



## HUMAN RIGHTS ACT TRAINING WORKSHOP

### SCENARIO ONE – BRIAN COMPLAINSALOT

You are an employee of the Sunshine City Council. The Mayor of Sunshine City Council has come to you to see whether there are any human rights issues with a proposed ban on Brian Complainsalot attending any building that is owned, occupied or managed by the Sunshine City Council.

Everyone in the Council knows about Brian Complainsalot. He had a stroke back in 2001 which caused an acquired brain injury. Ever since then he has made thousands of written and verbal complaints to the Council about safety issues, such as overhanging branches and tripping hazards. Sometimes his complaints use offensive and inappropriate language. Recently, Brian sought a meeting with the Mayor at short notice, and when Council staff tried to explain that the Mayor was busy, a heated exchange ensued.

In order to avoid similar incidents in the future, the Mayor is proposing to put forward the following motion:

That Council:

In order to uphold public safety and in reliance of its obligations to provide a safe working environment, until further notice, Sunshine City Council declare Mr Brian Complainsalot to be a proscribed person who is prohibited from attending any building that is owned, occupied or managed by Sunshine City Council, including the municipal offices and Council chamber.

For the purposes of enforcement, the Queensland Police Service must be served with a copy of this declaration.

Notice of this declaration must be personally served on Mr Complainsalot.

Take notice that a breach of this declaration, which is made under section 11 of the *Summary Offences Act 2005*, may result in arrest and a penalty of 20 penalty units or imprisonment for 1 year.

The desired effect of this motion is to revoke Mr Complainsalot's licence to enter any building owned, occupied or managed by the Council, so that Mr Complainsalot would be committing trespass if he were to enter contrary to s 11 of the *Summary Offences Act 2015*.

#### Relevant provisions of the *Local Government Act 2009*

##### 8 Local government's responsibility for local government areas

- (1) A local government is an elected body that is responsible for the good rule and local government of a part of Queensland.
- (2) ...

##### 262 Powers in support of responsibilities

- (1) ...
- (2) The local government has the power to do anything that is necessary or convenient for performing the responsibilities.



**Relevant provisions of the *Summary Offences Act 2005***

**11 Trespass**

- (1) A person must not unlawfully enter, or remain in, a dwelling or the yard for a dwelling.  
Maximum penalty—20 penalty units or 1 year's imprisonment.
- (2) ...

**Relevant provisions of the *Anti-Discrimination Act 1991***

**7 Discrimination on the basis of certain attributes prohibited**

The Act prohibits discrimination on the basis of the following attributes—

...

- (h) impairment

**Question 1**

Is Sunshine City Council a 'public entity'? (s 9)

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**Question 2**

Would the motion limit any of Brian's human rights? (s 8) If so, which ones?

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|---|---|
| <input type="checkbox"/> Right to equality and non-discrimination (section 15)                          | <input type="checkbox"/> Cultural rights – generally (section 27)   |
| <input type="checkbox"/> Right to life (section 16)   | <input type="checkbox"/> Cultural rights – Aboriginal peoples and Torres Strait Islander peoples (section 28) |
| <input type="checkbox"/> Protection from torture and cruel, inhuman or degrading treatment (section 17) | <input type="checkbox"/> Right to liberty and security of person (section 29)                                 |
| <input type="checkbox"/> Freedom from forced work (section 18)  | <input type="checkbox"/> Right to humane treatment when deprived of liberty (section 30)                      |
| <input type="checkbox"/> Freedom of movement (section 19)   | <input type="checkbox"/> Fair hearing (section 31)  |
| <input type="checkbox"/> Freedom of thought, conscience, religion and belief (section 20)               | <input type="checkbox"/> Rights in criminal proceedings (Section 32)  |



