

Information for teachers who are subject to a complaint

INFORMATION SHEET

Complaints against teachers

A complaint alleging that a ground for disciplinary action exists against a teacher can be made to the Queensland College of Teachers (QCT) under section 87 of the *Education (Queensland College of Teachers) Act 2005* (the Act). The complaint must be in writing and contain particulars of the allegation.

If someone makes a complaint about you

If a complaint is received the QCT can require the complainant to provide further information to the QCT about the complaint. The QCT may also request the complainant to verify the complaint by statutory declaration.

Assessing a complaint

When the QCT has received all the relevant information from the complainant the material is assessed to determine if grounds for disciplinary action under the Act exist, or may exist, against you. Grounds for disciplinary action are outlined in section 92 of the Act. A link to the Act is available on the QCT website.

Where the complaint relates to a teacher's criminal history the matter is handled under the criminal history provisions of the Act and is not taken as a section 87 complaint.

The assessment of a complaint can include establishing the reliability of the complainant's allegations. This can include liaising with the complainant, witnesses, the relevant school, employing authority and other agencies.

It is important for the QCT to establish if the complaint has already been dealt with by another agency such as the school or employing authority and any other information that can assist to determine whether to refuse the complaint or commence practice and conduct proceedings.

When a complaint is refused

The QCT may refuse to deal with a complaint if it reasonably believes:

- The complaint, if proved, would not establish a ground for disciplinary action against the person who is the subject of the complaint. (Grounds for disciplinary action are outlined in section 92 of the Act)
- The complaint is trivial, unreasonable or without substance
- The complaint is about a frivolous matter or was made vexatiously
- The complaint is based on an allegation that could more appropriately be dealt with by another agency
- The complaint is based on an allegation that has already been appropriately dealt with by the QCT or another agency
- Having regard to the length of time that has elapsed since the matter complained of happened, it is not practicable for the QCT to deal with the complaint¹
- The complainant refuses, without reasonable excuse, to provide further information required by the QCT to decide whether to deal with the complaint
- The complainant does not comply with a requirement of the QCT under the Act to give further information or verify information by statutory declaration

If the QCT makes a decision to refuse to deal with a complaint, the QCT must, as soon as practicable, write to the complainant about the decision.

All information in respect to the complaint including the QCT's decision to refuse to deal with the complaint and the teacher's response to the matter is recorded and held by the QCT on a confidential file that does not form part of the general teacher registration file. This confidential file is only able to be accessed by certain appropriate officers of the QCT.

¹ However, the QCT may not refuse to deal with the complaint if the person who is the subject of the complaint is a teacher and the QCT reasonably believes the complaint is based on an allegation that, if proved, would establish a ground for suspending or cancelling the person's registration or permission to teach.

If the complaint is accepted by the QCT

If the QCT deals with a complaint, the Act requires the QCT to start practice and conduct proceedings or to authorise an investigation of the complaint. Practice and conduct proceedings can only commence if sufficient evidence is received to satisfy the QCT that there are clear grounds for disciplinary action.

Investigation

If the QCT reasonably believes on the basis of the information received that a ground for disciplinary action may exist, the QCT may authorise an investigation.

If the QCT authorises an investigation and appoints an investigator, the QCT must as soon as practicable write to the teacher about the investigation. This letter will state the nature of the complaint and how the teacher may make a submission to the investigator.

However, the QCT need not inform the teacher of the investigation if the QCT reasonably believes doing so may:

- seriously prejudice the investigation
- place at risk the wellbeing of vulnerable persons
- place the complainant or another person at risk of harassment or intimidation.

During the investigation the complainant may be asked to participate in a formal interview with the investigator to answer questions and provide further information. The investigator may also require relevant witnesses including student witnesses to attend an interview to answer questions and provide further information.

When the investigation is completed the investigator will make findings and submit an investigation report. The QCT will determine, based on the investigation findings, whether or not a ground for disciplinary action is raised. Where the QCT determines that a ground for disciplinary action is raised it must refer the investigation report to the Professional Capacity and Teacher Conduct Committee (PC&TCC). The teacher will be advised in writing when the investigation report is completed and again when the QCT determines whether or not to refer the investigation report to PC&TCC. Where the investigation report is referred to the PC&TCC, the PC&TCC will make a decision to hear and decide the matter or, for more serious matters, refer it to the Queensland Civil and Administrative Tribunal (QCAT).

Practice and conduct proceedings

In some cases, the QCT may determine from the information provided by the complainant and further information collected by the QCT during the assessment process that a ground for disciplinary action does exist, and an investigation is not required.

In such cases, if the QCT considers it appropriate to do so, then the QCT may enter into a practice and conduct agreement with the teacher.

Otherwise, the QCT must refer the matter to either the PC&TCC or QCAT. Matters referred to the PC&TCC are matters where the QCT reasonably believes that minor disciplinary action is likely to be appropriate. This includes issuing a warning or reprimand to a teacher. Matters referred to QCAT are those that the QCT reasonably believes require disciplinary action that is more serious and this may include cancelling a teacher's registration.

Practice and conduct agreements

The QCT will inform the teacher as soon as possible about its decision to enter into a practice and conduct agreement and the reasons for it.

