Strategic Review of the Queensland Human Rights Commission and Related Reviews

Arafmi Ltd

October 2026

Arafmi is a Queensland-based not-for-profit organisation dedicated to supporting unpaid carers, families and kin of people experiencing mental health challenges. Through direct support services, education, advocacy and systemic policy work, Arafmi seeks to improve the wellbeing of mental health carers and ensure their experiences, needs and rights are recognised in mental health policy, service delivery and decision-making.

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Arafmi acknowledges Aboriginal and/or Torres Strait Islander peoples as the First Nations peoples of Australia and recognises their continuing connection to country, waters, kin and communities. We pay our respect to Elders past, present and future and are committed to ensuring that Aboriginal and/or Torres Strait Islander peoples' voices are heard and respected across Queensland.

Executive Summary

Arafmi welcomes the opportunity to contribute to the Strategic Review of the Queensland Human Rights Commission (QHRC) and associated reviews of the *Human Rights Act 2019* and *Anti-Discrimination Act 1991*. Mental health families, carers and kin make an essential contribution to Queensland's mental health system. However, their own rights, needs and circumstances are frequently overlooked in decisions about treatment, discharge, service planning and funding. Arafmi's consultations highlight ongoing concerns about stigma, limited recognition of carers' rights, barriers to complaints and expectations that families assume substantial unpaid caring responsibilities without adequate consideration of their willingness or capacity.

Arafmi supports a relational approach to human rights that recognises the rights of people experiencing mental health challenges alongside those of their families, carers, kin and children. This approach emphasises the importance of recognising how decisions made by public entities may affect multiple people, particularly where their rights and interests intersect.

Arafmi's submission makes 17 recommendations across three key areas:

- **Strengthening human rights education and access to complaints:** Improving practical guidance, targeted community engagement and accessible complaints pathways, particularly for people experiencing stigma, power imbalances or fear of repercussions.
- **Improving the application of human rights obligations:** Ensuring public entities consider the human rights of *all people* directly affected by their decisions, including families, carers and kin, alongside the rights of the person receiving care when making individual care decisions and broader service planning and funding decisions.
- **Strengthening anti-discrimination protections and accountability:** Supporting substantive equality, broader recognition of family, carer and kinship responsibilities, and the proposed positive duty to prevent discrimination, with appropriate QHRC enforcement powers and adequate resourcing.

Arafmi emphasises that legislative protections must be supported by practical implementation. Clear guidance, targeted education, meaningful engagement with people with lived experience and accessible complaints processes are essential to ensuring that human rights are recognised and upheld in everyday practice.

Summary of recommendations

Part A – Queensland Human Rights Commission

No.	Ref.	Recommendation
1	A12	Strengthen QHRC guidance on recognising the rights of *all people* directly affected by public decisions.
2	A12	Co-design practical human rights training and resources with mental health carers and representative organisations.
3	A16-17	Improve targeted human rights awareness and outreach for mental health families, carers and kin.
4	A16-17	Develop accessible, lived-experience-informed information addressing barriers to exercising rights.
5	A16-17	Improve the accessibility of complaints information and referral pathways.
6	A24–25	Allow direct QHRC complaints where safety, fear of reprisals or power imbalances make internal complaints inappropriate.
7	A24–25	Review the 45-business-day waiting period and improve complaints coordination.
8	A24–25	Ensure complaint timeframes accommodate mental health challenges, trauma and caring responsibilities.

Part B – Human Rights Act 2019

No.	Ref.	Recommendation
9	B6	Repeal the override declaration provisions.
10	B12	Retain section 58(1)(b) and the consequences of non-compliance.
11	B12	Strengthen guidance on carers' rights in public decision-making, particularly discharge planning.
12	B18	Clarify human rights obligations for non-government service providers.
13	B21	Amend section 58(5)(a) to clarify that relevant rights may extend beyond the direct service recipient.

Part C – Anti-Discrimination Act 1991

No.	Ref.	Recommendation
14	C1	Recognise substantive equality in the Act's purposes.
15	C9	Retain the proposed protection for family, carer or kinship responsibilities.
16	C12	Retain the proposed positive duty to prevent unlawful discrimination, with proportionate requirements.
17	C13	Provide appropriate QHRC enforcement powers and adequate resourcing if the reforms proceed.

Introduction

The rights of mental health families, carers and kin are too often overlooked within the very systems that depend on their support. National research, including the Productivity Commission's *Mental Health Inquiry* (2020), has identified systemic failures to recognise, respect and protect the rights of mental health families, carers and supporters, including practices that may constitute human rights breaches[1]. Arafmi's consultations with mental health carers across Queensland confirm that these concerns continue to be experienced locally, highlighting ongoing challenges relating to carer recognition, autonomy, safety and wellbeing[2].

This submission draws on this evidence to identify opportunities to strengthen human rights protections, particularly in decisions made by public entities that significantly affect carers' lives, relationships and wellbeing.