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|--|--|
| <input type="checkbox"/> Freedom of expression (section 21)                        | <input type="checkbox"/> Children in the criminal process (section 33)                 |
| <input type="checkbox"/> Peaceful assembly and freedom of association (section 22) | <input type="checkbox"/> Right not to be tried or punished more than once (section 34) |
| <input type="checkbox"/> Taking part in public life (section 23)                   | <input type="checkbox"/> Retrospective criminal laws (section 35)                      |
| <input type="checkbox"/> Property rights (section 24)                              | <input type="checkbox"/> Right to education (section 36)                               |
| <input type="checkbox"/> Privacy and reputation (section 25)                       | <input type="checkbox"/> Right to health services (section 37)                         |
| <input type="checkbox"/> Protection of families and children (section 26)          |  |

### Question 3

Is the motion authorised by law? (s 13(1))

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### Question 4

What is the purpose of the motion? Is that a proper purpose? (s 13(2)(b))

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### Question 5

Is the motion suitable or rationally connected? Would the motion help to achieve its purpose? (s 13(2)(c))

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### Question 6

Is the motion necessary? Are there any less drastic ways of achieving the purpose? Would those alternatives be as effective in achieving the purpose? (s 13(2)(d))

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### Question 7

Does the motion strike a fair balance between its purpose and Brian's human rights? (s 13(2)(e), (f), (g))

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### Question 8

Would the motion represent a justified limit on human rights? (s 13)

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## Question 9

Do any exceptions to the obligation to act compatibly with human rights apply? (s 58)

- ☐ Required by law – no discretion (section 58(2))
- ☐ Private act exception (section 58(4))
- ☐ Religious exception (section 58(3))

## Question 10

Would your answers be the same if Brian Complainsalot belonged to a political organisation that regularly met at the Sunshine City Council Library?

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## SCENARIO TWO – SHELLEY

Shelley is employed by Metro South Health as a Duty Nurse Manager at the Logan Hospital in Queensland. She is also the Deputy President of the Queensland Nurses and Midwives' Union of Employees ('QNMU').

On 24 November 2023, the "Logan Times" published an article entitled 'Queensland's flatlining nurses – does the profession need urgent CPR?'. The article quoted Shelley as making a number of critical comments about nursing graduates and the nursing profession generally.

The article did not quote Shelley in her capacity as Deputy President for the QNMU. Rather, Shelley was identified as 'the Duty Nurse Manager at Logan Hospital'. Shelley did not seek authority or permission to participate in the article in this capacity.

Pursuant to s 1.4 of the Code of Conduct for the Queensland Public Service, an employee elected as an official of a trade union is not required to seek permission from their workplace before speaking publicly in that capacity, provided the employee makes it clear their comments are made on behalf of the trade union.

Section 91(1)(h) of the *Public Sector Act 2022* provides that an employee may be disciplined if reasonably satisfied the employee has contravened, without reasonable excuse, a relevant standard of conduct in a way that is sufficiently serious to warrant disciplinary action.

You hold a delegation from the Chief Executive of Metro South Health to make decisions about the discipline of employees.

In compliance with *Disciplinary Directive* (05/23), you issued Shelley a notice to show cause why she should not be disciplined for making her comments without proper authority. Shelley responded saying she had the right to express herself and that she was exercising human rights 'essential to a democratic and inclusive society that respects the rule of law'.

You have reviewed all of the relevant material and considered Shelley's response. You have formed the view that disciplinary action is warranted. You propose imposing a monetary penalty to be deducted from Shelley's remuneration in accordance with s 92(1)(f)-(g) of the *Public Sector Act 2022* and inform Shelley of your proposed decision. This time, Shelley does not respond.

You confirm your decision to dock Shelley's pay.

### Relevant provisions of the *Public Sector Act 2022*

#### 91 Grounds for discipline

- (1) A public sector employee's chief executive may discipline the employee if the chief executive is reasonably satisfied the employee has—
- ...
- (h) contravened, without reasonable excuse, a relevant standard of conduct in a way that is sufficiently serious to warrant disciplinary action.
- ...

#### **relevant standard of conduct —**

- (a) for a public sector employee, means—
- (i) a standard of conduct applying to the employee under an approved code of conduct under the *Public Sector Ethics Act 1994* ...



