

Your complaint reference number is: #56968

From noreply@ombudsman.qld.gov.au <noreply@ombudsman.qld.gov.au>
To Reece Ferrara<Reece.Storme@protonmail.com>
Date Wednesday, 21 February 2024 at 17:45

Dear Reece

We have received your complaint. Your reference number is #56968.
An officer will assess the complaint and let you know the outcome of the assessment. Find c
more about how we [assess and investigate a complaint](#).
You can update your complaint online at any time by completing an [additional information fo](#)
Here is a copy of your complaint.

Your complaint is about:

Agency Name	Legal Aid Queensland
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Your contact details

Title	Mr
First name	Reece
Last name	Ferrara
Address line 1	18 Borrack Cresent
Address line 2	No response provided
Suburb	Mernda
Postcode	3754
Country	Australia
Telephone number	0400690987
Email	Reece.Storme@protonmail.com

Your complaint

What happened and when?

(2022/04/14) At Sent by: Qld Legal Aid 'QLD Legal / Refusal letter; Your type of legal problem is not covered by our guidelines.' [Police Assault and Discrimination Vulnerable applicant]

(2022/06/09) At Sent by: Reece Ferrara 'Qld Legal / Application',

(2022/06/09) At Sent by: Reece Ferrara 'QLD Legal Ack Submit Application Mailbox',

(2022/08/24) Sent by: Reece Ferrara 'QLD Legal Ai Request for Review of assessment' These offences are the direct result and manifestation of a disability, PT No one was harmed physically and occurred in the context of being a male receiver of family violence for three years prior to these incidents that police felt they were not required to fact check claims or appropriately consider material I presented.

(2022/09/07) Sent by: Reece Ferrara 'QLD Ombudsman HRC and Police Incident' Our ref: 2022/06351,

(2023/02/14) At Sent by: 'Notice: Suing the State of Queensland and Obligation under s 75B Judiciary Act 1903 (Cth) Completed also forms a Public Interest Disclosure',

(2023/02/14) At Sent by: 'QLD Legal Aid Auto Message: Please note we have been unable to process your application.

(2023/02/21) At Sent by: 'QLD Legal Aid Application assistance, 7. On exiting my vehicle, I am heard on camera footage stating, "... just don't touch me. Please I'll co-" (unable to finish)

8. Senior Constable Dickinson ignored this request and grabbed my left arm forcefully. Enough to induce fear for my safety and impending harm, triggering my disability Complex Post Traumatic Stress Disorder ("cPTSD") The Act was unnecessary as I was voluntary, compliant and not exhibiting behaviour to be considered aggressive reasonably. 10. It was not permitted by law. 6. More so his rank and experience would indicate a reasonable officer of the same would know or ought to have known the Act constituted unlawful assault.

(2023/03/20) Sent by: Legal Aid Queensland 'Legal

QLD', Reference #: Our Ref: ASQ23224510/

It is noted you no longer require assistance from Legal Aid Queensland as your criminal law matter has already been dealt with.

(2023/06/09) Sent by: Reece Ferrara 'Qld Legal Aid Application [x files]',

(2023/11/14) Sent by: Reece Ferrara 'Qld Civ Law Legal Aid Scheme Application, 2. The legal matter to consider serious assault causing bodily harm [battery, unlawful imprisonment, malicious prosecution, breach of legal expectation – statutes to be obeyed, false charge, public interest disclosure of Police misconduct (detriment) misfeasance in public office, exemplary and aggravated damages] by several Police officers on the evening of October 4, 2021. 3. Respondent 1, The State of Queensland, has, in their contentions, admitted the elements of assault ["I'll cooperate just, please don't touch me", grabbed me by force anyway, choked, repeatedly kned, head forced into the road causing injury].

(2024/01/31) At Sent by: 'Qld Legal Aid Application', Queensland Legal Aid Guideline: 4 – Anti Discrimination STATE LEGAL AID SERVICE PRIORITIES Civil Law Discrimination Special Circumstances - the applicant has an intellectual, psychiatric or physical disability.