Arafmi sincerely acknowledges and thanks the families, carers and kin who have generously shared their lived and living experiences, as well as the individuals who have contributed their perspectives and insights to inform this submission. Their experiences, knowledge and advocacy are invaluable in highlighting the challenges faced by mental health carers and identifying opportunities to strengthen human rights protections in Queensland.

Recognising the hidden role and rights of mental health carers

Mental health families, carers and kin play an essential role in supporting the safety, wellbeing and recovery of people experiencing mental health challenges. Australian research has estimated that unpaid mental health carers provide approximately 208 million hours of care annually[3], with recent modelling valuing their contribution at over $20 billion each year[4].

Despite this enormous contribution to the health system and broader community, mental health carers remain largely invisible within the systems that rely upon them. Their contributions and needs are inadequately captured in data and reporting, they are

[1] Productivity Commission. (2020). *Mental Health, Inquiry Report No. 95*. Commonwealth of Australia. Accessed online 27/10/2026 at Inquiry report - Mental Health

[2] Arafmi (2024). *At What Cost: The Experiences of Unpaid Mental Health Carers in Queensland 2023–2024*. Accessed online 27/10/2026 at A04-Arafmi-Report_At-What-Cost_200825_digital.pdf

[3] Diminic, S., Lee, Y.Y., Harris, M., Schess, J., Kealton, J. and Whiteford, H. (2017). *The Economic Value of Informal Mental Health Care in Australia: Technical Report*, Commissioned by Mind Australia, University of Queensland.

[4] Mental Health Carers Australia (2025) *Mental Health Carers Australia: Families and Carers Left Behind in the Federal Budget Media Release*. Accessed online 28/10/2026 at 2024-25 Federal Budget Media Release.pdf

frequently overlooked in the design and delivery of services and supports, and their own circumstances, capacity and wellbeing are often given insufficient consideration in treatment, care and discharge planning for the people they support.

These concerns are supported by national research and Queensland lived-experience evidence. The Productivity Commission's *Mental Health Inquiry* (2020) recognised the substantial contribution of mental health carers and identified the need for stronger family- and carer-inclusive practices and dedicated supports. More recently, the 2023 report *Not Before Time: Lived Experience-Led Justice and Repair*[5] identified the invisibility of families, carers and supporters within mental health systems, the failure to recognise their expertise, and the harms associated with systems that rely on unpaid care while providing insufficient support to those providing this care. These concerns are reflected in Arafmi's statewide consultations with Queensland mental health carers, documented in its 2024 report *At What Cost*, which identified significant challenges relating to carer recognition, access to support, stigma, financial hardship and carers' own health and wellbeing[6].

The Productivity Commission's *Mental Health Inquiry* (2020) also recognised the importance of relational recovery, acknowledging that the wellbeing of people experiencing mental health challenges and their families and carers is interconnected. The Inquiry documented widespread concerns about carers being excluded from treatment and discharge planning decisions that directly impact them, their knowledge being disregarded, and their own needs and wellbeing receiving insufficient attention[7]. Similarly, Arafmi's Queensland consultations identified the need for greater recognition of carers by mental health services, improved collaboration with healthcare professionals and support for the whole family[8]. These findings reflect a broader structural challenge: mental health systems, services and outcomes frameworks are predominantly designed around the individual receiving care, without adequately considering the people supporting them, the functioning of family relationships or the broader impacts of mental health challenges and caring responsibilities on families and households. As a result, important dimensions of wellbeing, including parenting, family safety, relationship quality and carers' own health and wellbeing, can

[5] Katterl, S., Lambert, C., MacBean, C., Grey, F., Downes, L., Cataldo, M., et al. (2023). *Not Before Time: Lived Experience-Led Justice and Repair*. Accessed online 27/10/2026 at Not Before Time: Lived Experience Led Justice and Repair

[6] Arafmi (2024). *At What Cost: The Experiences of Unpaid Mental Health Carers in Queensland 2023–2024*, particularly pp. 15–24. See also Arafmi (2024), *National Carer Strategy Consultation Submission*, pp. 16–17.

[7] Productivity Commission (2020), *Mental Health*, Inquiry Report No. 95, Canberra, Chapter 18, pp. 869–870, 886–888. Accessed online 27/10/2026 at Inquiry report - Mental Health

[8] Arafmi (2024). *At What Cost: The Experiences of Unpaid Mental Health Carers in Queensland 2023–2024*, particularly pp. 15–24. See also Arafmi (2024), *National Carer Strategy Consultation Submission*, pp. 16–17.

remain unrecognised and unsupported[9]. The evidence highlights the need for public entities to recognise families and carers not only as partners in supporting recovery, but as individuals whose own rights, safety and wellbeing must be considered in decisions affecting their lives.