## 92 Meaning of *disciplinary action*

- (1) **Disciplinary action** is any action relating to employment, including, for example, any of the following actions—
- (a) termination of employment;
  - (b) reduction of classification level and a consequential change of duties;
  - (c) transfer or redeployment;
  - (d) forfeiture or deferment of a remuneration increment or increase;
  - (e) reduction of remuneration level;
  - (f) imposition of a monetary penalty;
  - (g) if a penalty is imposed, a direction that the amount of the penalty be deducted from the employee's periodic remuneration payments;
  - (h) a reprimand.

...

## Relevant provisions of the *Code of Conduct*

### 1.4 Manage participation in external organisations

Our work as a public service employee does not remove our right to be active privately in a political party, professional organisation or trade union.

As a member of a political party, however, we are aware that participating in activities in the public arena, where we may be identified as a public service employee, can give rise to a perception of conflict of interest (see section 1.2). Where this situation arises, we will declare and manage our activities in accordance with our agency's policies.

If we are elected as workplace representatives or officials of a trade union or professional association, we are not required to seek permission from our workplace before speaking publicly in that capacity, and we will make it clear that our comments are made only on behalf of that organisation.

In all instances, we will comply with the appropriate laws of privacy, confidentiality and information management.

## Question 1

Does your decision limit any human rights? If so, which human rights?

☐ Right to equality and non-discrimination (section 15)

☐ Cultural rights – generally (section 27)

☐ Right to life (section 16)

☐ Cultural rights – Aboriginal peoples and Torres Strait Islander peoples (section 28)



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|---|--|
| <input type="checkbox"/> Protection from torture and cruel, inhuman or degrading treatment (section 17) | <input type="checkbox"/> Right to liberty and security of person (section 29)            |
| <input type="checkbox"/> Freedom from forced work (section 18)  | <input type="checkbox"/> Right to humane treatment when deprived of liberty (section 30) |
| <input type="checkbox"/> Freedom of movement (section 19)   | <input type="checkbox"/> Fair hearing (section 31)                                       |
| <input type="checkbox"/> Freedom of thought, conscience, religion and belief (section 20)               | <input type="checkbox"/> Rights in criminal proceedings (Section 32)                     |
| <input type="checkbox"/> Freedom of expression (section 21)   | <input type="checkbox"/> Children in the criminal process (section 33)                   |
| <input type="checkbox"/> Peaceful assembly and freedom of association (section 22)                      | <input type="checkbox"/> Right not to be tried or punished more than once (section 34)   |
| <input type="checkbox"/> Taking part in public life (section 23)  | <input type="checkbox"/> Retrospective criminal laws (section 35)                        |
| <input type="checkbox"/> Property rights (section 24)   | <input type="checkbox"/> Right to education (section 36)                                 |
| <input type="checkbox"/> Privacy and reputation (section 25)  | <input type="checkbox"/> Right to health services (section 37)                           |
| <input type="checkbox"/> Protection of families and children (section 26)                               |  |

## Question 2

Is your decision authorised by law? (s 13(1))

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## Question 3

What is the purpose of your decision? Is that a proper purpose? (s 13(2)(b))

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#### Question 4

Is your decision suitable or rationally connected? Would making the decision help to achieve the purpose?  
(s 13(2)(c))

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#### Question 5

Is your decision necessary? Are there any less drastic ways of achieving the purpose? Would those alternatives be as effective? (s 13(2)(d))

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#### Question 6

Does your decision strike a fair balance between its purpose and Shelley's human rights? (s 13(2)(e), (f), (g))

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#### Question 7

Does your decision represent a justified limit on human rights? (s 13)

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## Question 8

Would your answer change if Shelley had also made serious allegations of corrupt conduct regarding the appointment of graduate nurses and she felt that she could not seek prior approval?

Y / N

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## SCENARIO THREE – PROPERTY DEVELOPERS

You work in Strategic Policy in the Department of Justice and Attorney-General.

