

Our strategic and performance plans

EFFECTIVE REGULATION 2016 - 2019

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Abbreviations and Acronyms

Abbreviation	Description
BAQ	Bar Association of Queensland
LPAB	Legal Practitioners Admissions Board
LSC	Legal Services Commission – Queensland
QLS	Queensland Law Society
QCAT	Queensland Civil and Administrative Tribunal
RTI	Right to Information

The report should also be read in conjunction with the Glossary (located on our website) which defines the key terms ('enquiry', 'complaint' etc.).

Our Vision

To regulate the legal profession with fairness and transparency in order to ensure the best outcome possible in the public interest. We will take disciplinary action when it is appropriate to do so however, where possible and appropriate an educative and preventative approach will be employed.

To be well-informed, focussed, determined, fair and accountable.

To continue to value our independence but employ a responsive, open and consultative, philosophy in our operations.

Our Purpose

The LSC has two fundamental and overlapping purposes:

to give users of legal services an independent, timely, effective, fair and reasonable means of redress for complaints and;

to promote, monitor and enforce professionally appropriate standards of conduct in the provision of legal services.

These two purposes serve the even more fundamental purpose to help protect and promote public confidence in the legal system, the administration of justice and the rule of law.

We seek to achieve our purposes by:

- Facilitating outcomes to complaints between complainants and their lawyers.
- Investigating complaints which involve a disciplinary issue or a contravention of relevant law.
- Initiating 'own motion' investigations into conduct we have reasonable grounds to believe may involve a disciplinary issue or other significant wrongdoing.
- Supporting and as appropriate auditing law firms to help them develop and maintain appropriate management and supervisory systems and an 'ethical infrastructure'.
- Initiating disciplinary or other enforcement action when it is warranted by the evidence after investigation and in the public interest.
- Engaging with, and sharing knowledge and perspective with the profession, consumers and stakeholders to help improve standards of conduct in the provision of legal services.
- Creating and maintaining a productive, motivating and professional work environment.

Our Values

We strive to do our best at all times, we behave in ways that demonstrate efficiency, competency and equality. We are committed to our 5 core values:

Respect: ourselves and those around us.

Innovate: encourage and embrace new methods and ideas.

Transparency: working collaboratively and collectively.

Collegiality: united for the common purpose, while respecting each other's abilities.

Performance: drive with intention and lead to empowerment through knowledge.

1. Overview

- 1.1 The Legal Services Commissioner plays an integral role in the regulation of the provision of legal services in Queensland along with the LPAB, QLS, BAQ, the disciplinary bodies and the Courts.
- 1.2 The Commissioner's core responsibilities in supporting the statutory objectives of the *Legal Profession Act 2007* are:
 - To assist consumers with enquiries and provide advice as to where and how disputes with lawyers or legal practices may be mediated.
 - To receive complaints and undertaking investigations about lawyers, law practice employees and unlawful operators.
 - To undertake own motion investigations in the public interest.
 - To pursue disciplinary or other litigation arising from investigations.
 - To supervise the compliance of law practices with the Act and professional obligations.
- 1.3 The LSC will concentrate on these core responsibilities for 2016-2019.
- 1.4 Though our role remains unchanged from what we set out in our previous strategic plans, we recognise that we should always seek to improve.
- 1.5. The key pillar of our strategic plan for 2016-19 is to be an effective regulator. The Commission's approach, as it has always been, is to seek better regulation not more regulation. Ultimately, effective regulation not only helps consumers but also lawyers in providing competent legal services, improved professionalism and ethical decision making.
- 1.6 In order to improve the effectiveness of our regulation and the efficiency with which we perform our core business we need to continue to find better ways of doing things. Given the changing environment in which we operate we cannot continue to simply rely on doing things the same way as before.
- 1.7 We will continually review our operations to identify any improvements that can be made to the standard of regulation and how the current regulatory framework can better promote the statutory objectives and the public interest. We want to make sure that the way we regulate is in accordance with best regulatory practice and principles. In particular, we are exploring ways in which we can secure good outcomes but with less regulatory burden on practitioners.

2. Statutory Objectives

- 2.1 The statutory objectives set out in the *Legal Profession Act 2007* provide the framework in which we approach all of our work and underpins our decision making.
- 2.2 The Act makes it clear that the purpose of regulation in the context of legal services is to:
- protect the interests of the administration of justice and so support the rule of law
 - protect and promote the public interest
 - protect consumers of legal services
 - provide a means of redress for consumers
 - promote the professional standards, competence and honesty of the legal profession
 - enforce professional standards of the legal profession.
- 2.3 In performing our role we will have regard not only to these objectives, but also to the principles of best practice in handling complaints, regulation and governance.
- 2.4 All the strategies and activities we have identified in the following pages are designed to ensure that we promote and support these objectives and principles.

