

Discipline Applications

This fact sheet describes discipline applications and the processes relating to the commencement and conduct of a discipline application before either the Queensland Civil and Administrative Tribunal (QCAT) or Legal Practice Committee.

What is a discipline application?

A discipline application is a document submitted by the Legal Services Commissioner to either the QCAT 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 2007* (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.

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 of finding that the respondent's conduct was either unsatisfactory professional conduct and/or professional misconduct, **and**
- it is in the public interest to do.

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

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

General process

Once the decision to prosecute has been made, the Commissioner will file a discipline application with either the QCAT 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.

A directions hearing may then be held once 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. The parties will then prepare for hearing.

The hearing

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

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

QCAT	Legal Practice Committee
The QCAT hears discipline applications in hearing rooms at the Bank of Queensland Building located at Level 9, 259 Queen Street, Brisbane	The LPC hears discipline applications in hearing rooms at several court locations around Brisbane.

Common questions

Is there assistance for respondents 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 on telephone: 3842 5888.

Where can I 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 matter 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