There has recently been a series of high-profile corruption cases involving property developers trying to influence councillors to approve lucrative development projects.

The government has decided to introduce new legislation preventing property developers from giving political donations to candidates and political parties in local government elections. Although most development decisions are made at the local government level, there are some decisions made by Ministers at the State level, so the new legislation is to prevent property developers from giving political donations in State elections as well.

The key amendment will insert a new s 275 into the *Electoral Act 1992* as follows:

### 275 Political donations by property developers

- (1) It is unlawful for a property developer to make a political donation.
- (2) It is unlawful for a person to make a political donation on behalf of a property developer.
- (3) It is unlawful for a person to accept a political donation that was made (wholly or in part) by or on behalf of a property developer.
- (4) It is unlawful for a property developer to solicit a person to make a political donation.
- (5) It is unlawful for a person to solicit, on behalf of a property developer, another person to make a political donation.

You have been tasked with preparing the statement of compatibility for this amendment.

### Question 1

Does the proposed s 275 limit any human rights? If so, which ones?

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| <input type="checkbox"/> Right to equality and non-discrimination (section 15)                          | <input type="checkbox"/> Cultural rights – generally (section 27)   |
| <input type="checkbox"/> Right to life (section 16)   | <input type="checkbox"/> Cultural rights – Aboriginal peoples and Torres Strait Islander peoples (section 28) |
| <input type="checkbox"/> Protection from torture and cruel, inhuman or degrading treatment (section 17) | <input type="checkbox"/> Right to liberty and security of person (section 29)                                 |
| <input type="checkbox"/> Freedom from forced work (section 18)  | <input type="checkbox"/> Right to humane treatment when deprived of liberty (section 30)                      |
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|---|--|
| <input type="checkbox"/> Freedom of thought, conscience, religion and belief (section 20) | <input type="checkbox"/> Rights in criminal proceedings (Section 32)                   |
| <input type="checkbox"/> Freedom of expression (section 21)                               | <input type="checkbox"/> Children in the criminal process (section 33)                 |
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| <input type="checkbox"/> Taking part in public life (section 23)                          | <input type="checkbox"/> Retrospective criminal laws (section 35)                      |
| <input type="checkbox"/> Property rights (section 24)                                     | <input type="checkbox"/> Right to education (section 36)                               |
| <input type="checkbox"/> Privacy and reputation (section 25)                              | <input type="checkbox"/> Right to health services (section 37)                         |
| <input type="checkbox"/> Protection of families and children (section 26)                 |  |

## Question 2

What is the purpose of the proposed s 275 of the *Electoral Act*? Is that a proper purpose? (s 13(2)(b))

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## Question 3

Is s 275 suitable or rationally connected? Would it help to achieve its purpose? (s 13(2)(c))

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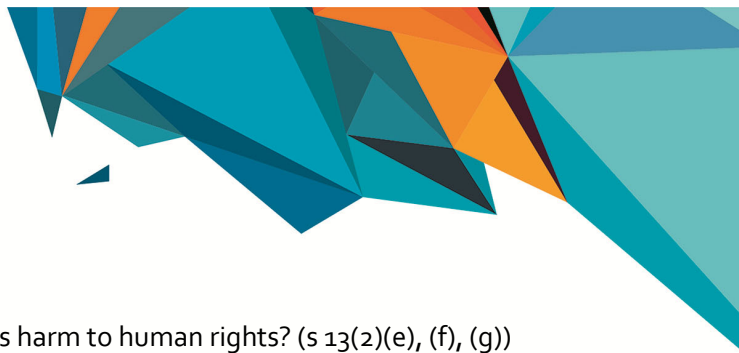
## Question 4

Is s 275 necessary? Are there any less drastic ways of achieving the purpose? Would those alternatives be as effective in achieving the purpose? (s 13(2)(d))

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## Question 5

Does s 275 strike a fair balance between its purpose and its harm to human rights? (s 13(2)(e), (f), (g))

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## Question 6

Would s 275 represent a justified limit on human rights? (s 13)

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