

Queensland Institute of Medical Research Bill 2025

Statement of Compatibility

Prepared in accordance with Part 3 of the Human Rights Act 2019

In accordance with section 38 of the *Human Rights Act 2019*, I, Timothy Nicholls MP, Minister for Health and Ambulance Services make this statement of compatibility with respect to the Queensland Institute of Medical Research Bill 2025 (Bill).

In my opinion, the Bill is compatible with human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

Overview of the Bill

The *Queensland Institute of Medical Research Act 1945* (Act) provides for the establishment of the Queensland Institute of Medical Research (Institute) and the Council of the Queensland Institute of Medical Research (Council). The Council was established in 1945 as a statutory body responsible for the control and management of the Institute. The Institute was established for the purpose of initiating and conducting research across any branch of medical science, with a particular focus on diseases of significance to Queensland.

The Act has been amended a number of times since its commencement in 1945. Significant parts of the Act have been repealed, while many of the remaining provisions are outdated and do not align with current Queensland drafting practices or governance arrangements for statutory bodies.

The Bill will modernise and update the governance provisions and address practical and operational limitations in the Act to ensure the legislation is fit for purpose and promotes transparency and accountability. The Bill does this by:

- providing more equitable arrangements for the payment of commercialised incentive payments from the Council to persons who discover, invent, or make a significant contribution to the Council's intellectual property;
- creating an obligation for the Council to immediately notify the Minister of matters that raise significant concerns about the financial viability, administration, or management of the Institute or Council;
- allowing the Council or the Director to delegate their functions or powers to appropriately qualified staff of the Institute;
- creating a legislative mechanism for the Minister to undertake criminal history checks on current and prospective Council members, placing an obligation on Council members to disclose changes to their criminal history, and making it an offence if a person with access to criminal history information discloses it in a way not permitted under the Bill;

- allowing the Minister to appoint and remove Council members and prescribe the circumstances in which a person is disqualified from becoming or continuing as a Council member;
- providing for general meeting procedures and requiring Council members to declare any material personal interest in a matter being considered by the Council;
- allowing the Council to appoint an Acting Director for a period of not more than six months, with the possibility to extend for a further six months with the Minister's approval;
- clarifying requirements for dealing with property gifted, devised or bequeathed to the Institute; and
- making minor and technical amendments to improve the operation of the new Act.

Human Rights Issues

Human rights relevant to the Bill (Part 2, Division 2 and 3 Human Rights Act 2019)

In my opinion, the human rights that are relevant to the Bill are:

- right to take part in public life (section 23);
- right to privacy and reputation (section 25); and
- rights in criminal proceedings (section 32).

Further analysis of human rights that are limited by the Bill is provided below.

If human rights may be subject to limitation if the Bill is enacted – consideration of whether the limitations are reasonable and demonstrably justifiable (section 13 Human Rights Act 2019)

Right to take part in public life (section 23, Human Rights Act)

(a) the nature of the right

Section 23 of the Human Rights Act provides that every person in Queensland has the right, and is to have the opportunity, without discrimination, to participate in the conduct of public affairs, directly or through freely chosen representatives. It also provides that every eligible person has the right, and is to have the opportunity, without discrimination, to have access to the public service and to public office on general terms of equality.

'Discrimination' within this right encompasses discrimination on the basis of an attribute protected by the *Anti-Discrimination Act 1991*. These attributes include sex, race, age, impairment, religious and political beliefs, sexuality and gender identity. The right also interacts with the general right to equality under section 15 of the Human Rights Act.

The right to take part in public life therefore calls for objectivity and reasonableness within criteria and processes relating to appointments. It also requires consideration of whether the criteria and processes affect people with particular characteristics. However, this right is limited to 'eligible persons', allowing the State to set reasonable and lawful eligibility requirements for appointments to statutory bodies.

The Bill may limit the right to take part in public life by setting eligibility criteria for appointments to the Council and appointment of the Director. The Minister may only appoint a Council member if they have certain skills, experience, and expertise (clause 11). A Council member can be disqualified from becoming or continuing as a Council member (clause 17), if the person:

- is an insolvent under administration;
- is disqualified from managing corporations under part 2D.6 of the *Corporations Act 2001* (Cth);
- has a conviction, other than a spent conviction, for an indictable offence;
- is convicted of an offence against the Bill;
- is a member of the Legislative Assembly;
- is a staff member of the Institute; or
- does not consent to the Minister requesting a report about the person's criminal history.

