORY

Revokes: Human Rights Policy v 1.0 adopted 19/03/2020

Previous Versions: Nil

Suggested to review by: 30/11/2024

10. DEFINITIONS

CEO means the Chief Executive Officer of the Balonne Shire Council appointed in accordance with the Local Government Act 2009.

Compatible with human rights has the meaning given in section 8 of the Human Rights Act 2019:

An act, decision or statutory provision is compatible with human rights if the act, decision or provision –

- (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

Council means Balonne Shire Council, its elected Councillors, its management and its employees.

Council Employees means all permanent, casual and temporary employees, contractors, volunteers, apprentices, trainees and work experience students.

Human Rights has the meaning given in part 2, divisions 2 and 3 of the Human Rights Act 2019 and includes:

1. Recognition and equality before the law (section 15)
2. Right to life (section 16)
3. Protection from torture and cruel, inhuman or degrading treatment (section 17)



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4. Freedom from forced work (section 18)
5. Freedom of movement (section 19)
6. Freedom of thought, conscience, religion and belief (section 20)
7. Freedom of expression (section 21)
8. Peaceful assembly and freedom of association (section 22)
9. Taking part in public life (section 23)
10. Property rights (section 24)
11. Privacy and reputation (section 25)
12. Protection of families and children (section 26)
13. Cultural rights – generally (enjoyment of culture, religion and language) (section 27)
14. Cultural rights – Aboriginal and Torres Strait Islander peoples (section 28)
15. Right to liberty and security of person (section 29)
16. Humane treatment when deprived of liberty (section 30)
17. Fair hearing (section 31)
18. Rights in criminal proceedings (section 32)
19. Children in the criminal process (section 33)
20. Right not to be tried or punished more than once (section 34)
21. Right not to be subject to retrospective criminal laws (section 35)
22. Right to education (section 36)
23. Right to health services (section 37)