

Guidelines

Report of Suspected Offences

Version 1, 25 August 2016

Introduction

These guidelines set out the obligations of the Commissioner and regulatory authorities to report suspected offences. They:

- are intended to ensure that the staff of the Commission, the Queensland Law Society and the Bar Association of Queensland understand their obligation of reporting suspected offences.

The key concepts

1. The Legal Services Commissioner and regulatory authorities have a duty under the *Legal Profession Act 2007* to report suspected offences. Section 706 of the Act provides that if, in the course of the administration of the Act, a relevant entity suspects a person has committed an offence, the relevant entity must report the suspected offence to an appropriate authority and make available to the appropriate authority the documents and information relevant to the suspected offence.
2. In the event that the relevant entity's suspicion is based only on an allegation by a person and the suspected offence is not in relation to a relevant law, the relevant entity may advise the person that they are not going to report the suspected offence and that the person may raise the matter of the suspected offence with the appropriate authority.
3. The obligation to report a suspected offence does not apply to a suspicion formed on the basis of documents or information that may be subject to privilege, or information derived from documents or information subject to privilege unless the person to whom the privilege attaches gives written consent to the relevant entity to report the suspected offence.
4. When making a decision in relation to whether there is a suspected offence or if a matter should be reported, the relevant entity must act reasonably and in accordance with section 19 of the Act.

Definitions

The Act means the *Legal Profession Act 2007* (Qld).

Relevant entity means the commissioner; or a regulatory authority.

Regulatory authority means—

(a) in relation to this jurisdiction—the law society or the bar association; or

(b) in relation to another jurisdiction—

(i) if there is only 1 regulatory authority for the other jurisdiction—that regulatory authority, unless subparagraph (iii) applies; or

(ii) if there are separate regulatory authorities for the other jurisdiction for different branches of the legal profession or for persons who practise in a particular style of legal practice— the regulatory authority relevant to the branch or style concerned, unless subparagraph (iii) applies; or

(iii) if a regulation states, or provides for deciding, 1 or more regulatory authorities for the other jurisdiction either generally or for particular purposes—the regulatory authority or authorities stated, or decided, under the regulation.

Appropriate authority includes the following—

- (a) the commissioner of police;
- (b) the Crime and Corruption Commission;
- (c) the director of public prosecutions;
- (d) the chief executive of a department in which a government legal officer is employed;
- (e) a person in another jurisdiction corresponding to a person mentioned in paragraph (a), (b), (c) or (d).

Offence means an offence against either of the following—

- (a) a relevant law;
- (b) a law of the Commonwealth or another jurisdiction.

A relevant law means (a) this Act; or

(b) a previous Act; or

(c) the Queensland Law Society Act 1952 as in force at any time before the commencement of this paragraph; or

(d) the [Trust Accounts Act 1973](#) as in force at any time before the commencement of this paragraph; or

(e) the [Personal Injuries Proceedings Act 2002](#), chapter 3, part 1, as in force at any time before or after the commencement of this paragraph.

Privilege means legal professional privilege or another privilege.

Version	Notes	Version date
1		August 2016