1 Queensland Legal Aid, 'Grants Policy Manual'

<https://www.legalaid.qld.gov.au/About-us/Policies-and-procedures/Grants-Policy-Manual> 'fresh application for the same matter is received within two years of a senior officers decision (duplicate application), the assessing officer will not process the application and be referred to a senior officer for them to consider. It is at the discretion of the senior officer whether there has been a material change in circumstances. The senior officer can either: • consider there has been no material change of circumstances and refuse to re-list the matter. In this case, the previous decision of the senior officer remains and the applicant can choose to seek an external review. • consider there has been a material change in circumstances and determine that the material change in circumstances now warrants funding the applicant. • consider there has been a material change of

circumstances and determine that the material character of the circumstances does not warrant funding the application. 'may make a grant of legal assistance for an equal opportunity or discrimination case if there is a strong prospect of substantial benefit being gained by the applicant and by the public or a section of the public in relation to the matter' 3 Ibid Basis of determination for grant of legal assistance 1(a) State law matter; 1(b) aid priority special circumstances psychiatric disability 1(c) meets anti-discrimination guideline 4; meets the forum test (interstate applicant) State civil law matter State/Territory where the proceedings are likely to be heard is usually the State/Territory where the legal issue occurred. Therefore, Legal Aid Queensland will only fund State civil law matters that are to be heard in Queensland.– currently before QCAT; 1(d) Means Test applicant on Centrelink payments and assets do not exceed limit; 1(e) Merits Test 'is more likely than not to succeed' – Tribunal member Lember The application for strike out filed by the respondents is refused. Each party is granted leave to be legally represented in the proceeding.

QCAT DECISION/DIRECTIONS Case number:

ADL041-23 Applicant: Respondents: Reece Storme Ferrara

State of Queensland Justin Dickinson Kyle Jordan & Hill

Before: Member Lember

Date: 22 September 2023 Proceeding type: On-Paper Hearing Initiating document: Referral (non-disciplinary complaint) made 8 May 2023 Tribunal Directions dated 13 August 2023 1. The application for strike out filed by respondents is refused. 2. Each party is granted leave to be legally represented in the proceeding.

THE TRIBUNAL DIRECTS THAT: 1. The tribunal notes the filing of further material by the applicant 13 September 2023 that does not meet the requirements directed on 5 June 2023 for the filing of a statement of contentions. Having regard to the content of the referral complaint and the applicant's attempts to comply, subject to submissions from the parties and unless the Tribunal orders otherwise the referral (non-disciplinary complaint)

made 8 May 2023 will proceed based on the issues outlined in and derived from the complaint itself, namely the Summary of facts alleged by applicant a. On or about September 2021 the State of Queensland declared border closures due to rising COVID-19 cases in New South Wales and Victoria. Although the applicant knew the borders were closed and that travel into Queensland was not permitted, the applicant travelled to the Queensland border hoping to enter. b. On 4 October the applicant arrived at a border checkpoints monitored by Queensland Police. c. The applicant stopped at the checkpoint and sat silent in his vehicle. d. The applicant was directed to return to New South Wales. e. The applicant gave a history of his circumstances, was informed he could not enter Queensland and instructed to return to New South Wales. f. The applicant advised police of an intent to self-harm if he was not admitted to Queensland. g. The Queensland Ambulance Service were called. h. Police asked the applicant to exit the vehicle. i. Police reached in through the window, unlocked the door, opened the door and the applicant exited the vehicle. j. The applicant asked not to be touched. k. Police engaged physically with the applicant who was subsequently detained and taken to hospital by ambulance.

The tribunal understands that it is the manner in which police engaged with the applicant and the method/s adopted to engage (including the language used) with the applicant form the bases of the complaint. It is understood by the tribunal that the refusal of entry to Queensland does not form a basis of the complaint. Attribute The attribute relied on by the applicant is impairment pursuant to section 7(h) of the Anti-Discrimination Act 1991 (Qld) namely post-traumatic stress disorder and attention hyperactivity disorder. Area The area in which the discrimination is said to have occurred is the area of laws and programs (section 101 of the ADA). Direct Discrimination The applicant alleges that his treatment by police amounted to direct discrimination under section 26 of the ADA, which happens if a person treats or proposes to treat a person with an attribute less favourably than another person without the attribute is or would be treated.

