

Information for Complainants

August 2014

Version 1

Introduction

This fact sheet is for complainants who deal with us.

It will help you understand:

- Who we are
- What we do
- What you can expect from us
- How you can help us
- What you can do if you are not satisfied.

Please make sure you read it carefully.

This is an important document: please keep it in a safe place for future reference.

Our role

The Commission was established under the *Legal Profession Act 2007* (“**Act**”) and is the sole body responsible for receiving and managing the investigation of complaints about the conduct of lawyers, law practice employees and unlawful operators.

This is a free service.

Our business details

The Commission’s office is at Level 30, 400 George Street, Brisbane.

Email: lsc@lsc.qld.gov.au

Website: www.lsc.qld.gov.au

Telephone: 1300 655 754 or
(07) 3406 7737

The normal hours of opening at our office are between 9:00am and 5:00pm on weekdays.

If you need to contact the officer allocated to your complaint please call our office and simply quote your reference number (located at the top right hand side of the letter accompanying this material) to one of our client service officers and they will be able to transfer you to the officer handling your complaint.

What we will do now

The Commission will initially assess your complaint and, if further information is required, someone will call you or write to you. We will let you know if we cannot deal with your complaint and explain why. If your complaint is accepted by the Commission, the Commission may refer your complaint to the Queensland Law Society or the Bar Association of Queensland for investigation.

In certain circumstances the Commission may informally assist the parties to reach an agreed outcome. However, you should be aware that the Commissioner has no powers to decide how disputes should be resolved, or to impose a solution, merely to encourage and assist the parties in dispute to come to an agreement that is acceptable to both sides. Much of this process is conducted by telephone or email with a view to resolving things at the earliest possible opportunity.

If the decision is made to commence an investigation, the Legal Services Commissioner aims to complete most investigations within 6-9 months. Where the allegations are serious or complex, then the time for finalising the investigation may be longer than this.

You can find further information about the Commission, including our role, responsibilities and answers to frequently asked questions on our website at www.lsc.qld.gov.au.

What we cannot do

We commonly receive complaints about the following matters. If your complaint relates to one of the following issues the Commission may not be able to help you:

- Disputes over legal costs

If you wish to dispute the costs a legal practitioner has charged you must apply to the court for a costs assessment. There is a specific procedure which you must follow and strict time limits apply. More information is available on the Queensland Government’s court website at www.courts.qld.gov.au.

- Allegations of negligence

A claim for negligence is a civil action that allows a person to claim compensation in the form of damages if the necessary elements of the action are proved.

As negligence is a civil claim, this is a matter for the courts, not the Commission. The Commissioner does not have the power to “hear” a claim for negligence, make findings about whether the elements of a negligence claim have been proved, or to award damages. A solicitor is best placed to advise you in this area.

- Requests for legal advice

Please note that the Commissioner has no power to deal with the underlying legal issue or issues that caused you to visit the practitioner in the first place. In addition, the Commission cannot provide you with legal advice, intervene in any court proceedings in which you may be involved, or force a lawyer to do anything that they are not compelled to do by the Act.

A Community Legal Centre may be able to assist you with free legal advice. A full list of centres is available at www.qails.org.au.

What can you expect from us?

We will:

- treat you with courtesy, consideration and respect
- be fair and reasonable and behave with integrity and honesty
- act impartially
- seek to answer your concerns, problems or complaints as quickly as possible
- listen to your feedback to continue improving our service
- collect, store, use and disclose your personal information in accordance with relevant law
- inform you about, and to explain, decisions that affect you.

If you wish to contact the officer handling your matter, but find that he/she is unavailable please simply leave a message on their voicemail or contact email. We endeavour to get in contact with you within 24 - 48 hours.

How can you help us?

To help us deal with your complaint, we ask that you:

- treat our staff with courtesy and respect
- provide us with all information we request within the specified timeframe
- provide the reference number of your complaint if you are contacting us regarding your matter
- give us the details of any change in your contact details as soon as possible
- tell us if you have special requirements, such as needing interpreter assistance or if you require large print on letters or documents
- ask us if you are not sure about anything
- keep in regular contact – don't feel afraid to ask for a progress report if you are worried about anything.

We ask that you treat us with the same courtesy, consideration and respect we are expected to give you. If we are subjected to rude or abusive behaviour, we may end an interview or phone call or we may choose to deal with you by correspondence only.

