

Disciplinary investigations

Under the *Education (Queensland College of Teachers) Act 2005*

INFORMATION SHEET

Managing professional conduct

The Queensland College of Teachers (QCT) is established under the *Education (Queensland College of Teachers) Act 2005* (the Act) as the agency responsible for the regulation of the teaching profession in Queensland.

One of the roles of the QCT is to monitor the professional conduct of teachers. In undertaking this role the QCT can receive information from a number of sources such as:

- the Commissioner of Police
- an employing authority or other agency
- a complainant
- the Director of Public Prosecutions
- an interstate teacher registration authority
- a disciplinary committee.

When the QCT receives information that raises a concern about the conduct of a teacher it must make a decision about the most appropriate action to take. One of the options available is for the QCT to authorise a disciplinary investigation.

Disciplinary investigations

The QCT can authorise a disciplinary investigation if the QCT reasonably believes on the basis of information received that a ground for disciplinary action against the teacher may exist. Grounds for disciplinary action are outlined in section 92 of the Act. A link to the Act is available on the QCT website.

Grounds for disciplinary action include, but are not limited to, issues about the teacher's competency, suitability to teach, criminal convictions or failure to comply with the Act or requirements of registration.

Purpose of a disciplinary investigation

The purpose of a disciplinary investigation is to gather all the relevant information about allegations raised about a teacher and provide a report to a disciplinary committee so that the committee can decide whether a ground for disciplinary action exists against the teacher. The investigation is conducted by an investigator appointed by the QCT.

The information gathered by the investigator during the investigation can take many forms but usually consists of documentary information and information given by witnesses.

Decision making

There are two committees which make decisions about disciplinary matters.

- the Professional Practice and Conduct Committee (PPC Committee) and
- the Queensland Civil and Administrative Tribunal (QCAT).

The PPC Committee is made up of three board members of the QCT. Two members must be registered teachers and one must not be a registered teacher.

The QCAT is made up of three members from a pool of five people nominated by the Minister for Education and Training. One person must be a lawyer of at least five years standing who is familiar with school environments, two people must be registered teachers and two people are not registered teachers.

Advice about a disciplinary investigation

If the QCT authorises a disciplinary investigation and appoints an investigator, the QCT must, as soon as practicable after the investigation is authorised, advise the teacher in writing and give the teacher the following information:

- if the investigation relates to a complaint, the nature of the complaint
- if the investigation does not relate to a complaint, the grounds forming the basis of the investigation
- that the teacher may make a submission to the investigator about the matter and how a submission may be made
- if the submission may be made orally - a time and place, at least 14 days after the day the notice is given
- notice is given, by which the submission must be given to the investigator.

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

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

Independent advice

A teacher who is advised that a disciplinary investigation has been commenced in respect to allegations raised against may wish to obtain legal advice and/or representation to protect their rights during the investigation process.

Giving a submission to the investigator

The ability to provide a submission to the investigator gives the teacher an opportunity to present relevant information to the investigator in respect to the investigation for inclusion in the investigation report.

A teacher who is the subject of a disciplinary investigation is entitled to have a support person present if they choose to make a oral submission to the investigator.

A teacher may be assisted by a relevant union, lawyer or advocate in the preparation of their submission and should seek independent legal advice.

If the teacher decides not to provide a submission to the investigator at this time the investigator will finalise the investigation report without information from the teacher.

The investigator

The investigator is authorised to investigate the allegations raised against the teacher and give a report to a disciplinary committee. The Act provides for the investigator to have certain powers in order to obtain evidence. This includes the power to require a person to provide stated information, produce a stated thing or answer questions.

Rights and obligations of people involved in a disciplinary investigation

All people involved in a disciplinary investigation must comply with the requirements of the Act whether or not they are the teacher being investigated.

All people involved in a disciplinary investigation have the right to obtain independent legal advice and have a support person present during any interview.

Failure to comply with a requirement of an investigator is a serious matter and can attract further disciplinary action or prosecution.

When the investigation is finished

When the investigation is completed the investigator must give a report to the PPC Committee or in circumstances where the investigation has been authorised by the QCAT then to the QCAT. The teacher is advised by letter when the investigator gives the report to a disciplinary committee.

Professional, Practice and Conduct committee

If the PPC Committee decides to hear and decide the matter the teacher is 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 PPC Committee. The PPC Committee may also require further information from the teacher or others.

After hearing the matter the PPC Committee can decide to take one or more of the following actions:

- take no further action against the teacher
- refer the matter to the QCAT
- issue a warning or reprimand to the teacher
- 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 PPC Committee will write to the teacher about 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 the QCAT the teacher is given a letter about the QCAT's intention to conduct a hearing. The teacher can be accompanied at the hearing by a lawyer or other person and has 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 the QCAT states otherwise. During the hearing witnesses may be called to give evidence and be subjected to cross examination.

The 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 the committee considers appropriate having regard to -
 - any expenses incurred by the QCT in investigating the matter, and
 - the expenses the committee has incurred in conducting the hearing
- make an order requiring the teacher to pay to the QCT, by way of penalty, an amount fixed by the committee 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 the committee 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 the committee considers appropriate and/or
- accept an undertaking from the teacher.

When the QCAT makes a decision it 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.

The QCAT will notify the teacher in writing of the decision and will include the reasons for the decision.

The QCT may publish the teacher's identity and the nature and outcome of the hearing unless the QCAT has made an order prohibiting publication of this information. However the QCT must not publish any other information about the disciplinary 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 Teachers who are Subject to a Complaint*
- *Information for Complainants*

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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