

Complaints against teachers

POLICY

Authority

Section 231 of the *Education (Queensland College of Teachers) Act 2005* (the Act) gives the Queensland College of Teachers (QCT) the power to receive and assess complaints and conduct investigations where necessary, in relation to a complaint, about the professional conduct or competence of an approved teacher or former approved teacher; or a contravention of the Act and refer practice and conduct matters to a practice and conduct body.

Sections 87-90 of the Act specify how a complaint alleging that a ground for disciplinary action exists against a teacher must be made and what action the QCT must take in dealing with the complaint.

Purpose

This policy provides the framework for dealing with complaints against teachers lodged under section 87 of the Act and supports the main objects of the Act which are:

- to uphold the standards of the teaching profession;
- to maintain public confidence in the teaching profession; and
- to protect the public by ensuring education in schools is provided in a professional and competent way by approved teachers.

It is important that approved teachers, complainants and other entities understand what is involved when a complaint against a teacher is formally lodged with the QCT.

Scope

The Act provides that a person¹ (complainant) may make a complaint in writing to the QCT alleging that a ground for disciplinary action exists against a person who is an approved teacher or was an approved teacher when the conduct giving rise to the complaint happened.

Complaints under section 87 of the Act are limited to those allegations that if proven would result in formal disciplinary action.

For complaints relating to alleged official misconduct² or criminal activity the complainant should refer their complaint to:

- The employing authority or prescribed school
- The Crime and Corruption Commission

- Queensland Police Service

A complaint about a person's criminal history is not a complaint to be taken under this policy. A complaint about the nature of a person's criminal history will be dealt with under the QCT's procedures and processes established to consider a person's criminal history or change in criminal history and their suitability to teach.

Relevant documents

- Education (Queensland College of Teachers) Act 2005
- Making a Complaint about a Teacher – Information Sheet
- Complaint about a Teacher – Form

Managing a complaint

A complaint will be managed by the QCT under the following principles:

- The welfare and best interests of children are to be the primary consideration of the QCT – section 233 of the Act
- A complaint should, wherever practicable, be raised with the teacher's employing authority or other relevant agency in the first instance and the employing authority or other relevant agency given the opportunity to take action on the complaint
- Procedural fairness and natural justice are key elements throughout the complaint process
- Decisions about a complaint will be made on an individual basis and by weighing the merits of each case to ensure an appropriate decision is reached
- The complaint process will be unbiased, objective and impartial. If the complaint is received about a person, that person has the right to know the details of the complaint and be given the opportunity to make a statement of reply
- All people involved in the complaint process have the right to be supported by an appropriate third party
- Processes for managing complaints will, where appropriate, comply with the relevant Australian Standard for Complaints Handling and Queensland government guidelines and directives

¹ Reference to a person includes a person acting on behalf of an entity such as an agency or company.

² Official Misconduct is relevant to staff in state schools and grammar schools only

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Making a complaint

Some complaints are appropriately resolved by discussing the matter directly with the teacher involved or the school administration. Complaints should in the first instance be raised with the teacher's employing authority or other relevant agency depending on the nature of the complaint. The information sheet Making a Complaint about a Teacher is a useful guide for potential complainants.

A complaint about a serious allegation of a criminal nature should be raised by the complainant with the Queensland Police Service.

The complaint must be in writing, contain particulars of the allegation and contain the name and contact details of the complainant. A Complaint Form is available for lodging a complaint against a teacher. The complainant should attach all relevant information and documentation to their complaint including names and contact details of witnesses and other agencies that hold information about the matter.

Complaint Management

The intake, processing, assessment and management of a complaint must comply, where prescribed, with the Act and reflect contemporary complaints management practices. The complaint management process must be unbiased, objective and impartial to all parties. This means all complaints are treated as legitimate, are properly assessed and complainants are treated with respect and without prejudice.

Assessment

Complaints will be assessed to determine the most appropriate action to be taken. The QCT may, by notice, ask the complainant to give the QCT further information about the complaint within a reasonable time stated in the notice. Also, the QCT may require the complainant to verify the complaint or further information by statutory declaration.