Similarly, clause 33 of the Bill prescribes eligibility criteria for appointment as the Director of the Institute. The Council may only appoint a person as Director if:

- the person is appropriately qualified;
- the person is not an insolvent under administration;
- the person has not been convicted of an indictable offence, other than a conviction that is a spent conviction; and
- the Minister has approved the person's appointment.

In addition, clause 26 of the Bill introduces further limitations by requiring Council members to disclose any material personal interests in matters being considered by the Council. If the Council determines that the Council member has a material personal interest that conflicts with the proper performance of their functions, the Council member will be prohibited from voting on the matter and from further participating in consideration of the matter, unless the Council directs otherwise. This will limit the right to take part in public life if a conflict is disclosed and the Council member is unable to participate in the Council meeting.

- (b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of the limitation on the right to take part in public life by prescribing eligibility and disqualification criteria for Council members is to ensure that the Council, as a statutory body, will have members with the appropriate skills and expertise to ensure the effective and efficient performance of its functions, including broader management of the Institute. Similarly, prescribing eligibility criteria for the Director ensures that the Institute is led by a person with the appropriate skills and experience to manage the day-to-day administration of the Institute. This is a legitimate objective that aligns with principles of good governance, responsible public administration, and the need for skilled and accountable leadership.

The purpose of prescribing the eligibility criteria for Council members and the Director, and for prescribing the disqualification criteria for Council members, is to ensure that the governance of the Institute is undertaken by individuals with appropriate qualifications, integrity, and independence. These limitations support the effective and efficient performance of the Council's functions, and the responsible exercise of statutory powers.

Prescribing clear criteria for appointment reduces the risk of unfit or unsuitable individuals occupying roles in the Council or Institute and ensures appointments are made on merit. Similarly, the disqualification provisions are designed to protect the integrity of the Council by excluding individuals who may pose a risk to its credibility or effective operation due to a range of circumstances, such as financial and criminal matters. These requirements promote transparency and good governance and are consistent with standards applicable to many Queensland statutory bodies.

The purpose of the conflict of interest procedures is to support good governance of the Council and the Institute. This will ensure that conflicts of interest are appropriately managed and that Council members act with accountability, transparency, and in the best interests of the Council and the Institute. It is crucial that statutory bodies, including the Council, protect the public interest by ensuring that any personal interests of a Council member that could conflict with the performance of their duties are identified and managed effectively. Avoiding and properly managing conflicts of interest is essential to public confidence in the integrity of the Council and the Institute and confidence in the integrity of Council members.

The policy intent of clauses 11, 17, 26 and 33, are consistent with a free and democratic society based on human dignity, equality, and freedom because they contribute to fair and proper governance processes, in line with community expectations for a government entity of the Institute's size and complexity. The limitations on appointment do not result in discrimination on the basis of particular attributes protected under the *Anti-Discrimination Act 1991*.

(c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

The limitations imposed by the Bill have a clear and direct relationship to the objectives of ensuring good governance, public confidence, and the effective operation of the Institute. The eligibility and disqualification provisions in clauses 11, 17, and 33 are necessary to achieving the purpose of appointing suitably qualified individuals to leadership roles within the Council and Institute. The criteria are clearly stated and focus on matters that are relevant to an individual's fitness for public office, such as financial solvency, criminal history, and relevant professional qualifications.

The Minister's role in approving the appointment of the Director under clause 33 ensures an additional layer of scrutiny and accountability for a role that carries substantial public and administrative responsibility.

The conflict-of-interest provisions in clause 26 are specifically designed to protect the integrity and credibility of the Council's decision-making. By requiring members to disclose personal

interests and, where appropriate, abstain from deliberations and voting, the Bill promotes impartiality and good governance. These requirements support accountability and transparency, and address circumstances in which perceived or actual bias is present during deliberations.