Of particular concern are young carers, for whom assuming substantial caring responsibilities may not represent a genuine choice[10]. Research undertaken by Griffith University, referenced in Arafmi's 2024 *National Carer Strategy Consultation Submission*, identified children as young as four undertaking caring responsibilities within their families[11]. The Productivity Commission's *Mental Health Inquiry* (2020) highlighted the significant responsibilities some children undertake in supporting parents and siblings, and the associated risks to their education, wellbeing and future opportunities. The Commission emphasised the need for a whole-of-family approach that reduces children's caring responsibilities through adequate psychosocial supports, rather than relying solely on services that help young carers manage those responsibilities[12].

Lack of a consistent process for considering the needs, rights and wellbeing of families, carers and kin, including children, is of particular concern in the transition from acute care to the community, where families and carers are often assumed to be available, capable and willing to provide ongoing practical, emotional and financial support, regardless of their actual capacity to do so. Many take on these responsibilities with little consultation or preparation, limited awareness of their rights and inadequate access to supports that would enable them to sustain their caring role without compromising their own health and wellbeing.

This creates a fundamental contradiction: mental health carers are indispensable to the functioning of the mental health system, yet are frequently not recognised or treated as individuals with rights, needs and circumstances of their own. In discharge planning, pressures relating to hospital bed availability and patient flow may contribute to decisions that rely on unpaid care without adequate consideration of carers' willingness, capacity or the safety and sustainability of proposed arrangements.

[9] Productivity Commission (2020), *Mental Health*, Inquiry Report No. 95, Canberra, Chapter 18, pp. 869–870, 886–888. Accessed online 27/10/2026 at Inquiry report - Mental Health
[10] Productivity Commission (2020), *Mental Health*, Inquiry Report No. 95, Canberra, Chapter 18, pp. 877. Accessed online 27/10/2026 at Inquiry report - Mental Health
[11] Arafmi (2024), *National Carer Strategy Consultation Submission*, p. 20.
[12] Productivity Commission (2020), *Mental Health*, Inquiry Report No. 95, Canberra, Chapter 18, pp. 877–878. Accessed online 27/10/2026 at Inquiry report - Mental Health

The *Joint Statement of Rights for Australian Families, Carers and Supporters in Mental Health* (2024), developed through lived-experience discussions involving more than 90 participants, reinforces that these challenges are not simply matters of service quality or carer satisfaction, but issues of rights, dignity and justice. The statement identifies the importance of safety, financial security, freedom from discrimination, health and wellbeing, relationships, and genuine choice, including the ability to decline caring responsibilities without coercion or the threat of serious consequences, such as a family member becoming homeless or being placed at risk of harm.

Importantly, the Statement also highlights the need to recognise carers as individuals with identities, aspirations and rights beyond their caring role. Decisions made by public entities can profoundly affect these rights, yet the consequences for carers and other family members are not always adequately identified or considered.

Whose rights? The need for a relational approach to human rights

Arafmi believes that a relational approach to human rights offers an important framework for recognising and protecting the rights of mental health families, carers and kin. Consistent with the approach advocated by Mental Health Carers Australia, a relational approach recognises that while rights are held individually, decisions made by public entities can affect multiple people whose lives and wellbeing are interconnected. In mental health settings, this means recognising the rights of families, carers, kin and children alongside those of the person receiving treatment or support.

A relational approach does not diminish individual autonomy or consumer choice. Rather, it emphasises the importance of identifying and meaningfully considering the rights of everyone directly affected by public decisions, including where those rights intersect or compete.

In practice, this means considering carers' willingness and capacity to provide care, the safety and suitability of proposed arrangements, the wellbeing of children and other family members, and the potential consequences for caring relationships. It also requires greater accountability for these impacts through the collection and reporting of outcomes that reflect the wellbeing of families and carers, not solely the person receiving services.

Embedding a relational approach in human rights decision-making could support safer, more sustainable care arrangements, protect family relationships and reduce the risk of carer exhaustion, breakdown and deteriorating health and wellbeing, which may ultimately result in carers requiring health and support services themselves. By recognising the rights

and circumstances of everyone affected, public entities can make more informed, equitable decisions that support better outcomes for individuals, families and the broader mental health system. This approach may also deliver economic benefits, with the Productivity Commission's *Mental Health Inquiry* (2020) identifying potential government cost savings from family-inclusive mental healthcare, particularly through reduced hospital admissions and emergency department presentations[13].

The rights of mental health carers under the Queensland Human Rights Act

Arafmi has identified five rights under Queensland's *Human Rights Act 2019* that are particularly relevant to mental health families, carers and kin. Table 1 outlines these rights and illustrates how they may be engaged in practice, based on research, lived and living experiences, and case studies presented in this submission. These five rights provide the overarching framework for Arafmi's responses to the discussion paper questions, highlighting opportunities to strengthen their recognition, consideration and protection in public-sector decision-making, including through improving services and training delivered by the QHRC.

