QUEENSLAND CIVIL AND ADMINISTRATIVE TRIBUNAL

CHANGES FOR THE TEACHERS DISCIPLINARY COMMITTEE

What did the Teachers Disciplinary Committee do?
The Teachers Disciplinary Committee heard and decided disciplinary matters about teachers referred to it by the Queensland College of Teachers. The referral may be via the Office of the Director of the College or the Professional Practice and Conduct Committee.

The Professional Practice and Conduct Committee is a lower level disciplinary body established under the *Education (Queensland College of Teachers) Act 2005* to hear and decide disciplinary matters referred to it by the College where the likely outcome is a warning or reprimand or the acceptance of an undertaking by a teacher. The Professional Practice and Conduct Committee cannot make orders cancelling or suspending a teacher's registration. These matters were previously referred to the Teachers Disciplinary Committee (TDC).

Does the TDC and the PP&CC continue to exist?
The Teachers Disciplinary Committee was abolished and its former jurisdiction included in the jurisdiction of QCAT under the *Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009*. The provisions in the *Education (Queensland College of Teachers) Act 2005* establishing the Teachers Disciplinary Committee are repealed.

The Professional Practice and Conduct Committee continues to exist and perform the functions it previously performed under the *Education (Queensland College of Teachers) Act 2005*. The Professional Practice and Conduct Committee (PP & CC) is constituted by three members of the board of the College.

Has the role of the Queensland College of Teachers changed?
No, the College continues to have the same functions and powers.

Who hears teacher disciplinary matters in QCAT?
The Teachers Disciplinary Committee was previously constituted by three members selected from five members appointed by Governor-in-Council. The chairperson had to be a lawyer of at least five years standing. Of the other two members required to sit in a matter, one had to be a registered teacher and the other was required to be a person who was not a registered teacher.

Amendments to the *Education (Queensland College of Teachers) Act 2005* contained in the *Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009* now require QCAT to be constituted in a similar way: by a legally qualified member, a member who is a registered teacher and a member who is not a registered teacher.

How does QCAT deal with teacher disciplinary matters?
QCAT has the same jurisdiction, functions and powers to make decisions under the *Education (Queensland College of Teachers) Act 2005* that the Teachers Disciplinary Committee previously had.

The QCAT Act sets out the generic powers and procedures of QCAT. Where the generic provisions of the QCAT Act are appropriate for teacher disciplinary matters, corresponding provisions were removed from the *Education (Queensland College of Teachers) Act 2005*. For example, provisions in the *Education (Queensland College of Teachers) Act 2005* relating to the pre-hearing conferences, general procedural requirements such as complying with natural justice, witnesses and public hearings are similar to the generic provisions in the QCAT Act. Consequently, these provisions were omitted. However, other specific functions and powers required for this jurisdiction, including the types of disciplinary orders QCAT can make, were retained in the *Education (Queensland College of Teachers) Act 2005*.

Are teacher disciplinary matters heard in the original or review jurisdiction of the QCAT?
Teacher disciplinary matters referred to QCAT by the College or Committee are part of QCAT's original jurisdiction. QCAT may also review decisions of the College or Committee as part of its review jurisdiction.

How are decisions of QCAT about teacher disciplinary matters appealed?
The *Queensland Civil and Administrative Tribunal Act 2009* sets out the general rights of appeal from decisions of QCAT.

If QCAT was not constituted by a judicial member, then appeals are made to the QCAT appeal tribunal. A party may appeal a QCAT decision to the appeal tribunal on a question of law, and if the president gives permission, on a question of fact. If QCAT was constituted by a judicial member, then appeals are made to the Court of Appeal.

The appeal tribunal will usually be constituted by or include a judicial member.

Decisions of the Teachers Disciplinary Committee were able to be appealed to the District Court. The appeal provisions in the *Education*

(Queensland College of Teachers) Act 2005 setting out the appeal rights no longer apply and the QCAT Act appeal provisions apply instead.

The *Queensland Civil and Administrative Tribunal Act 2009* provides for a further appeal from decisions of the Appeal Tribunal to the Court of Appeal on a question of law, if the court gives leave for the appeal to proceed.

What happens to applications in the TDC when QCAT commences?
The transitional provisions in the *Queensland Civil and Administrative Tribunal Act 2009* set out the standard approach to dealing with matters after the date of commencement of QCAT on 1 December 2009.

If the College was able to apply to the Teachers Disciplinary Committee before 1 December 2009, but had not done so, the College must apply to QCAT from 1 December 2009. The functions, powers and procedures that apply to the matter are those set out in the *Queensland Civil and Administrative Tribunal Act 2009* and the amended *Education (Queensland College of Teachers) Act 2005*.

If the College had already filed an application in the Teachers Disciplinary Committee before 1 December 2009 but the matter had not yet begun to be heard, the matter will be heard in QCAT. The procedure is that of QCAT under the *Queensland Civil and Administrative Tribunal Act 2009* and the amended *Education (Queensland College of Teachers) Act 2005*. However QCAT only has the functions and powers the Teachers Disciplinary Committee had under the current *Education (Queensland College of Teachers) Act 2005* (the functions and powers were not significantly altered). The right of appeal from QCAT's decision are the rights set out under the *Queensland Civil and Administrative Tribunal Act 2009*.

If the application had already started to be heard by the Teachers Disciplinary Committee before 1 December 2009, the proceeding continues before the same person but is taken to be a proceeding before QCAT and the person hearing the matter is taken to be a QCAT member. The procedure is that of QCAT under the *Queensland Civil and Administrative Tribunal Act 2009* and the amended *Education (Queensland College of Teachers) Act 2005*. However QCAT may only perform the functions and exercise the powers of the Teachers Disciplinary Committee. The right of appeal is the right of appeal that applied to decisions of the Teachers Disciplinary Committee (ie the appeal would be to the District Court).

If the application was finalised before 1 December 2009, the decision of the Teachers Disciplinary Committee is deemed to be a decision of QCAT. The right of appeal is the right of appeal that applied to decisions of the Teachers Disciplinary Committee.