- (d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

The Bill takes the least restrictive approach to achieving its purpose. The eligibility requirements for Council members and the Director are not unnecessarily prescriptive and allow for a broad and diverse range of skills and experiences to be considered. They do not exclude candidates on arbitrary or discriminatory grounds and are instead focused on ensuring that appointments are made in accordance with transparent, merit-based criteria.

The requirement for Ministerial approval of the Director's appointment provides a safeguard to ensure accountability in the appointment process, particularly given the strategic and operational significance of the Director's role.

In relation to conflicts of interest, the approach taken in clause 26 is proportionate. It does not automatically exclude individuals with conflicts from partaking in discussions, but instead enables the Council to manage such situations on a case-by-case basis. This ensures flexibility while upholding governance standards.

- (e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

On balance, any limitations to the right to take part in public life imposed by the Bill are reasonable and demonstrably justifiable. The limitations are narrow and directly related to a legitimate objective, and proportionate to the potential impact on individual rights.

As a statutory body with an important purpose of supporting health and medical research, the Council must be governed by individuals who meet high standards of integrity, competence, and impartiality. The eligibility and disqualification provisions, along with the conflict-of-interest framework, are consistent with widely accepted principles of good governance in Queensland statutory bodies.

Accordingly, any limitation of the right to take part in public life under section 23 of the Human Rights Act is considered justified when balanced against the broader public benefit of ensuring sound, ethical, and effective governance.

- (f) any other relevant factors

Nil.

Privacy and reputation (section 25, Human Rights Act)

(a) the nature of the right

Section 25 of the Human Rights Act provides that a person has the right not to have their privacy arbitrarily or unlawfully interfered with. The scope of the right is very broad. The right to privacy protects the individual from all interferences and attacks upon their privacy, family, home, correspondence (written and verbal) and reputation. Any interference with the right that is inconsistent, unreasonable, unnecessary, or disproportionate would limit this right.

The Bill engages the right to privacy and reputation by authorising the collection, use, and disclosure of personal information in specified circumstances relevant to the governance of the Institute.

For example, clause 17 requires Council members to immediately disclose to the Minister, unless the person has a reasonable excuse, certain matters that may affect their continued suitability for appointment. That is, becoming an insolvent under administration, or being disqualified from managing corporations under the Corporations Act. Clause 19 also provides that unless a Council member has a reasonable excuse, they must immediately notify the Minister if they have been charged with, or convicted of, an indictable offence during the term of their appointment.

Similarly, clause 37 requires that a Director must immediately disclose to the Council, unless the person has a reasonable excuse, if they become an insolvent under administration or are charged with, or convicted of, an indictable offence.

Clause 18 further engages the right to privacy and reputation by providing that the Minister may, after obtaining the prospective or current Council members' consent, ask the police commissioner for a written report about their criminal history, and a description of any circumstances provided in this criminal history report.

Clause 26 also engages this right by requiring that Council members disclose material conflicts of interest in relation to any matter being considered at a Council meeting. Where such an interest is identified, the member is prohibited from participating in a vote on the matter and may be prohibited from participating in related discussions unless otherwise directed by the Council. This mandatory disclosure also limits the right to privacy and reputation, as it requires the sharing of information that may relate to a member's financial or personal circumstances.

(b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The limitations on the right to privacy and reputation serve a legitimate and necessary purpose of ensuring the integrity and transparency of public appointments and the good governance of the Council and the Institute.

Members of statutory bodies, including the Council and the Director, hold positions of trust and are responsible for the effective and efficient performance of public functions. There is a clear and compelling public interest in ensuring that there is appropriate oversight and accountability imposed on people who seek appointment, or are appointed, to public office.

The Bill supports this by:

- requiring Council members to disclose relevant matters such as convictions, insolvency, or disqualifications (clauses 17 and 19);
- requiring a Director to disclose relevant matters such as convictions and insolvency (clause 37);
- authorising the Minister, with consent, to obtain criminal history information about prospective or current Council members (clause 18); and
- requiring Council members to disclose material conflicts of interests during council meetings (clause 26).

These provisions help ensure that appointments to the Council are informed by a complete and accurate understanding of the appointee's background, and that conflicts of interest are appropriately managed to support impartial and transparent decision-making.

