

## Discipline applications

This factsheet describes discipline applications and the processes relating to the commencement and conduct of a discipline application before either the Legal Practice Tribunal or Legal Practice Committee.

### What is a discipline application?

A discipline application is a document submitted by the Legal Services Commissioner to either the Legal Practice Tribunal or Legal Practice Committee, to commence disciplinary proceedings against a lawyer or their employee. The application sets out the details of the lawyer's (or employee's) conduct which, in the Commissioner's assessment, amounts to professional misconduct or unsatisfactory professional conduct.

### Our role

The *Legal Profession Act 2004* (the Act) established the Legal Services Commission as the sole body responsible for receiving and managing the investigation of complaints about the conduct of legal practitioners and law practice employees (referred to as the *respondent* in a disciplinary case).

The Commissioner acts as an independent statutory officer and investigates complaints received. At the conclusion of an investigation, the Commissioner must make a decision whether or not to file a discipline application with the Legal Practice Tribunal or Legal Practice Committee, in accordance with section 276 of the Act.

### Decision to prosecute

Before the Commissioner can file a discipline application against a lawyer or law practice employee the Commissioner must be satisfied that:

- the evidence obtained during the investigation is sufficient to establish a reasonable likelihood that the respondent will be found guilty of either unsatisfactory professional conduct and/or professional misconduct, and
- it is in the public interest to do.

The Commission has prepared prosecution guidelines that include a description of how these decisions are reached. A copy of the guidelines can be found on the Commission's website.

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The Commissioner commences disciplinary action for the protection of the public and not on behalf of an individual complainant.

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### General process

Once the decision to prosecute has been made, the Commissioner will file a discipline application with either the Legal Practice Tribunal or Legal Practice Committee. After filing the discipline application, a copy will be served on the respondent. The Commissioner will also send a letter to the person who made the complaint (the complainant) informing them of the decision to prosecute and attaching a copy of the discipline application.

The respondent has 14 days to respond by filing a *notice of address* on both the Commissioner and the relevant disciplinary body. A directions hearing is held about six weeks after the discipline application is served. The purpose of the directions hearing is to:

- determine the issues in dispute
- determine the anticipated length of the hearing
- establish a timetable for when material is required to be filed.

When the Commissioner and the respondent have prepared their respective cases, the discipline application will be listed for hearing. In the event that the hearing is contested, both the Commissioner and the respondent must:

- File all affidavit material with the Tribunal or Committee in accordance with any directions order or in any event no more than five days before the hearing.

- Serve a list of documents on the opposing party within 14 days of the hearing.
- File with the relevant disciplinary body and serve on the other party a list of witnesses required for evidence within three days of the hearing date.

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**Step 1**

**Discipline application filed.**

**Step 2**

**Copy served on respondent and copy sent to complainant.**

**Step 3**

**Directions hearing.**

**Step 4**

**Preparing for the hearing.**

**Step 5**

**The hearing.**

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### **The hearing**

The Tribunal and Committee do not have regular sittings. Both parties will be notified of the hearing date by either the Registrar of the Tribunal or the Secretariat of the Committee.

If the respondent is not contesting the application, it has become the practice of both the Tribunal and the Committee to receive any written submissions in the week prior to the hearing date. This assists with the application being determined quickly on the hearing date.

Hearings generally start at either 9.30am or 10.00am.

The Tribunal hears discipline applications in the Supreme Court Complex located at 304 George Street, Brisbane.

The Committee hears discipline applications in several court locations around Brisbane.

### **Common questions**

#### **Is there assistance for lawyers who are the respondent to a discipline application?**

For solicitors, the Queensland Law Society offers members subject to complaint three hours' legal advice from senior practitioners experienced in disciplinary matters. If you wish to obtain further information about this service, please contact the Society, telephone 0 3842 5888.

#### **Where can you get more information?**

If you have any questions regarding this information or wish to enquire about the role of the Legal Services Commission, please visit the LSC website or contact the Commission on:

Telephone: **07 3406 7737** (Brisbane)  
**1300 655 754** (outside Brisbane)  
**133 677** (if you require the use of the National Relay Service)  
**131 450** (if you require a translator/interpreter)

For more information visit the Legal Services Commission website <[www.lsc.qld.gov.au](http://www.lsc.qld.gov.au)>.