During the assessment process information will be gathered and the QCT may communicate with relevant parties to the complaint and other entities about the complaint. This may include:

- consulting with another entity about whether the complaint is based on an allegation that could be more appropriately dealt with by another entity and/or whether the complaint is based on an allegation that has already been adequately dealt with by another entity
- writing to the teacher to outline the grounds of the complaint and requesting the teacher to respond to the allegation/s
- requesting details from a school about particulars raised in the complaint

A complainant may be requested to demonstrate that they have raised the complaint with the relevant authority/ies, what the outcome was and provide evidence to the QCT as to why the person's registration as a teacher in Queensland should be the subject of scrutiny by a practice and conduct body.

If the QCT does not refuse to deal with a complaint, the Act requires the QCT to start practice and conduct proceedings or to authorise an investigation of the complaint.

Timeliness/Communication

Where a prompt resolution is not possible, the complainant will be advised as to the progress or status of the complaint and assigned a case manager who will act as the QCT contact person for their complaint.

Refusal

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

- The complaint, if proven, 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; or
- The complaint is trivial, unreasonable or without substance; or
- The complaint concerns a frivolous matter or was made vexatiously;
- The complaint is based on an allegation that could more appropriately be dealt with by another entity; or
- The complaint is based on an allegation that has already been adequately dealt with by the college or another entity; or
- 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 complaint. However, the QCT may not refuse to deal with the complaint if the person who is the subject of the complaint is an approved 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 under Chapter 2, Part 6.
- The complainant refuses, without reasonable excuse, to provide further information required by the QCT to decide whether to deal with the complaint, or comply with a requirement of the QCT under section 88(2), which requires further information to be verified by statutory declaration.

If the QCT refuses to deal with a complaint the Act requires that the QCT must give notice to the complainant as soon as practicable and keep a record about the complaint and the QCT's refusal to deal with it.

Advice to the Teacher

The teacher who is subject to the complaint will be advised of the QCT's decision concerning the complaint.

Referral to another agency

In order to promote the objectives of the Act the QCT must work in collaboration with other agencies that are established in the public interest, such as the Queensland Police Service, Crime and Corruption Commission, Blue Card Services and the Queensland Ombudsman as well as employing authorities, prescribed schools and peak associations.

Where the complaint is based on an allegation that could more appropriately be dealt with by another entity the complaint may be refused under section 89 of the Act. The Complaints Referral Framework – External Entities will guide decisions to refer a complaint to another agency. Where referral of the complaint is to the employing authority, or the prescribed school where the teacher is employed, the referral will include reference to sections 76, 77 and 78 of the Act that oblige the employing authority to notify the QCT about particular allegations and terminations of employment.

Register of complaints

Consistent with the requirements of section 89(4)(b) of the Act the QCT must keep a record about a complaint made under Part 4 of the Act. In order to effect the requirements of the Act, the QCT will maintain a record of complaints. The record will include details of complaints received and where the QCT has

refused to deal with the complaint, the reason for the refusal.

Practice and conduct proceedings

If the QCT reasonably believes on the basis of information received in the complaint, that one or more grounds for disciplinary action exist against a teacher, the QCT must refer the matter to the appropriate practice and conduct body unless, the QCT and the teacher enter into a practice and conduct agreement. To enter into a practice and conduct agreement, the QCT and the teacher must agree upon the ground for disciplinary action and the minor disciplinary action to be taken.

The QCT is empowered to authorise an investigation if it reasonably believes on the basis of information in the complaint that a ground for disciplinary action against a relevant teacher may exist. However, the QCT may only authorise an investigation in relation to a former approved teacher if it is satisfied it is in the public interest for the investigation to be conducted and the ground arose while the person was an approved teacher.

If the QCT authorises an investigation and appoints an investigator, it must as soon as practicable after appointing an investigator give the teacher notice. The notice must state the nature of the investigation, that the teacher may make a submission to the investigator, and how the submission may be made in accordance with section 98 of the Act. However, the QCT does not need to give notice of the investigation if it reasonably believes that doing so may seriously prejudice the investigation, place at risk the wellbeing of vulnerable persons, or place the complainant or another person at risk of

harassment or intimidation.