Similarly, the Director's disclosure obligations in clause 37 reflect the Director's central role in the governance and operation of the Institute and support the Council in assessing the Director's ongoing suitability for the role.

The disclosure requirements for both Council members and the Director reflect well-established governance practices and are designed to protect the integrity of decision-making, minimise risk, and maintain public confidence in the operations of the Institute.

Accordingly, the limitations on privacy and reputation imposed by the Bill are consistent with the principles of a free and democratic society, and are essential to ensuring the Institute and Council can fulfil their roles credibly and effectively.

(c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

There is a direct relationship between the limitations imposed by the Bill and the purpose of ensuring transparent, accountable, and high-integrity governance of the Institute.

Clauses 17, 18 and 19 facilitate the Minister's ability to assess the suitability of Council members by providing mechanisms to obtain and verify key information relevant to the appointment or continued service of members. The ability to request criminal history information (with consent) and the requirement for members to disclose relevant matters are central to ensuring that individuals occupying public roles are fit and proper persons.

Clause 37 extends these integrity protections to the Director by requiring disclosure of relevant matters, such as insolvency or criminal charges. Given the Director's leadership role and

responsibility for overseeing the day-to-day operation of the Institute, these limitations support the Council's ability to respond to potential risks and maintain confidence in the Institute's leadership.

Similarly, clause 26 requires Council members to disclose material personal interests and, where a conflict arises, to refrain from participating in related deliberations or decisions unless otherwise directed by the Council. Imposing a requirement for Council members to declare conflicts of interest and restricting participation in deliberations and voting in circumstances where there is a conflict of interest, supports the accountability of members, transparency of decision making, and the good governance of the Council.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

There are no less restrictive and reasonably available ways to achieve the purpose of the Bill. The mechanisms provided by clauses 17, 18, 19, 26, and 37 are proportionate and targeted, applying only to persons in specific public roles and only in circumstances directly relevant to their suitability to hold office.

The Bill also includes a number of safeguards to minimise the impact of these limitations on privacy and reputation:

- Clause 18(2) ensures that the Minister may only request a criminal history report with the person's written consent.
- Clause 20 provides controls on the use and disclosure of criminal history information, permitting it only where it is necessary for the administration of the Bill, authorised by another law, made with the person's consent, or required by a lawful court or tribunal process.
- Clause 20 requires that criminal history records be destroyed as soon as they are no longer required and provides that any unauthorised use or disclosure constitutes an offence, carrying a maximum penalty of 100 penalty units.

The disclosure obligations in clauses 17 and 19 (for Council members) and clause 37 (for the Director) are carefully drafted to require only relevant and necessary information and are designed to enable appropriate responses to changes in eligibility and appropriateness for these roles.

Additionally, the conflict-of-interest framework in clause 26 is considered the least restrictive way to uphold the integrity of the Council's decision-making processes. This framework allows the Council flexibility to assess the nature and extent of the conflict and respond proportionately, rather than imposing automatic exclusion from discussion on the matter. This approach ensures that the member's right to privacy is only limited to the extent necessary to maintain public trust, accountability, and good governance.

- (e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

On balance, the limitations on the right to privacy and reputation imposed by the Bill are considered reasonable, necessary, and demonstrably justifiable in a free and democratic society.

The limitation is narrowly targeted and confined to persons exercising public functions as a member of the Council or as the Director of the Institute. Importantly, the Bill contains appropriate procedural and legislative safeguards to minimise the extent of the limitation and to ensure that any interference is proportionate to the public interest objective in the Bill.

The ability to assess and verify the suitability of appointees, manage conflicts of interest, and respond to emerging risks is fundamental to maintaining the integrity and functionality of the Institute. These governance provisions support public confidence in the Institute's leadership and ensure that the organisation is well placed to deliver its objectives for the benefit of the community.

Accordingly, the limitations on the right to privacy and reputation under section 25 of the Human Rights Act are balanced appropriately against the need for robust, ethical, and effective governance.

- (f) any other relevant factors

Nil.

