

Queensland Civil and Administrative Tribunal

Complaints Policy and Procedure

(Members, Adjudicators and Justices of the Peace)

Introduction

This complaints policy and procedure provides the framework for the management of complaints about Members, Adjudicators and Justices of the Peace of the Queensland Civil and Administrative Tribunal (QCAT). For convenience, these officers will collectively be referred to as 'QCAT Members'.

This policy and procedure deals with how to make a complaint to the President about the conduct of QCAT Members in connection with the performance of their duties.

If you wish to lodge a complaint about a QCAT Member and also about QCAT Registry staff, you should lodge separate complaints. To make a complaint about a staff member, please see the [QCAT Registry Complaints Management Policy](#).

IMPORTANT NOTES:

1. **Making a complaint about a Member WILL NOT change the decision or result of your matter.** Due to the principle of judicial independence, the President cannot direct or influence, or seek to direct or influence, any of QCAT's Members as to how to decide matters before them.

If you are dissatisfied with the outcome of your matter and:

- (a) You have a proper basis to appeal, (for example, a denial of procedural fairness), you can lodge an appeal or application for leave to appeal. There are strict time limits to when an appeal or application for leave to appeal can be made. To find out more about appealing a QCAT decision, see [our website for further information](#).
- (b) You have a proper basis to reopen your matter pursuant to section 138 of the [QCAT Act](#). You can make an application to reopen your matter. The most common type of application for reopening is when a matter proceeded in a party's absence and the party was not sent a Notice of Hearing. There are strict time limits to when an application for reopening can be made. Note also that a party cannot make an application for reopening under section 138 of the QCAT Act when

the decision is the subject of an appeal or an application for leave to appeal under Part 8 of the QCAT Act, whether or not the appeal or application for leave to appeal has been decided. To find out more about reopening a QCAT matter, see [our website for further information](#).

Purpose of complaints policy and procedure

The objective of this policy is to provide a framework for the management of complaints about QCAT Members in the performance of their functions at QCAT.

For the purposes of this policy, a complaint is defined as an expression of dissatisfaction about a QCAT Member's conduct in their performance of their functions as a QCAT Member, such as their conduct in a hearing or compulsory conference.

This policy and procedure offers a process by which complaints about the conduct of a QCAT Member can be brought to the attention of the President. If appropriate, the President might bring the complaint to the attention of the QCAT Member. *(If the complaint is about a pending proceeding, usually the complaint will not be brought to the attention of the QCAT Member. See further information about this below.)*

This process provides an opportunity for the President to be made aware of complaints by QCAT users about the conduct of a QCAT Member, so that the President may take this into account in discharging the President's statutory functions under the QCAT Act, including seeking to ensure that Members are adequately and appropriately trained to enable the Tribunal to perform its functions effectively and efficiently.

As stated above, in the table headed "important notes", **making a complaint about a Member WILL NOT change the decision or result of your matter.**

In addition, this policy and procedure **does not**, and cannot, provide a mechanism for:

- Disciplining a QCAT Member; or
- Dealing with complaints about a person who is not a QCAT Member.

As stated immediately above, complaints about persons who are not QCAT Members do not fall under this policy. As such, **complaints about parties, their legal representatives or agents do not fall under this policy.**

Complaints about delay in the delivery of reserved decisions

QCAT aims to deliver decisions within three (3) months from the date on which the decision is reserved. The majority of reserved decisions are delivered within this timeframe, but sometimes delivery of the decision will take longer, particularly in complex cases.

Any party with concerns about delay in delivery of a reserved decision should refer to [QCAT's Reserved Decisions Policy](#). That policy sets out how to make an enquiry about an outstanding reserved decision.

Vexatious complaints and complainant misconduct

The President may, in the President's discretion, decide not to respond to a complaint. This discretion is commonly exercised in circumstances where the complaint is vexatious, lacks substance or raises issues which have already been responded to.

Complaints in pending proceedings

"Pending proceedings" are proceedings which are before QCAT but are not finalised. Generally, it will not be appropriate for the President to investigate complaints about the conduct of pending proceedings.

In most cases, it will be appropriate for a party who has concerns about the conduct of a matter to raise the complaint before the Tribunal when the matter is next listed for hearing. If you are concerned that the Member does not have material which you have filed, or you do not have material which the Member has, and/or which another party has filed, then you should raise this very clearly with the Member hearing the matter.

If a party is concerned about bias

If a party is concerned that a QCAT Member is biased, then a party can make an application to the Tribunal for the QCAT Member to recuse themselves. That is, *if a fair-minded lay observer might reasonably apprehend that the QCAT Member might not bring an impartial mind to the resolution of the question the QCAT Member is required to decide*, you may bring an application for the QCAT Member to recuse themselves.

Complaints about pending proceedings will usually not be brought to the attention of the QCAT Member with conduct of the matter

If a complaint is received about pending proceedings, usually the QCAT Member with conduct of the proceedings, **will not** be advised of the complaint. This to avoid the QCAT Member potentially being influenced by the content or

the making of the complaint, that is, it is to avoid the creation of actual or apprehended bias.

How to make a complaint about a QCAT Member

A complaint about a QCAT Member must be made in writing.

You do not need to make a complaint on any special form. You can make a complaint by letter or by email.

If you are making a complaint in the context of a particular matter before QCAT, please include the file number of the matter if you have it.

Where to send a complaint about conduct by QCAT Member

Complaints **should not be** made directly to a QCAT Member.

A complaint about conduct by a QCAT Member must be marked “Confidential” and addressed to:

The President
Queensland Civil and Administrative Tribunal
GPO 1639
Brisbane Qld 4001

OR, if you are sending your complaint by email, to:

QCATcorro@justice.qld.gov.au



The Honourable Justice Kerri Mellifont

President of the Queensland Civil and Administrative Tribunal
(Signed and dated 18 November 2024)