The teacher must give written consent to enter into the agreement.

The QCT and the teacher must agree:

- that a ground for disciplinary action exists against the teacher and
- on the disciplinary action to be taken against the teacher, which is limited to:
 - take no further action
 - issue a warning or reprimand to the teacher
 - impose conditions on the teacher's registration or permission to teach

Once an agreement is entered into, the QCT will notify the complainant of the decision and the reasons for it.

If the QCT and the teacher cannot agree upon the ground for disciplinary action or the appropriate disciplinary action to be taken, then the QCT will refer the matter to the PC&TCC.

The QCT is not able to enter into a practice and conduct agreement with a teacher if the QCT believes the teacher may have an impairment that may have caused, or contributed to, the behaviour that is the basis for the practice and conduct proceedings. These matters must be referred to the PC&TCC.

Also, any matter that is the subject of an authorised investigation cannot be dealt with through a practice and conduct agreement. These matters must be referred to the PC&TCC, unless the QCT believes the investigation report includes a finding that there is no ground for disciplinary action.

Professional Capacity and Teacher Conduct Committee

The PC&TCC is made up of members of the QCT Board.

The PC&TCC may require further information from the teacher or other persons, including the complainant, or may refer the matter to QCAT.

If the PC&TCC believes the teacher may have an impairment that may have caused, or contributed to, the behaviour that is the basis for the practice and conduct proceedings, the PC&TCC may require the teacher to undergo a health assessment. A member of the registered health practitioner panel will conduct the assessment and a different member will sit on the PC&TCC.

If the PC&TCC decides to hear and decide the matter, the teacher and the complainant are notified in writing of this decision. The letter will state the grounds for disciplinary action, the facts and circumstances forming the basis for the ground and the period of time the teacher has to make a submission to the PC&TCC.

After hearing the matter the PC&TCC can decide to take one or more of the following:

- take no further action against the teacher
- refer the matter to the QCAT
- issue a warning or reprimand to the teacher
- impose conditions on, or amend or remove conditions imposed by the PC&TCC on the teacher's registration or permission to teach
- make an order that a particular notation or endorsement about the teacher be entered in the register or
- accept an undertaking from the teacher.

Once a decision is made the PC&TCC will notify the teacher and the complainant of the decision and reasons for it. Information about how to request a review of the decision is also given.

Queensland Civil and Administrative Tribunal

If the matter is referred to QCAT the teacher and the complainant are given notice about QCAT's intention to conduct a hearing. The teacher can be accompanied at the hearing by a lawyer or other person and they have the right to be represented by this lawyer or other person. The hearings are open to the public and the complainant is able to attend. If all or part of the hearing is closed to the public the complainant is still able to attend unless QCAT states otherwise. During the hearing witnesses may be called to give evidence and be subjected to cross examination.

QCAT can decide to do one or more of the following:

- decide to take no further action in relation to the matter;
- if the teacher is suspended under section 48 or 49 — end the suspension
- issue a warning or reprimand to the teacher
- cancel the teacher's registration or permission to teach
- suspend the teacher's registration or permission to teach for a stated time
- make an order requiring the teacher to pay to the QCT, by way of costs, an amount QCAT considers appropriate having regard to —
 - any expenses incurred by the QCT in investigating the matter, and
 - the expenses the QCT has incurred in conducting the proceedings before QCAT
- make an order requiring the teacher to pay to the QCT, by way of penalty, an amount fixed by QCAT but not more than the equivalent of 20 penalty units
- impose conditions on, or amend or remove conditions on, the teacher's registration or permission to teach
- make an order that a particular notation or endorsement about the teacher be entered in the register
- if QCAT cancels the teachers' registration or permission to teach (or would have cancelled if the teacher had been an approved teacher) — make an order prohibiting the teacher from reapplying for registration or permission to teach for a specified period or indefinitely
- make another order QCAT considers appropriate
- accept an undertaking from the teacher.

When QCAT makes an order and gives reasons for the decision QCAT can order that certain information will not be published. This may include the teacher's name, the name of the complainant, witnesses or other evidence given before the QCAT including documents produced to the QCAT.

QCAT will notify the teacher in writing of the decision including the reasons for the decision. The letter also gives information about the rights to appeal the decision.

The QCT may publish the teacher's identity and the nature and outcome of the proceedings unless QCAT has made an order prohibiting publication. However the QCT must not publish any other information about the practice and conduct proceedings, including information that identifies the complainant or witness.

Privacy and confidentiality

Privacy and confidentiality shall be afforded to all parties to the complaint as much as the Act allows. Any information received will be subject to release in accordance with the provisions of the *Information Privacy Act 2009*, and the *Right to Information Act 2009*, or if required by law.

Other information

The following information is available to view and download from the QCT website:

- *Complaints Against Teachers – Policy*
- *Information for complainants - Information sheet*

If you have any questions please contact the QCT's Professional Conduct Unit on (07) 3377 4777 (local), 1300 720 944 (toll free) or + 61 7 3377 4777 (International), email: professionalconductunit@qct.edu.au

For further information about the QCT and the Act, visit our website at: <http://www.qct.edu.au>

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