3. Our Fundamental Purpose

- 3.1 We see our fundamental purpose as being to deliver effective and high quality regulation of legal services in the public interest.
- 3.2 To better understand our purpose it is important to know what is meant by “regulation”. Many people think of it in terms of making rules and laws. That is not our role - the Commissioner does not make law or rules. That is the responsibility of Parliament, the Courts and Professional Bodies.
- 3.3 When we talk about regulation we mean not only effective complaint handling but also the supervision and enforcement of those rules and laws as they apply to the people and entities we regulate -
- (a) lawyers
 - (b) government lawyers
 - (c) law practice employees
 - (d) corporations and
 - (e) unlawful operators.
- 3.4 Finally, in performing our role, we must always act in the public interest. It will be the public interest which informs our decisions and activities rather than the subjective interests of consumers, lawyers or professional groups.

4. Our Approach

4.1 We are committed to the principles of best regulatory practice and these inform how we go about our work and make our decisions. We aim to ensure that our actions are:

- effective
- independent, transparent, consistent and accountable
- proportionate and do not impose any needless regulatory burdens on lawyers or law practices
- pragmatic and outcomes focussed
- fair and determined.

4.2 We aim to enhance the effectiveness of our regulation by:

- working as a team
- investing in our people and workplace culture
- ensuring that we act professionally, are well trained, knowledgeable and well informed
- continually improving
- engaging with our stakeholders.

4.3 For 2016-2019 we will pursue six strategies which we believe support the objectives set out in the Act and which will be underpinned by our approach. All activity undertaken by the Commission during that time will be linked to one or more of these strategies:

1. Delivering an efficient and effective system for dealing with enquiries and complaints.
2. Being proactive – Own Motion Investigations.
3. Effective Supervision – preventing, detecting and deterring misconduct.
4. Undertaking fair and consistent disciplinary or enforcement action.
5. Engage constructively and collaboratively with all our stakeholders.
6. Pursue organisational excellence.

Strategy 1: Delivering an efficient and effective system for dealing with enquiries and complaints

1.1 This is our core regulatory function. Our strategy is to ensure that we provide a high quality and professional service to those with whom we deal – consumers, complainants and lawyers equally.

What we will do:

Action	Activities and Deliverables
Enquiries	<ul style="list-style-type: none"> ▪ Respond to 80% of enquiries within 1 working day of receipt and 100% within a median time frame of 2 working days. ▪ Finalise 90% of enquiries within 2 months of receipt and 100% within 6 months. ▪ Obtain redress where appropriate. ▪ Improve our data collection of enquiries to support performance reporting.
Assessment of complaints	<ul style="list-style-type: none"> ▪ Assess 90% of new complaints within 1 month of receipt and 100% within 2 months.
Investigations	<ul style="list-style-type: none"> ▪ LSC to undertake investigations. ▪ Monitor the outcomes we achieve, including the nature and extent of any redress and the extent to which we identify systematic risks and issues which adversely affect consumers and then plan and implement targeted remedial strategies. ▪ Finalise 75% of conduct matters within 6 months of receipt and 100% within 18 months with the median timeframe being less than 6 months.

Strategy 2: Proactive regulation - own motion investigations

- 2.1 Under the Act, the Commissioner may commence an own motion investigation if there is a reasonable belief that a lawyer's behaviour may amount to unsatisfactory professional conduct or professional misconduct.
- 2.2 The power to commence an own motion investigation is therefore an important one. It enables the Commissioner to investigate conduct that has not attracted a complaint and, in those circumstances, is an important consumer protection power which meets a number of the regulatory objectives.

What we will do:

Action	Activities and Deliverables
Own Motion Investigations	<ul style="list-style-type: none">▪ Monitor and analyse media comments, judicial decisions as well as audit trust account investigation and complaints data to identify conduct which justifies starting an own motion investigation.▪ Finalise 75% of own motion investigations within 6 months of initiating the investigation and 100% within 18 months.▪ Seek to identify unlawful operators.▪ Seek to identify law practices in breach of personal injury advertising restrictions.▪ Improve data collection on own motion investigations in respect of show cause notices to support performance reporting.

Strategy 3: Effective supervision - preventing, detecting and deterring misconduct

3.1 The Commission intends to broaden its supervisory activities over the next three year period through increased monitoring of complaints and other data. This strategy is designed to prevent, detect and deter misconduct. It is a further step in development of the Commission's proactive approach to management-based regulation.

What we will do:

Action	Activities and Deliverables
Monitoring	<ul style="list-style-type: none">▪ Monitor trends in enquiries, complaints, investigations, audits and to identify systemic issues and plan and implement remedial strategies.▪ Ensure the Commission's data is accurate to support evidence-based decision making.
Compliance Audits	<ul style="list-style-type: none">▪ Initiate contact with every new incorporated legal practice within 1 month of commencement.
Diversion from Discipline	<ul style="list-style-type: none">▪ In consultation with the QLS, implement a program of management based regulation to divert practitioners from disciplinary proceedings.

