

Compensation Orders

This fact sheet describes compensation orders and how they are made.

Who makes a compensation order?

A *Compensation Order* is made by a disciplinary body (either the Queensland Civil and Administrative Tribunal (QCAT) or Legal Practice Committee).

When will a compensation order be made?

If you make a complaint to the Legal Services Commission, the complaint will be considered and may be investigated further. At the end of the investigation, the Commissioner decides whether or not there is enough evidence to commence disciplinary proceedings against the lawyer in either the QCAT or Legal Practice Committee. The QCAT or Legal Practice Committee may make a compensation order if it finds that:

- the lawyer's conduct is found to be either unsatisfactory professional conduct or professional misconduct.

The Legal Services Commissioner does not have the power to make orders for compensation.

Any compensation ordered is payable by the law practice. Compensation orders are not intended to help you reach your original legal goals. If the conduct of your lawyer has resulted in significant financial losses on your part, you may need to consult another lawyer regarding your rights and remedies to recover costs.

COMPENSATION ORDERS

✓ CAN:	✗ CANNOT:
✓ recover important documents	✗ compensate you for distress
✓ stop your lawyer seeking payment of legal fees	✗ compensate you for damage to your reputation
✓ order your lawyer to provide certain legal work for free or for a fixed fee	✗ compensate you for psychological injuries
✓ repay you part or all of the professional fees already paid to your lawyer	✗ guarantee full compensation for all financial losses
✓ compensate you for financial loss up to \$7,500.00	

Some examples

The table below shows some examples of when a compensation order may be issued.

COMPENSATION ORDERS	
SITUATION	OUTCOME
<ul style="list-style-type: none"> The law firm promised services to you which were not diligently or competently carried out. You are being sued by your law firm for the recovery of legal fees for that work. 	<ul style="list-style-type: none"> You may receive a compensation order preventing the recovery of those legal fees.
<ul style="list-style-type: none"> You have already been sued by your law firm for legal fees and have paid that amount to the firm. 	<ul style="list-style-type: none"> You may receive a compensation order for your fees to be repaid to you.
<ul style="list-style-type: none"> You have retained another law firm to act on your behalf following the unsatisfactory professional conduct or professional misconduct of your previous lawyer. 	<ul style="list-style-type: none"> You may receive a compensation order to reimburse you for the legal costs of your new law firm up to \$7,500.00.
<ul style="list-style-type: none"> Your lawyer has failed to complete the sale or purchase of a house on time. This has been due to either unsatisfactory professional conduct or professional misconduct by your lawyer. This caused you to lose your \$5,000.00 deposit. 	<ul style="list-style-type: none"> You may receive a compensation order to reimburse you for the loss of \$5,000.00.

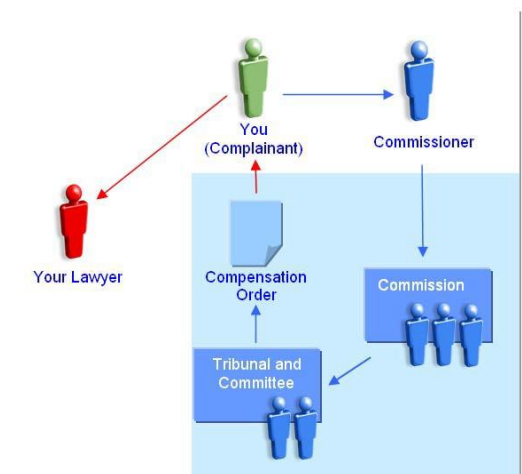
Common questions

What role does the Commission play?

The Commission may assist complainants to seek compensation. To begin the process:

- you need to complete an affidavit
- you may be required to give evidence before either the QCAT or Legal Practice Committee.

A legal officer from the Legal Services Commission can assist you in preparing the affidavit. Of course, you may wish to have your own legal representative assist you in making a claim for compensation.



Note: Though the Commissioner may assist you with a claim for compensation before a disciplinary body, the Commissioner does not act on your behalf.

Compensation orders for financial loss (pecuniary loss)

Most orders are for financial loss. They may include:

- legal fees payable to your new law firm
- money lost as a direct result of your current lawyer's conduct.

The maximum compensation order for financial loss is **\$7,500.00**. The amount is limited by the *Legal Profession Act 2007*.

Will a compensation order affect other legal avenues?

No.

An amount awarded by a compensation order does not affect any other legal avenues you may choose to pursue or their outcome. However, the amount awarded will be taken into account in any other legal proceeding relating to the same loss.

What if the firm does not comply with the compensation order?

When compensation orders are made by the QCAT or Legal Practice Committee they may be enforced through filing the order in the appropriate court. Once the order has been filed, you can take steps to have the order enforced. The Commission does not assist in the recovery or enforcement of your compensation order. If the firm does not comply with the compensation order you should seek independent legal advice.

Where can you get more information?

If you have any questions or require further information, please contact the Legal Services Commission or the legal officer responsible for your complaint on:

Telephone: **07 3564 7726** (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).