Reporting offences

If the QCT or the Queensland Civil and Administrative Tribunal (QCAT) becomes aware, or reasonably suspects, that information (excluding interstate information) before it discloses an offence, the Chairperson of the Board or the President of QCAT may report the offence to the Commissioner of Police, the Crime and Corruption Commission, or the Chief Executive. The Chairperson must also make available all relevant information held by the QCT or QCAT.

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

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>.

COMPLAINTS REFERRAL FRAMEWORK - EXTERNAL ENTITIES

Matter for referral	Description	Appropriate entity
Criminal activity	The allegation is serious in that if proven would result in criminal prosecution	Queensland Police Service
Official Misconduct ⁴	Conduct that could, if proved, be— (a) a criminal offence; or (b) a disciplinary breach providing reasonable grounds for terminating the person's services, if the person is or was the holder of an appointment.	Crime and Corruption Commission
Employee Performance	The allegation is about the person's performance and management	Employing Authority/Prescribed school
Minor matters	The matter is one that is more appropriately resolved at the point of service. The matter is unlikely, if referred to a practice and conduct body, to result in an adverse finding	Employing Authority/Prescribed school
Administrative decisions	The complaint is about an administrative decision or application of policy, including curriculum	Employing authority/Ombudsman

⁴ Official Misconduct is relevant to staff in state schools and grammar schools only

Dictionary

“**approved teachers**” are registered teachers or those who have been granted a permission to teach.

“**complainant**” is a person, including an individual or a corporation, or a person acting on behalf of an entity such as an agency or company and alleges in writing that a person’s actions may establish a ground for disciplinary action or that a person or entity has breached the Act.

“**criminal history**” of a person, means all of the following—(a) every conviction of the person for an offence, in Queensland or elsewhere, whether before or after the commencement of this Act; (b) every charge of an offence made against the person, in Queensland or elsewhere, whether before or after the commencement of this Act.

“**employing authority**” for a school, means the person or entity responsible for the appointment of teachers to the educational staff of the school.

“**frivolous**” /'frɪv(ə)ləs (Macquarie Dictionary):

1. of little or no weight, worth, or importance; not worthy of serious notice: a frivolous objection. 2. characterised by lack of seriousness or sense: frivolous conduct. 3. given to trifling or levity, as persons. [Latin: frivolous silly, trifling, paltry] -frivolously, adverb – frivolousness, noun.

“**grounds for disciplinary action**” section 92 of the Act details the grounds for disciplinary action.

“**harm**” is defined under section 7 of the Act. Harm to a child, is any detrimental effect of a significant nature on the child’s physical, psychological or emotional wellbeing. It is immaterial how the harm is caused. Harm can be caused by— physical, psychological or emotional abuse or neglect; or sexual abuse or exploitation. Harm can be caused by a single act, omission or circumstance; or a series or combination of acts, omissions or circumstances.

“**interstate information**” means a persons interstate spent convictions or charges and information relating to those spent convictions or charges which are disclosed to the QCT under sections 15, 15A, 65 or 75 of the Act, but does not include such information if disclosed by the person as required by the Act.

“**prescribed school**”

(1) Any of the following is a prescribed school—

(a) a State school or non-State school;

(b) another institution or place, or part of an institution or place, at which an educational program is offered that is based on—

(i) the national curriculum developed and administered by the Australian Curriculum, Assessment and Reporting Authority under the *Australian Curriculum, Assessment and Reporting Authority Act 2008 (Cwlth)*; or

(ii) a syllabus developed, revised or purchased for a senior subject or P–10 subject by the Queensland Curriculum and Assessment Authority under the *Education (Queensland Curriculum and Assessment Authority) Act 2014*.

“**vexatious**” /vek'seɪf(ə)s (Macquarie Dictionary):

1. causing vexation; vexing; annoying. 2. Law (of legal actions) instituted without sufficient grounds, and serving only to cause annoyance. – vexatiously, adverb – vexatiousness, noun.

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