

PRACTICE DIRECTION NUMBER 2 OF 2008

LEGAL PRACTICE COMMITTEE

DISCIPLINE APPLICATIONS – CASE MANAGEMENT

Practice Direction 1 of 2008 is repealed

Under section 640(2) of the *Legal Profession Act 2007* (“*Act*”) the Chairperson or the Deputy Chairperson of the Legal Practice Committee (“*Committee*”) may issue directions of general application about the Committee’s procedures.

This Practice Direction is intended to streamline the Committee’s procedure. In particular, it is intended to secure the early delineation of the extent to which, if at all, matters alleged by the Legal Services Commissioner will be in issue.

The Secretariat of the Committee (“*Secretariat*”) is the person(s) appointed by the Commissioner to provide administrative support for the Committee pursuant to section 625 of the Act.

A Discipline Application will be dealt with as follows:

1. The Commissioner will file a Discipline Application in the approved form (*copy attached*) with the Secretariat. It is not necessary to file any affidavit material supporting the Discipline Application at that time.
2. The Secretariat will give the Commissioner a sealed copy of the Discipline Application, for service on the respondent.
3. The Respondent must file with the Secretariat, and serve on the Commissioner and any other party, a notice of address for service within 14 days of service of the Discipline Application.
4. Within 28 days of the filing of the Notice of Address for Service, the Respondent must file in the Registry and serve on the Commissioner a Statement specifying which of the allegation and particulars contained in the Discipline Application are admitted, which are denied, or any allegations or particulars which can not be admitted, specifying the reason for the non-admission.
5. Should the Respondent’s position in relation to the matters in paragraph 4 change subsequently, the Respondent must forthwith advise, in writing, the Secretariat and Commissioner of that circumstance and reason for the change.

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6. The Committee may in an appropriate case, take account of the Respondent's compliance, or non compliance, with this Practice Direction in determining the order to be made in the event that any professional breach is established.
7. The Secretariat will organise a preliminary directions hear (“*Case Management Conference*”) if required, within 6 weeks of filing and service of the Notice of Address for Service by the Respondent. When hearing dates are allocated, the Secretariat will provide written notification of those dated to the Commissioner and the Respondent.
8. At the Case Management Conference, the Chairperson or the Deputy Chairperson will be responsible for managing the case and giving directions. Wherever possible, Discipline Applications will be managed in one of two ways:
 - the Discipline Application may be referred directly to hearing without any requirement that the parties file any material in addition to the original Discipline Application; or
 - the parties may be directed to file and exchange affidavits, and to lodge and exchange submissions or other material, and when that is done a hearing date will be set.
9. At the Case Management Conference, the Chairperson or Deputy Chairperson may:
 - confer with the parties to endeavour to narrow the issues in dispute and confirm any facts which may be included in a Statement of Agreed Facts to be prepared jointly by the parties;
 - make directions setting out the steps required of the parties to prepare for the hearing (directions will normally cover the filing and exchange of affidavits, and lodgement and exchange of submissions or other material);
 - make rulings on issues of law and/or procedure;
 - set a date for further directions and/or for hearing the Discipline Application.
10. To facilitate the Case Management Conference, the parties will provide each other with a list of the directions sought at least three days before the date of the Case Management Conference.

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11. At any other time, the Secretariat may convene a directions hearing, usually by telephone, to decide what steps need be taken before the matter can be heard.
12. The address for service of the Secretariat is c/- Legal Services Commission, Level 25, 307 Queen St, Brisbane 4000.

P. Cooper
11/11/08
Peter Cooper
Chairperson
