

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 'Members'.

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

If you wish to lodge a complaint about the conduct of, or service by, QCAT Registry staff (including a staff mediator), please see the [QCAT Registry Complaints Management Policy](#).

If you wish to lodge a complaint about a Member and about QCAT Registry staff, you should lodge separate complaints, in accordance with the relevant policies.

If you would like to pay a compliment to, or provide positive feedback about your experience or contact with, the QCAT Registry Staff, please refer to the [Feedback Form](#).

Background

The functions of the President of QCAT include managing the business of QCAT to ensure it operates efficiently and managing the Members. However, due to the principle of judicial independence, the President may not direct or influence, or seek to direct or influence, any of QCAT's Members as to how to decide matters before them.

Members are accountable through the public nature of their work. When making decisions, they have an obligation to hear both sides of the case and generally to give reasons for their decisions. With limited exceptions, QCAT hearings are open to the public, and, subject to certain statutory limitations, can be reported in the media. The decisions may be subject to appeal. Members must disqualify themselves from hearing a case in which they have a personal interest. They are subject to the criminal and civil law for behaviour outside the performance of their functions as Members.

This policy and procedure offers a process by which complaints about the conduct of a Member can be brought to the attention of the President and, if appropriate, the Member concerned. This process provides:

- An opportunity for complaints to be dealt with in an appropriate manner;
- Valuable feedback to QCAT and its members;
- Opportunities for QCAT to explain the nature of its work and correct misunderstandings where they have concern; and
- Information to enable improvement of QCAT's performance.

This policy does not, and cannot, provide a mechanism for disciplining a Member. A Member is not obliged to respond to a complaint received directly from a member of the public.

Policy

The objective of this policy is to provide a framework for the management of complaints about 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 Member's conduct in their performance of their functions as a Member, such as their conduct in a hearing, compulsory conference or mediation at QCAT.

Complaints should not be made directly to a Member.

The policy and the procedures that follow are underpinned by principles of openness and accountability, responsiveness, procedural fairness, and privacy. That means:

- Members of the public will have access to information about how and where to make a complaint;
- Complaints will be dealt with in a timely manner;
- Principles of natural justice and procedural fairness will be applied to all complaints;
- Parties to a complaint will receive information that clearly explains how the complaint was dealt with by the President;
- Complainants will be ensured of anonymity and the complaint will be treated in confidence.

This policy and procedure does not, and cannot, provide a mechanism for:

- Disciplining a Member;
- Dealing with complaints about a decision of a Member that could be dealt with on appeal;
- Dealing with complaints about parties, their legal representatives or agents.

Complaints about QCAT Decisions and Conduct of Proceedings – Cases that could be dealt with on appeal

The President has no power to interfere with a decision made by a Member, and complaints about the result of a case are generally outside the scope of this policy and procedure.

A party who disagrees with or is concerned about the result of a case, or about any other matter in connection with the case that is capable of being raised in an appeal should consider whether or not to appeal or seek leave to appeal, as appropriate. There are strict time limits for appeals and parties need to act promptly.

If a complaint is received about matters that are, or were, capable of being dealt with on appeal, a letter will be sent to the complainant indicating that the matter cannot be dealt with under this policy.

Complaints in pending proceedings

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 to raise the complaint before the tribunal when the matter is next listed for hearing.

Complaint about conduct by QCAT Member

A complaint about conduct by a Member must be made in writing (marked “Confidential”) addressed to:

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

or by email to QCAT.JudicialExecutiveAssistant@justice.qld.gov.au

On receipt of a complaint, the President will first make sure that the complaint is about conduct by a Member which is covered by this policy. The President will make sure that the complaint is not about the result of the case or about something else that was capable of being raised on appeal, and therefore outside the scope of this policy.

If the President considers that the complaint is about conduct of a Member which is within the scope of this policy, the President will then consider whether, on the facts, the complaint has substance; and whether to invite the particular Member concerned to respond.

If the President considers that dealing with the complaint might have an adverse effect on the disposition of a matter currently before the tribunal, the President may defer dealing with the complaint until the determination of the matter. If so, the Member concerned would not normally be advised of the complaint in order to avoid any possible perception of bias, and the complainant would be informed of this.

The President will, generally, provide a formal acknowledgment of receipt of a complaint within seven (7) working days of receipt. A considered response will ordinarily be forwarded within twenty (20) working days of receipt of the complaint. If it is not possible to respond within that time, a letter will be sent confirming the delay and advising as to the anticipated response time.

Given the process cannot provide a mechanism for disciplining Members, the President's response will not address anything other than the substance of the complaint. However, it provides an opportunity for the President to improve the performance of QCAT if behaviour falls short of expected standards.

Complaints about delay in the delivery of reserved decisions

QCAT aims to deliver all decisions promptly and has a benchmark of three (3) months from the date on which the decision is reserved. Most decisions are delivered within this timeframe, but sometimes they 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](#).

Vexatious complaints and complainant misconduct

The President may not respond to a complaint if it is vexatious or lacks substance. If a complaint raises issues which have already been responded to, then no further response will be provided.

Complaints about other persons

Complaints about persons who are not Members clearly do not fall under this policy, and will not be dealt with in any way by the President of QCAT.

If a party has a complaint about the conduct of their lawyer, about a bill received from their lawyer, or about the conduct of another lawyer, the party should consider contacting the relevant professional body.