Table 1: Human Rights and Application for Mental Health Families and Carers in Queensland (cont. next page)

Human right	What it means for mental health carers	Potential examples of application
Freedom from forced work (s18)	Protects people from forced or compulsory labour. May be relevant where families experience coercive pressure to assume unpaid caring responsibilities, although not all such circumstances will meet the legal threshold.	A hospital discharges a person into a family member's care despite the carer stating they are unwilling or unable to provide support, raising questions about genuine choice and the consideration of carers' rights.
Privacy and reputation (s25)	Protects personal privacy, confidential information and reputation, including that of carers.	Sensitive information provided by a carer is recorded in the consumer's patient record, putting carer privacy and family relationships at risk.
Protection of families and children (s26)	Recognises families as entitled to protection and children as entitled to protection in their best interests	Discharge decisions place unsustainable responsibilities on families, carers and kin without adequate consultation or support, affecting their health, family relationships and the safety and wellbeing of children in the household.
Right to health services (s37)	Protects access to health services without discrimination. Relevant to carers' own health needs and the	People experiencing mental health challenges or their carers encounter discriminatory barriers to accessing available health services, increasing

[13] Productivity Commission (2020), *Mental Health*, Inquiry Report No. 95, Chapter 18, p. 900.

	consequences of inadequate services for people they support.	pressure on families to manage crises without adequate assistance.
Recognition and equality before the law (s15)	Protects equal recognition and treatment before the law, including protection against discrimination.	A carer raising legitimate concerns about a family member's treatment is dismissed, stereotyped or treated as unreliable because of their own distress or association with someone experiencing mental distress.

Our response to the Discussion Paper questions

Education (A12)

Arafmi welcomes the introduction of QHRC's education services and recognises the importance of strengthening public entities' capacity to apply human rights in everyday decision-making. However, we believe existing guidance could more explicitly and consistently address the need to identify, consider and document the rights of ***all people*** directly affected by a decision, including families, carers, kin and children.

The QHRC's guidance on proper consideration already requires decision-makers to identify affected rights, balance competing interests and demonstrate that proper consideration occurred. The *Queensland Human Rights Act 2019 – A guide for Public Entities* also includes an example requiring consideration of the rights of all people affected. However, this principle could be more clearly embedded in practical training and guidance across service settings.

In mental healthcare, for example, discharge planning may affect not only the person receiving treatment but also family members expected to provide unpaid care, including their autonomy, privacy, safety and wellbeing. Human rights assessments that focus solely on the consumer are at risk of overlooking these interconnected impacts.

Arafmi is particularly encouraged by the QHRC's *Education Strategy 2026–2030*, which recognises the need to move beyond legal knowledge towards practical capability. We strongly support its commitment to collaborative, lived-experience-informed education and would welcome opportunities to partner with the QHRC to strengthen guidance and training relevant to mental health families and carers.

Arafmi has experience developing practical resources to support healthcare professionals to work effectively with families, carers and kin. Its existing *Working with Carers, Family and Kin – A Guide for Healthcare Professionals* (2025) provides guidance on carer identification, communication, confidentiality and information sharing.

Arafmi is currently working in partnership with Mental Health Carers Australia to develop a national guide to support mental health professionals to work with families, carers and kin. The guide will provide accessible, sector-specific guidance to help professionals understand their responsibilities and apply them in everyday practice, including recognising and respecting the rights of mental health families and carers.

Recommendation 1: The QHRC should strengthen education and guidance for public entities to explicitly identify, consider and appropriately document the rights *of all people* directly affected by decisions, including families, carers, kin and children, particularly where rights intersect or compete.

Recommendation 2: The QHRC should work with mental health carer representative organisations and people with lived experience to co-design practical training, case studies and decision-making tools that demonstrate how these obligations apply in mental healthcare, particularly treatment, discharge planning and information-sharing decisions.

Promoting understanding and public discussion (A16-17)

Arafmi recognises the important role of the Queensland Human Rights Commission in promoting public understanding of human rights and welcomes its commitment to community engagement, particularly through the *Education Strategy 2026–2030*. However, Arafmi has limited direct experience of the QHRC's engagement activities and considers there are opportunities to strengthen engagement with mental health families, carers and kin.

Through our consultation with Queensland mental health carers, Arafmi has identified significant barriers to understanding and exercising human rights. We were unable to identify any carers who had successfully progressed a complaint beyond the health service involved, raising concerns about whether existing engagement activities and complaints pathways are adequately reaching and supporting this group.

Key barriers include limited awareness of human rights and available complaints mechanisms, stigma and power imbalances within mental health services, fear of repercussions for the person receiving care, and the emotional and practical burden of navigating complex complaints processes. For example, carers may be reluctant to challenge

a service on which their family member depends for ongoing treatment, particularly where they fear being labelled as difficult or having their concerns dismissed (see *Case Study - Stigma and barriers to raising complaints in mental health services* below).

