

# Dealing with the Legal Practitioners Complaints Committee

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## What does the Committee do?

The Legal Practitioners Complaints Committee supervises the conduct of legal practitioners. Part of that role involves enquiring into the conduct of legal practitioners.

There are two types of enquiries conducted by the Committee. The first results from a complaint received by someone (usually a client or an ex-client) about a legal practitioner. The second is a conduct enquiry – something about a practitioner's conduct that has come to the Committee's attention which the Committee has chosen to enquire into. Either form of enquiry may result in the Committee writing to you and requesting you to provide certain information. Ultimately, this information will assist the Committee in determining the complaint or conduct enquiry.

## I've received a letter from the Committee; what should I do?

Practitioners have a duty to respond to enquiries by the Committee in a conscientious and timely manner. The State Administrative Tribunal has commented on this duty, saying that:

*A practitioner's obligation to respond to a professional disciplinary body is a serious obligation. If the public is to continue to have faith in the extent to which the legal professional regulates its members' professional conduct, then it must be satisfied that practitioners respond in a timely manner, produce any documents requested, and otherwise give full cooperation into any enquiry into their conduct by the Committee.*

The Committee will ask that you respond to the enquiry in writing. Practitioners often respond personally to correspondence from the Committee. However, in more complex situations, a practitioner may want to seek

the assistance of an experienced practitioner to respond on their behalf.

Some points to consider when responding to the Committee include:

Read the correspondence from the Committee carefully. In the case of a complaint from an individual, usually the Committee will provide you with a copy of the complaint form or letter that has been sent to the Committee by that person. In the case of a conduct enquiry, the Committee will outline what the matter of concern is that has been brought to the Committee's attention.

Provide a full response. Ensure that you have answered each point of the complaint or enquiry. Failing to answer a particular point will only result in the Committee writing to you again and the resolution of the complaint being delayed.

Be frank. If a mistake or difficulty has arisen, it is far better to be open and cooperative with the Committee. Ensure that your response does not mislead the Committee in any way or you may find yourself facing a separate complaint.

Be courteous. The Committee recognises that dealing with a complaint or enquiry is a stressful process. However, the Committee is a professional disciplinary body and should be treated accordingly. Also, be mindful that in cases of a complaint a copy of your response will generally be provided to the complainant, so ensure that any reference to the complainant is appropriate.

Respond in time. The Committee will generally impose a time limit for your response. However, the Committee is aware of the demands of legal practice. If for some reason you can't comply with the time limit imposed, then contact the Committee as early as possible to discuss

the matter and it is possible that the time for your response may be extended. Be aware that not responding to correspondence from the Committee may result in an additional complaint against you.

## The Committee wants my file, Why?

Often the best way to resolve a complaint is to examine the practitioner's file. The Committee can then get a full picture of what has occurred during a matter. The Committee may make a written request to examine a file or, if necessary, will issue a summons. The Committee will usually ask that the original file be provided. The Committee will then take a copy of the file and return the original to the practitioner. As with responding to a complaint, being timely is important. The sooner a file is provided, the sooner a copy can be taken by the Committee and the complaint can be progressed. If a summons is issued, it should be treated the same way as a court summons and should be strictly complied with.

## Can I speak to the Committee about their correspondence?

Yes. All correspondence from the Committee contains the name of the legal officer dealing with that particular enquiry. You are able to contact the legal officer for reasons such as an extension of time in which to respond, an update on the enquiry, or clarification of a request from the Committee.

## Note

1. *Legal Practitioners Complaints Committee v Richardson* 120061 WASAT 251 at pp65.

## Practitioner struck from the roll

On 6 October 2008 the Supreme Court of Western Australia struck Mr Tomas Mijatovic from the roll of practitioners. The decision is on the Supreme Court website.