in circumstances that are the same or not materially different. Indirect Discrimination The applicant alleges his treatment by police amounted to indirect discrimination under section 11 of the ADA which has if a person imposes, or proposes to impose, a term: with which a person with an attribute does not or is able to comply; and b. with which a higher proportion of people without the attribute comply or are able to comply and c. that is not reasonable. d. The applicant will not establish what 'term' he says was imposed by police. Human Rights The applicant alleges that the respondent breached his human rights referred to in sections 18, 29 and 30 of the Human Rights Act 2019 (Qld). 2. Direction 1 made 5 June 2023 is vacated. 3. The respondents are directed to comply, as best they can, based upon the information contained within the respondent's complaint and direction 1 above, with Direction 2 made 5 June 2023 by 27 October 2023. 4. The proceeding is listed for a compulsory conference on a date and at a time to be fixed after 27 October 2023 at which time the matter does not resolve, and among other things, the applicant must clarify the remedies/orders he seeks. The respondent may be directed to file an amended response. The issues for the hearing will be clarified, and directions made for the filing of evidence.

Why do you think this is unfair or wrong?

The decisions made by the public entity appear arbitrary and do not reasonably reflect the Queensland Legal Aid 'Grants Policy Manual'. The Public entity is engaging in discriminatory conduct and arbitrary abuse of power by the public entity.

What was Legal Aid Queensland's response to your complaint?

They typically fail to respond, do not provide explanations or reasonable explanations for their decisions and continue to conduct themselves in a course of conduct contrary to policy.

If you have a copy of your original complaint in writing to Legal Aid Queensland, please attach it here.

2024 02 01 - Qld Legal Aid Application [full].pdf (17 KB)

If you received a response in writing from Legal Aid Queensland, please attach it.

2023 03 20 - Legal Aid QLD.pdf (543 KB)

Why are you unhappy with Legal Aid Queensland's response to your complaint?

The public entity contravenes the Human Rights Act (Qld). s 14 Human rights are protected; s 23 Taking in public life (2)(b) to have access, on general terms of equality, to the public service and to public office. Obstruction to accessing natural justice for contravention of s 29 Right to liberty and security of person (2) A person must not be subjected to arbitrary arrest or detention. A person must not be deprived of the person's liberty except on grounds, and in accordance with procedures established by law. (4) A person who is arrested or detained must be informed at the time of arrest or detention of the reason for the arrest or detention and must be promptly informed about any proceedings brought against the person. Division 4 Obligations of public entities s 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. Anti-Discrimination Act 1991 (Qld) as above in QCAT order...

What do you think Legal Aid Queensland should do to fix your complaint?

Refer decisions to an independent third party in order to obtain a fair and impartial decision based on the facts and merits and decisions of QCAT to stop the entity obstructing access to natural justice.

Another organisation

Have you made your complaint to another complaint-handling organisation?

No

Consent to refer

If we decide to investigate your complaint, we will need to communicate with the organisation or agency you complained about. We tell them about your complaint and ask for their response. We also give them a copy of your complaint to us.

Do you consent to us referring your complaint to Legal Aid Queensland if we consider it appropriate to do so?

Yes

Supporting documents

Other documents that support your complaint

2023 11 03 - QCAT ADL041-23 Contentions of First Respondent.pdf (186 KB)

2023 12 09 - ADL041-23 Status and Reiteration of Referral to Higher Court.pdf (352 KB)

2023 12 15 - ADL041-23 Intentions to end life.pdf (186 KB)

2023 09 22 - QCAT ADL041-23 Directions.pdf (166 KB)

2023 11 14 - QCAT ADL041-23 RSF01BC QPS BM Images.pdf (12132 KB)

2023 09 13 - ADL041-23 - Applicant Submission and demurrer.pdf (17141 KB)

2024 01 31 - Qld Legal Aid Application letter.pdf (17 KB)

Demographic information

Do you have any special needs that we should be aware of?

Yes

Are there any more details we should know about your special need?

Neurodivergence ADHD/Autism

What language do you speak at home?	English
Do you identify as an Aboriginal and/or Torres Strait Islander?	No
Which age group are you in?	35-44
How did you first hear about us?	Online or other search

Thank you for your complaint.

Kind regards,

Queensland Ombudsman

P (07) 3005 7000

E ombudsman@ombudsman.qld.gov.au

W ombudsman.qld.gov.au