These experiences suggest that legitimate human rights concerns may not be reaching the QHRC. Arafmi believes that promoting a culture of human rights requires more than general awareness-raising. Engagement must be accessible, practical and informed by lived experience, helping people recognise when their rights may be affected and to understand how to seek independent advice and resolution.

Arafmi is encouraged by the QHRC's commitment to collaborative, lived-experience-informed engagement and would welcome opportunities to partner with the Commission to improve understanding and accessibility for mental health families and carers.

Recommendation 3: The QHRC should strengthen targeted engagement and outreach to mental health families, carers and kin to improve awareness of their rights, public entities' obligations and available complaints pathways, including how to seek independent assistance.

Recommendation 4: The QHRC should partner with mental health carer representative organisations and people with lived experience to co-design accessible information, practical resources and community engagement activities that address stigma, fear of repercussions and other barriers to exercising human rights.

Recommendation 5: The QHRC should review the accessibility of its complaints information and referral pathways for mental health families and carers, including identifying where people disengage or are unable to progress complaints, and use these findings to inform targeted improvements to engagement and education.

Requirement to engage with the public entity (A24-25)

Arafmi supports opportunities for public entities to resolve complaints directly. However, requiring people to first complain to the entity responsible for an alleged human rights breach can create significant barriers, particularly for mental health consumers and carers who depend on ongoing relationships with that service. The following case study illustrates issues carers may face in trying to resolve complaints directly.

Case Study: Stigma and barriers to raising complaints in mental health services

(Details have been generalised to protect the family and service staff. Further details of the incident can be shared with the reviewers on request).

A mental health carer visiting her sister, who was receiving involuntary treatment in hospital, discovered that her sister had no clean clothes, underwear or basic hygiene products and had not been able to shower. When the carer raised concerns with nursing staff, the response was distressing and stigmatising.

Rather than receiving support to resolve her concerns, the carer ended up taking on the responsibility for ensuring her sister had the basic necessities she needed.

The carer subsequently submitted a written complaint to the hospital, detailing her experience. She received an automated acknowledgement but no substantive response, apology or indication that her concerns had been investigated. She also attempted to escalate the matter to the Office of the Health Ombudsman, but the complaint was referred back to the health service involved and did not progress towards resolution.

The experience reinforced the carer's lack of confidence in complaints processes. She feared that challenging the service could result in her being labelled as mentally unwell or difficult, undermining her credibility and potentially affecting her sister's care. She was also unaware of her human rights or the option to raise a complaint with the QHRC.

This case reflects broader concerns raised by mental health carers about complaints being referred between agencies, sometimes returning to the original service without meaningful resolution. Stigma, power imbalances and fear of repercussions can discourage complaints, particularly where families depend on the same services for ongoing care. Delays, inadequate responses and complex processes can discourage carers from pursuing legitimate concerns, or taking them further.

Arafmi is concerned about the potential conflict of interest where public entities are responsible for investigating complaints about their own conduct. While internal resolution has value, it should not be the only initial pathway, particularly where complainants fear repercussions or diminishing of their experiences. These concerns warrant examination of complaint-handling capacity, resourcing, accountability and alternative models of independent review.

Arafmi also questions whether the 45-business-day waiting period is appropriate in all circumstances, particularly for people experiencing psychological distress, trauma or significant caring pressures. Delays may be compounded where multiple complaints frameworks are involved.

Separately, people experiencing vulnerability and/or trauma may need considerable time before they feel safe or able to lodge a complaint. Restrictive lodgement timeframes risk preventing legitimate concerns from being examined and opportunities for service improvement from being identified.

Recommendation 6: Amend the complaints framework to allow direct access to the QHRC without first complaining to the public entity where there are reasonable concerns about safety, reprisals, significant power imbalances or the independence of the internal complaints process.

Recommendation 7: Review the 45-business-day waiting period, including greater flexibility for vulnerable complainants, earlier independent intervention where appropriate, and clearer coordination between complaints bodies to prevent repeated referrals and unnecessary delays.

Recommendation 8: Ensure complaint lodgement time limits and extension provisions adequately accommodate people experiencing mental health challenges, trauma or significant caring responsibilities, recognising that some people may need considerable time before they feel safe or able to raise a complaint.

Limitation on human rights (B1)

Arafmi supports maintaining strong protections for fundamental human rights, consistent with Australia's international human rights obligations. The review considers whether certain rights should be recognised as *absolute rights*, meaning they cannot be limited or overridden. This reflects international human rights law, which gives some fundamental protections, including freedom from slavery and servitude, absolute status.

Section 18 of Queensland's *Human Rights Act 2019* protects freedom from slavery, servitude and forced work, reflecting Article 8 of the *International Covenant on Civil and Political Rights*. However, international law distinguishes the absolute prohibition on slavery

and servitude from the prohibition on forced or compulsory labour, which has specific exceptions.

