

INFORMATION ABOUT THE COMMITTEE

Our Role

The Legal Profession Complaints Committee has statutory responsibility under the *Legal Profession Act 2008* for supervising the conduct of legal practitioners, enquiring into complaints and other conduct concerns which come to its attention and instituting professional disciplinary proceedings against practitioners in the State Administrative Tribunal.

Our Objectives

Our Objectives are:

- To provide an efficient and expeditious system for dealing with complaints
- To proactively monitor the conduct of the legal profession
- To initiate disciplinary proceedings as appropriate
- To promote and enforce the professional standards, competence and honesty of the profession
- To maintain a productive and motivating work environment

Our Members

The Committee consists of a Chair and not less than 6 other legal practitioners appointed by the Legal Practice Board from amongst its membership and not less than two community representatives, none of whom is or has been an Australian lawyer, appointed by the Attorney General.

Our Processes

The Committee receives inquiries and complaints about legal practitioners. All inquiries and complaints are assessed on receipt to ascertain whether they raise an issue which, if proved, may amount to unsatisfactory professional conduct or professional misconduct (a conduct issue).

Depending on the nature of the concern raised, it is often necessary for further information to be sought during this preliminary assessment process. This information is generally sought from the person raising the concern or the legal practitioner who is the subject of the concern. Depending on the complexity of the issues being raised and the material which needs to be obtained and read, the preliminary assessment may be completed the same day or take up to a couple of weeks.

If following this preliminary assessment no conduct issue is identified, our legal officer will discuss this assessment with the person raising the concern and give an explanation of the reasons for the view taken. Even though no conduct issue has been identified, our legal officer will explore

whether it may be possible to attempt to conciliate the concern raised and, if so, what role the Committee may be able to play in achieving a conciliated outcome. If the person who raised the concern is not satisfied with the preliminary view taken by our legal officer that no conduct issue has been identified, that person may still request that his or her inquiry or complaint be formally determined. This formal determination is usually made by the Law Complaints Officer exercising the delegated power of the Committee.

If, following the preliminary assessment, a possible conduct issue is identified, the concern will proceed to be formally investigated as a complaint. Before the complaint is forwarded for investigation, the Committee will explore whether any steps may be taken by the practitioner to mitigate his or her conduct. If so, our legal officer will discuss with the practitioner whether he or she wishes to take such mitigatory action. Once the complaint is forwarded for investigation, a new legal officer will be assigned to undertake that investigation. The investigation process involves seeking written submissions from the practitioner addressing the issues, as well as seeking other material evidence concerning the events the subject of the investigation. This further evidence may be sought from the complainant, the practitioner, the courts or other third parties.

Once a complaint has been fully investigated it will be referred to the Committee for formal determination. The Committee may:

- dismiss a complaint;
- with the consent of the practitioner, exercise its summary conclusion powers;
- refer the matter to the State Administrative Tribunal.

In addition to receiving complaints, the Committee can also initiate conduct investigations of its own volition.

What We Don't Do

- The Committee does not give legal advice or provide legal representation.
- The Committee does not accept complaints about individuals who are not legal practitioners or were not, at the relevant time, acting as a legal practitioner but were acting in some other capacity, such as a Judge.
- The Committee does not accept complaints about court decisions. Complainants who are unhappy about court decisions need to seek legal advice about their prospects of successfully appealing those decisions.
- The Committee does not generally assess practitioners' bills. There is a procedure available under the *Legal Profession Act 2008* which enables clients to have their bills assessed by the Court. However, the Committee will help you to understand your bill, including identifying irregularities or inconsistencies and may approach practitioners to assist in possibly resolving a dispute about costs. For further information, see our Fact Sheet on Costs Disputes.
- The Committee does not decide whether a practitioner has been negligent. The disciplinary scheme under the *Legal Profession Act 2008* is not intended to provide an alternative forum to the taking of civil proceedings for negligence. Generally speaking, complainants who believe their lawyer has been negligent, and as a result have suffered a loss, should seek their own independent legal advice. The Committee's legal officers can assist with identifying when an issue being raised is one in respect of which such advice should be sought. For further information, see our Fact Sheet on Negligence.
- The Committee cannot direct a practitioner to cease taking legal action to recover fees. The lodging of a complaint does not prevent a practitioner from commencing or continuing legal

action. In very limited cases, the Committee may request a practitioner not to take further steps in an action pending an investigation of a complaint but it cannot direct the practitioner to do so.

- The Committee cannot generally accept complaints from a person who does not have a direct personal interest in the matter of complaint.

Our Contact Details

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Email: lpcc@lpbwa.com
Website: www.lpbwa.org.au and click on the **Complaints** heading
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UPDATED 23 MAY 2014