Rights in criminal proceedings (section 32, Human Rights Act)

- (a) the nature of the right

Section 32 of the Human Rights Act protects a person's right to be presumed innocent until proven guilty. The right imposes the onus on the prosecution to prove the offence beyond a reasonable doubt. The right may be engaged where legislation provides for an exemption from liability where a reasonable excuse exists.

The Bill limits this right by creating offences containing a reasonable excuse provision, which is considered to reverse the onus of proof. For example, where the Bill prohibits a person from doing something in the absence of a reasonable excuse, it is generally appropriate for the accused person, rather than the prosecution, to provide the necessary evidence of the reasonable excuse.

As outlined above, the Bill imposes an obligation on Council members to immediately disclose to the Minister, unless the person has a reasonable excuse, certain matters that may affect their continued suitability for appointment. These include becoming an insolvent under administration, disqualified from managing corporations because of the Corporations Act, part 2D.6, or being charged with, or convicted of, an indictable offence (clauses 17 and 19).

Similarly, clause 37 imposes obligations on the Director of the Institute to immediately disclose to the Council if they become an insolvent under administration, or are charged with, or convicted of, an indictable offence.

These provisions make it an offence for the person to, without a reasonable excuse, fail to comply with the obligation to give notice, prescribing a maximum penalty of 100 penalty units for the offence.

The purpose of creating these offences is to reinforce the importance of the obligation for Council members and the Director to disclose these matters to the Minister or Council in a timely manner, ensuring that the Minister or Council is made aware of matters that may disqualify Council members and the Director from office. This means that if required, they can take necessary steps to remove unsuitable persons as soon as possible to minimise disruption to the operations of the Council and Institute. The underlying principle is to ensure the integrity of these leadership positions and the Institute.

These offence provisions provide an exemption from liability if the person has a reasonable excuse for not complying with the obligation to disclose. These clauses have been drafted on the basis section 76 of the *Justices Act 1886* applies, such that both the evidential and legal onus to prove the reasonable excuse rests with the Council member or Director. Imposing the legal and evidential burden on a Council member or Director who fails to comply with the obligation to disclose certain matters reverses the onus of proof.

- (b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The existence of the reasonable excuse exception in these provisions ensures individuals are afforded an opportunity to raise an appropriate defence for failing to comply with an obligation. Reversing the onus of proof in these circumstances is considered appropriate as the person subject to the offence is best placed to provide the relevant information that would support the existence of a reasonable excuse defence. As stated above, the offence provisions are included to ensure the integrity of Council members and the Director and ensure the Minister and Council are aware of matters that may disqualify a person from continuing as a Council member or Director. This is imperative for the orderly functioning and management of the Institute.

- (c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

Given the policy intent of the offence provisions to maintain the integrity of the Institute and public trust in Council membership and the Director position, this approach is considered reasonable and justified. The limitation applies only to those who are appointed as a Council member or Director, and only in relation to disclosing information which directly impacts on their ongoing suitability for the role.

- (d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

The provisions in the Bill are the least restrictive way to achieve the identified purposes. In the absence of reasonable excuse exceptions, the prosecution would be forced to prove the negative, that is, that the accused did not have a reasonable excuse – a task that could cause the prosecution real difficulties. As the facts of the defence of reasonable excuse are entirely within the defendant's knowledge, the reasonable excuse exceptions in the Bill strike a fair balance between the rights of the person subject to the offence and the purpose of the provisions in ensuring the integrity of the Council member and Director positions.

- (e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

As outlined above, it is in the public interest that the membership of public bodies be open to scrutiny by the Minister and Council, and that obligations are imposed on Council members and the Director to disclose matters that would disqualify a person from those positions.

Reversing the onus of proof in these limited circumstances and only for these defined positions is considered reasonable given the purpose of the provisions in ensuring the integrity of the Council member and Director positions and the Institute as a whole.

- (f) any other relevant factors

Nil.

Conclusion

In my opinion, the Bill is compatible with human rights under the Human Rights Act because it limits the identified human rights only to the extent that is reasonable and demonstrably justifiable in a free and democratic society based on human dignity, equality and freedom.

THE HONOURABLE TIMOTHY NICHOLLS MP
MINISTER FOR HEALTH AND AMBULANCE SERVICES