Arafmi does not propose making the right to freedom from forced work under section 18 an absolute right. We recognise the legal complexities involved, including the need to balance competing rights and interests in circumstances where limitations on human rights may be reasonable and justified. Our primary concern is ensuring that public entities recognise and appropriately respond to situations where families and carers experience coercive pressure to assume unpaid caring responsibilities. While not all situations involving pressure to provide unpaid care will meet the legal threshold for forced or compulsory labour, they can nevertheless highlight significant human rights concerns which deserve consideration. We therefore recommend strengthening guidance to support public entities to identify, consider and appropriately balance the rights of families and carers when making decisions that rely on unpaid care (see response to B12, Recommendation 11).

Override declarations (B6)

Arafmi supports the discussion paper's view that override declarations are unnecessary. The *Human Rights Act 2019* already allows human rights to be reasonably limited when justified, without needing additional powers to override them.

Recommendation 9: Repeal the override declaration provisions of the *Human Rights Act 2019.*

Obligations on public entities (B12)

Arafmi supports retaining section 58(1)(b), which requires public entities to properly consider relevant human rights when making decisions, and the provision that non-compliance can make a decision unlawful. This obligation is essential to ensuring human rights are upheld in practice.

Arafmi's consultations with mental health families and carers reveal ongoing concerns about decisions that overlook carers' rights, needs and circumstances despite the existing obligations on public entities.

The following case study illustrates the consequences of relying on unpaid care without adequately assessing carers' willingness or capacity to provide support.

> ***Case study: Coercion into unpaid caring responsibilities following discharge***
>
> *(Details have been generalised to protect the family's identity).*
>
> *Grandparents were caring for two young grandchildren with additional support needs following their daughter's death by suicide. They did this while managing their own grief, health concerns and already substantial caring responsibilities.*
>
> *When their older grandchild who had experienced suicidal distress and had additional support needs was being discharged from acute care, the grandparents were approached by the hospital discharge team to assume responsibility for her care. They explicitly advised the team that they did not have the capacity to do so. They were told that the only alternative would be their granddaughter facing homelessness.*
>
> *Confronted with this prospect, the grandparents felt they had no real choice but to accept caring responsibilities they had clearly stated they could not manage.*
>
> *The additional demands placed significant strain on the family. When the grandparents subsequently sought help due to the arrangement becoming unmanageable, it was suggested that family services should intervene to remove the two younger children on the grounds that the home environment was unsafe.*

This case illustrates how families can feel pressured to accept caring responsibilities when faced with unacceptable alternatives, only to face further intervention when those arrangements become unsustainable. It highlights the importance of considering the rights, capacity and wellbeing of all affected family members, including children, from the time of admission to acute mental health services, to allow sufficient opportunity to explore safe and sustainable discharge options.

Unfortunately, this example of perceived coercion into an unpaid caring role is not an isolated case. The Productivity Commission's *Mental Health Inquiry* (2020) reported that 26 percent of primary mental health carers felt they had no choice but to assume their caring role[14]. This suggests a potentially widespread and systemic issue and raises important

[14] Productivity Commission. (2020). *Mental Health*, Inquiry Report No. 95. Commonwealth of Australia, p.876. Accessed online 27/10/2026 at Inquiry report - Mental Health

questions about whether public entities are adequately meeting their obligations under section 58 of the *Human Rights Act 2019,* which states:

> *(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[15].***

And:

> *(5) for subsection (1)(b), giving proper consideration to a human right in making a decision includes, but is not limited to—*
>
> > *(a) identifying the human rights that may be affected by the decision; and*
> >
> > *(b) considering whether the decision would be compatible with human rights[16].*

Where decisions made by public entities rely on unpaid care without assessing a carer's willingness and capacity, Arafmi believes that insufficient consideration is currently being given to their relevant human rights under the Act.

While we recognise that not all circumstances involving pressure to provide unpaid care will meet the legal threshold for forced or compulsory labour, and understand the value of avoiding unnecessary administrative burdens on health services, it is important to recognise that decisions that rely on unpaid caring arrangements may engage several rights, including freedom from forced work (section 18) and protection of families and children (section 26). Greater clarity is needed about how public entities should identify, consider and document these rights, particularly where the interests of the person receiving care and their family or carers intersect. In addition to our recommendations included on page 17, Arafmi also recommends clarifying section 58(5)(a) to explicitly recognise the rights of ***all persons*** directly affected by a decision, as outlined in our response to B21 (p. 19).

[15] Human Rights Act 2019 (Queensland) (2023). Accessed online 28/10/2026 at Human Rights Act 2019 - Queensland Legislation - Queensland Government

[16] Human Rights Act 2019 (Queensland) (2023). Accessed online 28/10/2026 at Human Rights Act 2019 - Queensland Legislation - Queensland Government

Recommendation 10: Retain section 58(1)(b) of the *Human Rights Act 2019* and the provision that non-compliance can make a public entity's decision or action unlawful.

