

## **FACT SHEET 1 MAKING A COMPLAINT**

This fact sheet explains how to make a complaint against a lawyer. It also describes the role of the Legal Profession Board of Tasmania (“the Board”) in this process.

### **Who is the Board?**

The Board is the sole body responsible for receiving and investigating complaints about the conduct of practitioners. The Board is an independent statutory body and consists of six Board Members appointed by the Governor of Tasmania.

### **The role of the Board**

#### **What does the Board do?**

From the public perspective the major role of the Board is the resolution of complaints involving lawyers. To this end, the Board receives and investigates complaints about the conduct of lawyers and determines how they should be dealt with. Options available to the Board include mediation; intervention to achieve a resolution without a formal complaint; and a hearing which could involve discipline of the lawyer or referral of the matter to the Disciplinary Tribunal or the Supreme Court.

Another important function of the Board is advising lawyers upon appropriate standards of professional conduct. The Board also monitors emerging issues and trends in the legal profession and conducts education programs for the community about client-lawyer relationships.

#### **What can't the Board do?**

The Board cannot:

- × provide you with legal advice;
- × prevent a lawyer from commencing legal proceedings against you;
- × change any decision made by a court; or
- × order a lawyer to act for you.

## Practitioners conduct

The role of, and the action taken, by the Board, will depend upon whether the alleged conduct complained of may amount to “*unsatisfactory professional conduct*”, or the more serious “*professional misconduct*”. If the Board considers that the alleged conduct may amount to “professional misconduct”, it must refer the matter to the Disciplinary Tribunal or the Supreme Court.

**What do these terms mean?**

The Act defines;

**“unsatisfactory professional conduct” as including:**

*“...conduct of an Australian legal practitioner occurring in connection with the practice of law that falls short of the standard of competence and diligence that a member of the public is entitled to expect of a reasonably competent Australian legal practitioner.”*

and

**“professional misconduct” as including:**

*“unsatisfactory professional conduct of an Australian legal practitioner, where the conduct involves a substantial or consistent failure to reach or maintain a reasonable standard of competence and diligence; and*

*conduct of an Australian legal practitioner whether occurring in connection with the practice of law or occurring otherwise than in connection with the practice of law that would, if established, justify a finding that the practitioner is not a fit and proper person to engage in legal practice.”*

**Time limits**

Please note that the Board may be unable to deal with your complaint if it is made more than 3 years after the conduct is alleged to have occurred. If this may be applicable, please contact us to discuss the matter before completing this form.

## Who can make a complaint?

Any person may make a complaint about the conduct of a lawyer.

You can make a complaint about the conduct of:

- a lawyer (barrister or solicitor) who is currently acting for you or who previously acted for you or is acting for another party;
- a lawyer who is working alone or who is an employee of a legal firm; or
- a government lawyer.

## Preparing to lodge a complaint

Before you lodge a formal complaint with the Legal Profession Board, you should explore the possibility of resolving your concerns with your lawyer in a less formal way, such as:

- ✓ talking to the lawyer involved and calmly raising your issues and explaining what outcome you want;
- ✓ raising your concerns with a more senior person at the same firm; or
- ✓ contacting the Legal Profession Board staff to determine if they can assist you to resolve the problem without the need of a formal complaint.

## The complaint process

### How do I make a complaint?

If you decide to make a complaint to the Board you must put your complaint in writing and sign it, using the complaint form we have designed to help you give us the information we need. If you have difficulty in completing the complaint form, staff at the Board may be able to assist you. We can also arrange for interpreters if required.

### Is there a fee?

There is no fee to lodge a complaint about a lawyer.

When you complete the complaint form, please try to be as concise and brief as possible. You must describe the conduct of the lawyer you are complaining about and it is important to provide the Board with copies of any relevant documents.

Ensure that you sign the declaration on the back page before you send it to us. You may assist a friend or relative to make a complaint by completing the complaint form on their behalf, but you will need to include their written and signed authority.

### What happens once I make my complaint?

Once you have lodged a complaint with the Board, the information you have provided will normally be copied to the practitioner concerned and will then be assessed and may be investigated. The Board will make a decision if the conduct of the practitioner falls within the definitions of either unsatisfactory professional conduct or professional misconduct.

### Who investigates my complaint?

The Investigations Officer, who is a legally trained employee of the Board, will normally investigate your complaint.

### How long does it take?

A complaint can take time to be properly processed, investigated and concluded. The length of time will depend on the seriousness and complexity of the complaint. The practitioner must be given the opportunity to respond to your allegations and the entire process must be fair for all parties. It might involve a formal hearing at which the parties will be heard. All complaints received by the Board are dealt with thoroughly, fairly and as quickly as possible.

## Important things to consider when making a complaint

- All complaints lodged with the Board are confidential. However the Board will send a copy of your complaint to the lawyer in all cases except where by doing so it would hamper the investigation or put you at risk. The Board must also advise the Law Society of Tasmania of details of the complaint.
- You may withdraw your complaint at any time either in person, by telephone or in writing. Withdrawal of a complaint does not prevent the Board from taking further action if it deems it appropriate to do so.
- You can engage the services of another lawyer at any time whether a complaint has been made or not.

## Where can I go to get more information?

If you have any questions regarding this information or wish to enquire about any aspect of making a complaint about the conduct of a practitioner, please contact the Board;

by telephone on:                   **(03) 6226 3000**  
by email:                               **enquiry@lpbt.com.au**

The Board is located at:

**Level 3, 147 Macquarie Street, Hobart**

**GPO Box 2335, Hobart 7000**