You should also appreciate that we act impartially in dealing with complaints. This means that we do not represent either the complainant or the lawyer. Though we will always take your views into account, we do not take instruction or direction from you as to how your complaint is handled.

Information Privacy and Right to Information

Confidentiality

Please note that the Act makes it an offence for a person to disclose information obtained in the course of dealing with your complaint except in very limited circumstances.

We also ask you to respect the confidentiality of the process and in that way help ensure that it is fair and seen to be fair to everyone concerned.

Privacy

We are committed to protecting your privacy and keeping your information confidential in accordance with the *Information Privacy Act 2009*.

In administering the Act, we collect information about you. We may get this information from you or from other parties.

In some circumstances, the Act allows us to disclose your information to others for specific purposes. For example, during the course of an investigation your details will be provided to the respondent and potentially third parties if that is necessary to undertake the investigation. You can also authorise us to discuss your complaint with others, including partners, legal representatives and support people.

Your personal information will not otherwise be disclosed unless you consent or the disclosure is required or authorized by law.

If you think that your privacy or the confidentiality has been breached because of our actions, your first step should be to try to resolve it with the Commission officer you have been dealing with or the Director, Investigations. If you remain dissatisfied with how we deal with your concerns about privacy, then you may make a privacy complaint to the Office of the Information Commissioner.

Our full privacy statement can also be viewed on our website at www.lsc.qld.gov.au.

Emails

The Commission uses email routinely to contact you as well as the respondent (or others). Obviously, whilst we have normal levels of security in place we cannot guarantee that these communications will not be intercepted by a third party.

If you have provided us with your email address we will use email correspondence and may send any material relevant to your complaint (which may contain confidential information) to you. Likewise, we may use email correspondence in our dealings with the respondent and others regarding your complaint.

You accept the risk that email communications are not secure.

Access to documents

Subject to the provisions of the *Right to Information Act 2009*, access to documents in the possession of the Commission may be allowed. Requests for access to documents should be directed to:

The Right to Information Officer
Legal Services Commission
PO Box 10310 Adelaide Street
Brisbane Qld 4000

Feedback and Complaints

You can give us feedback at any time – whether positive or negative - by contacting the officer you were dealing with or by emailing lsc@lsc.qld.gov.au.

Your feedback will help us continually improve our services.

What happens if you are unhappy with how we dealt with you?

We aim to provide a courteous and efficient service in all respects. If, however, you have any queries or concerns about our work, please raise them in the first instance with the officer you were dealing with. If you feel that they are not able to resolve the problem then you should contact the Director of Investigations. If that does not resolve the problem to your satisfaction then please put your concerns in writing and a formal complaints process may be undertaken.

For more information on how to raise concerns about our conduct, please see the Commission's website at www.lsc.qld.gov.au under *Complaints* in the top toolbar.

What can I do if I am not happy about the Commissioner's decision?

If you think a decision made by the Commissioner to close a complaint is wrong, please raise your concerns in the first instance with the officer you were dealing with. If you feel that they are not able to satisfy your concerns you can request that the Commissioner reconsider the decision. Please make your request within 28 days of receiving the original decision (or ask for an extension if you need more time).

Whilst the Act does not contain express provisions allowing an "appeal" from the Commissioner's decisions, he may exercise his discretion to reconsider the matter.

A request to reconsider a decision must be in writing and address the following:

- The reason(s) you do not agree with that decision; and
- any new information that is relevant to the complaint.

Send your request for a reconsideration to:

Director of Investigations
Legal Services Commission
PO Box 10310 Adelaide Street
BRISBANE QLD 4000

If after receiving a response to your request you are still dissatisfied you may refer the matter to the State Ombudsman if you are of the view that there has been an administrative error in the decision-making process. The contact details for the Queensland Ombudsman are:

Level 17, 53 Albert Street
Brisbane QLD 4000
GPO Box 3314
Brisbane QLD 4001

Tel: 07 3005 7000
Toll Free (Landlines only): 1800 068 908
Fax: 07 3005 7067
Email: ombudsman@ombudsman.qld.gov.au

Alternatively, you may also wish to seek independent legal advice as to whether there are grounds to consider judicial review of the Commissioner's decision.

If you intend on making a complaint to the Queensland Government, the appropriate minister would be the Attorney-General.

Conclusion

We hope that by sending this statement we have addressed any immediate questions about the day-to-day handling of your complaint. If you still have any questions, please do not hesitate to get in touch with the officer assigned to your matter.