Recommendation 11: Strengthen QHRC guidance to help public entities identify and consider the human rights of *all people* directly affected by decisions, particularly where decisions rely on unpaid care. This should include practical examples of how carers' willingness, capacity and circumstances can be considered through existing care and discharge planning processes.

Definitions – Functional Public Entities (B18)

Arafmi supports clarifying when non-government organisations, including community-managed mental health organisations (CMOs), are considered functional public entities under the *Human Rights Act 2019*.

There is potential for confusion within existing QHRC guidance. Our own review of the publicly available QHRC guidance found that while the QHRC website identifies NGOs delivering publicly funded services on behalf of government as potential functional public entities, the *Public Entity Toolkit* (p. 11) does not explicitly identify these organisations in its summary table. Instead, the table refers to community sector organisations under the voluntary 'Opt In' category. This difference could lead organisations to misunderstand their obligations.

While clarification is important, we note that community managed organisations already operate under multiple accreditation frameworks, such as the National Standards for Mental Health Services, Human Services Quality Framework, ISO standards and NDIS Practice Standards[17]. Any additional requirements should recognise existing obligations and avoid unnecessary duplication.

Recommendation 12: Clarify the application of sections 9 and 10 to non-government service providers, including through consistent QHRC guidance and practical examples relevant to CMOs. Legislative amendment should be considered where necessary to resolve uncertainty, while avoiding duplication of existing compliance and reporting requirements

[17] Queensland Alliance for Mental Health (2023) *National Safety and Quality Mental Health (NSQMH) Standards for Community Managed Organisations: QAMH Submission*. Access online 27/10/2026 at NSQMH-CMO-Standards-Guide-QAMH-Submission-.pdf

Other Issues - Proper consideration of human rights in public decision-making (B21)

Arafmi supports strengthening section 58 of the *Human Rights Act 2019* to clarify that public entities must identify and consider the human rights of *all people* who may be directly affected by a decision, including families and carers, rather than focusing solely on the person directly receiving a service.

While the existing provision can be interpreted as requiring consideration of all affected persons, this is not explicitly stated. Clarifying this obligation would help ensure more consistent consideration of the rights of families and carers alongside those of people receiving services.

Ensuring that the rights of all persons affected by a decision are considered is particularly important where decisions about treatment, care, discharge, service planning or funding increase reliance on unpaid care. As outlined in our response to B12, such decisions can have significant consequences for carers' autonomy, safety, wellbeing and family relationships.

These impacts can be particularly significant in rural and remote Queensland, where limited access to community-based mental health and psychosocial supports, geographic isolation and financial pressures can leave people with few alternatives to relying on unpaid family care. Decisions about care and service provision should therefore consider the rights of both people receiving support and their families, carers and kin, including the consequences of service gaps and carers' willingness and capacity to provide support.

The experiences of rural Queensland carers illustrate these challenges:

"We are in permanent ongoing crisis management for our people. Unrelenting crisis. Carers are life coaches, taxis, personal assistants, personal hygiene coordinators, cleaner, maid, cook, nutritionists, sleep behaviour managers, suicide watchers…"[18]

Another carer described the experience of rural carers as:

"…absolute isolation and desperation; hopelessness and fear; a sense of feeling utterly alone." [19]

[18] Arafmi (2026) *2026-27 Queensland State Budget Submission*. Accessed online 27/10/2026 at Arafmi_QLD_State_Budget_Submission_26-27.pdf
[19] Arafmi (2026) 2026-27 Queensland State Budget Submission. Accessed online 27/10/2026 at Arafmi_QLD_State_Budget_Submission_26-27.pdf

These experiences highlight the importance of considering the rights of people receiving services alongside those of families, carers, kin and children, including the right to health services (section 37) and the protection of families and children (section 26).

Recommendation 13: Amend section 58(5)(a) of the *Human Rights Act 2019* to clarify that identifying the human rights relevant to a decision includes considering the rights of all people directly affected by a decision, including families, carers, kin and children, alongside those of the person receiving services. This could be achieved by inserting the words **"of all persons"** after "the human rights" in section 58(5)(a).

Equitable outcomes (C1)

Arafmi supports amending the *Anti-Discrimination Act 1991* to recognise the principle of "substantive equality", consistent with the approach recommended in the QHRC's *Building Belonging* report.

Equality of opportunity alone does not adequately recognise the structural barriers experienced by unpaid mental health carers, particularly in accessing and maintaining employment. The often unpredictable nature of mental health caring responsibilities can require flexible working arrangements, appropriate leave provisions and supportive workplace practices[20].

Arafmi recognises the legal uncertainty identified in the discussion paper concerning the phrase "equitable outcomes". The established concept of "substantive equality" may provide a clearer legislative basis for recognising and addressing structural disadvantage.

