

INFORMATION FOR TEACHERS WHO ARE SUBJECT TO A COMPLAINT

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

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 disciplinary 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 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; and/or
- The complainant refuses, without reasonable excuse, to provide further information required by the QCT to decide whether to deal with the complaint.

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.

INFORMATION FOR TEACHERS WHO ARE SUBJECT TO A COMPLAINT (CONT.)

- 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. The complainant has 28 days from the receipt of this decision to request a review of the decision.

When the time to lodge a review has lapsed, and where there is no request for a review, the QCT will write to the teacher/s subject to the complaint. This letter will include the nature of the complaint, the decision to refuse to deal with the complaint and give an opportunity to the teacher to respond to the QCT about the matter. In the case of a review the teacher will be advised of the complaint if the decision to refuse to deal with the complaint is kept.

All information in respect to the complaint including the QCT's decision to refuse to deal with the complaint and the teachers 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.

IF THE COMPLAINT IS ACCEPTED BY THE QCT

If the QCT accepts to deal with a complaint, the Act requires the QCT to start disciplinary proceedings or to authorise an investigation of the complaint. Disciplinary 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 exists, the QCT may authorise an investigation.

If the QCT authorises a disciplinary 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 to 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; and/or
- place the complainant or another person at risk of harassment or intimidation.

During the investigation the complainant will 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 a report is submitted to the Professional, Practice and Conduct Committee (PP&C Committee). The teacher is advised in writing when the investigation report is given to the PP&C Committee. The PP&C Committee reviews the report and makes a decision to hear and decide the matter or, for more serious matters, refer it to the Queensland Civil and Administrative Tribunal (QCAT)

Disciplinary proceedings

If the QCT determines from the disciplinary 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, then the QCT must refer the matter to either the PP&C Committee or the QCAT.

Matters referred to the PP&C Committee 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.

INFORMATION FOR TEACHERS WHO ARE SUBJECT TO A COMPLAINT (CONT.)

Matters referred to the QCAT are those that the QCT reasonably believes require disciplinary action that is more serious and this may include cancelling a teacher's registration.

Professional Practice and Conduct Committee

The PP&C Committee is made up of members of the QCT Board. If the PP&C Committee 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 PP&C Committee.

The PP&C Committee may also require further information from the teacher or other persons, including the complainant.

After hearing the matter the PP&C Committee 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 ;
- 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 PP&C Committee 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 the QCAT the teacher and the complainant are 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 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 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 not more than 5 years from the day the order is made;
- make another order the committee considers appropriate; and/or
- accept an undertaking from the teacher.

INFORMATION FOR TEACHERS WHO ARE SUBJECT TO A COMPLAINT (CONT.)

When the QCAT makes an order and gives reasons for the decision the 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.

The QCAT gives the teacher their decision including the reasons for the decision, in writing to the teacher. The letter also gives information about rights to appeal the decision.

The QCAT may publish the teacher's identity and the nature and outcome of the proceedings unless the QCAT has made an order prohibiting publication. However the QCAT 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 QCAT website:

- *Complaints Against Teachers – Policy*
- *Complaints Against Teachers – Information Sheet for Complainants*

If you have any questions please contact the QCAT's Registration & Professional Conduct Unit on (07) 3377 4777 (local), 1300 720 944 (toll free) or + 61 7 3377 4777 (international).

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