Strategy 4: Undertaking fair and consistent disciplinary or enforcement activities

- 4.1 The LSC commences disciplinary proceedings in QCAT or the Legal Practice Committee where, after considering all the relevant evidence and circumstances, the Commissioner decides a discipline application is the most appropriate way to achieve the statutory objectives and purposes of the Act.
- 4.2 The LSC will take other enforcement action such as seeking declaratory/injunctive relief or commencing criminal proceedings in the Courts when that is in the public interest.
- 4.3 Being an effective regulator depends in part on how well we use our disciplinary and enforcement powers. This strategy focuses on ensuring that when disciplinary or enforcement activity is needed, the Commission's actions are fair, proportionate and consistent.

What we will do:

Action	Activities and Deliverables
Discipline Applications	<ul style="list-style-type: none"> ▪ File 80% of discipline applications within 3 months and 100% within 6 months of deciding to initiate disciplinary proceedings. ▪ Analyse the number of charges proved/not proved. ▪ Report on the number and amount of adverse costs orders. ▪ Improve our recovery of our legal costs and so support better cost efficiency. ▪ Improve data collection of our attendances at Compulsory Conferences and Directions Hearings to support performance reporting. ▪ Update the discipline register following a finding of professional misconduct. ▪ Publish on our website every decision of the disciplinary bodies and other regulatory decisions that are relevant to our work ▪ Implement a formal prosecutions review procedure to identify any improvements in our systems and processes.
Enforcement Action	<ul style="list-style-type: none"> ▪ Initiate civil litigation in the public interest when appropriate. ▪ Commence criminal proceedings against unlawful operators when appropriate.

Strategy 5: Engage constructively and collaboratively with all our stakeholders

- 5.1 The Commissioner has a range of external stakeholders including other legal services regulators, law schools, the professional bodies, the disciplinary bodies, individual lawyers, law practices as well as the Department of Justice & Attorney-General.
- 5.2 All of these are important relationships for us and all assist us in being an effective regulator. Through our relationships we are able to better communicate what we know and so drive improvements within the profession as well as inform policy or debate.

What we will do:

Stakeholder	Activities and Deliverables
Legal Services Regulators	<ul style="list-style-type: none"> ▪ Meet regularly with other CEOs ▪ Meet with interstate investigators, dispute resolution teams and compliance lawyers. ▪ Answer enquiries from other States and Territories. ▪ Information sharing with other States and Territories.
Professional Bodies	<ul style="list-style-type: none"> ▪ Meet regularly with the professional bodies. ▪ Update our Memoranda of Understanding with the QLS and the BAQ under which we will share information. ▪ Contribute speakers to continuing legal education programs and professional conferences. ▪ Publish in consultation with the QLS guidance statements.
Department of Justice & Attorney-General	<ul style="list-style-type: none"> ▪ Meet regularly with officers of the Department.
Law Practices	<ul style="list-style-type: none"> ▪ Contribute speakers to in-house continuing legal education programs within law practices. ▪ Work with law practices in identifying best practice in complaint handling and appropriate management systems. ▪ Assist law practices with queries about compliance issues.

Communicating what we know	<ul style="list-style-type: none">▪ Implement a new Communications Plan.▪ Update our website content to allow us to share information with consumers and stakeholders more effectively.▪ Publish and make readily available a wide range of plain English documents describing the system for dealing with complaints and our regulatory responsibilities.▪ Contribute to the development of legislative, policy and regulatory reforms and practices relevant to our work.
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Strategy 6: Pursue organisational excellence

6.1 The key to the success of the Commission is ensuring that it continues to be a good place to come to work and where the workplace culture is one of respect, innovation, openness, collegiality and performance. We strive to be a model regulator adopting continual improvement and best practice. The activities identified below all seek to support that workplace culture.

What we will do:

Action	Activities and Deliverables
Knowledge Management	<ul style="list-style-type: none"> ▪ Review and refine our Knowledge Plan. ▪ Revise and refresh our training and CPD activities. ▪ Ensure that all lawyers comply with the Government Lawyers CPD scheme. ▪ Monitor legislative, case law and other developments. ▪ Share legislative, case law and other developments through monthly intranet updates. ▪ Review and refresh our document generation system. ▪ Network with stakeholders or join related membership bodies to maintain and develop awareness of current legal profession challenges and changes.
Continual Improvement and Quality	<ul style="list-style-type: none"> ▪ Monitor and continually improve our business systems, processes and practices; ▪ Complete a systematic review of our operations, systems, processes and performance to identify areas for improvement. ▪ Update our Grievance procedures. ▪ Revisit and where required refresh internal policies and procedures.
Workplace Culture	<ul style="list-style-type: none"> ▪ All staff to have at least 1 professional development planning meeting and 1 review meeting with their manager per year. ▪ All staff to undertake at least 2 days of professional development activities per year. ▪ Preserve our current respectful, open and collegiate workplace culture. ▪ Monitor staff turnover and sick leave. ▪ Team climate assessed by staff feedback.

Corporate Governance

- Management meetings to be held monthly.
- Ensure that we are cost efficient and within budget.
- IT system meetings to be held regularly.
- Complete a systematic review of our operations, systems, processes and performance to identify areas for improvement.
- Effective communication of policies and procedures.
- Ensure legislative and compliance requirements are met.
- Consistency of approach/interpretation of policies and procedures through regular employee training and development.