Recommendation 14: Amend the purposes of the *Anti-Discrimination Act 1991* to recognise substantive equality, using terminology consistent with Commonwealth legislation, to support the removal of structural barriers to employment and participation, including those experienced by unpaid carers.

[20] Arafmi (2024). *National Carer Strategy Consultation Submission*.

Family, carer or kinship responsibilities (C9)

Arafmi strongly supports replacing the protected attribute of "family responsibilities" with the broader term ***"family, carer or kinship responsibilities"*** in the *Anti-Discrimination Act 1991*.

Mental health caring relationships extend beyond conventional family structures to include extended family, friends, families of choice and kinship networks. As recognised in the Productivity Commission's *Mental Health Inquiry* (2020), mental health caring responsibilities can also be episodic and unpredictable, creating significant barriers to employment and participation[21].

Arafmi's 2024 statewide consultations found that one-third of survey respondents had reduced or ceased employment due to their caring responsibilities[22]. The broader attribute would better recognise the diverse nature of mental health caring relationships and provide protection against discrimination arising from caring responsibilities, regardless of formal family relationships.

Arafmi does not identify significant unintended consequences of retaining this broader attribute. However, clear guidance will be important to ensure that employers and service providers understand its application to diverse family and caring relationships, including families of choice (particularly within LGBTIQA+ communities), informal and unpaid carers, young carers, and Aboriginal and Torres Strait Islander kinship arrangements.

Recommendation 15: Retain the proposed protected attribute of "family, carer or kinship responsibilities" and provide practical guidance on its application to diverse and informal caring relationships.

Positive duty (C12)

Arafmi supports the introduction of a positive duty under the *Anti-Discrimination Act 1991*, which would require organisations to take reasonable steps to prevent unlawful discrimination before it occurs, rather than relying primarily on individuals to make complaints after experiencing discrimination.

[21] Productivity Commission (2020). *Mental Health*, Inquiry Report No. 95.
[22] Arafmi (2024). *National Carer Strategy Consultation Submission*, pp. 4–8, 14–16, 19–20.

This is particularly important for mental health families and carers, who report experiences of stigma and discrimination within health services but may be reluctant to raise complaints because of power imbalances, fear of repercussions for the person they support, or difficulties navigating complaints processes.

A positive duty would strengthen accountability by requiring employers and service providers to actively identify and address discriminatory practices. It would also reduce reliance on individual carers to challenge discrimination within services on which their family members depend.

Arafmi recognises that organisations already have obligations to prevent discrimination and that some community-managed mental health organisations operate under multiple quality and accountability frameworks. The main potential unintended consequence is unnecessary duplication of existing requirements, particularly for smaller organisations[23]. Clear guidance and requirements that reflect an organisation's size, resources and responsibilities would help address this concern.

Recommendation 16: Retain the principle of a positive duty to prevent unlawful discrimination across employment and service delivery. Provide clear guidance on what organisations must do, taking account of their size, resources and responsibilities, and avoid duplicating existing regulatory requirements.

QHRC regulatory and enforcement powers (C13)

Arafmi supports the QHRC having appropriate powers and resources to monitor and enforce compliance with the proposed positive duty to prevent discrimination.

As outlined in response to C12, mental health families and carers face barriers to raising complaints. Enabling the QHRC to identify and address discriminatory practices without relying solely on individual complaints would help overcome these barriers and strengthen organisational accountability.

Arafmi considers education and practical guidance to be central to the QHRC's role in preventing discrimination and promoting human rights. As reflected throughout this submission, clearer guidance and targeted education are needed to improve understanding

[23] Queensland Alliance for Mental Health (2024) *Queensland Anti-Discrimination Bill – QAMH Submission.* Accessed online 27/10/2026 at Queensland-Anti-Discrimination-Bill-QAMH-Submission.pdf.

of the rights of mental health families and carers. Resources such as the national guide for mental healthcare professionals currently being developed by Arafmi in partnership with Mental Health Carers Australia can support this work.

Any additional regulatory and enforcement responsibilities should be accompanied by adequate funding and staffing, without compromising the QHRC's existing education, guidance and complaints functions.

Recommendation 17: Provide the QHRC with appropriate powers to monitor and enforce compliance with the proposed positive duty, supported by adequate funding and staffing for its regulatory, education, guidance and complaints functions, should the proposed reforms proceed.

Conclusion

Arafmi encourages greater recognition of mental health families and carers as rights holders in their own right, alongside the people they support. Clearer guidance, targeted education and accessible complaints processes are essential to ensuring that human rights are understood, respected and upheld in everyday practice.

Arafmi thanks the reviewer for the opportunity to contribute to this important work and acknowledges the valuable role of the Queensland Human Rights Commission in promoting and protecting human rights across Queensland. We look forward to the review's findings and recommendations and welcome opportunities to collaborate with the QHRC in the future, where appropriate.