

# Magistrates Court of Queensland

## Magistrates Complaint Policy

### Background and introduction

The Chief Magistrate has administrative responsibility for the orderly and expeditious exercise of the jurisdiction and powers of the Magistrates Courts.

However, due to the principle of judicial independence observed in Australian Courts, this does not extend to directing, or influencing, or seeking to direct or influence the Court's judicial officers as to how to decide matters that come before them.

In Queensland the *Magistrates Act 1991* provides that a Magistrate (including acting magistrates) must not be removed from office unless the Supreme Court decides that a proper cause exists.

Magistrates are accountable through the public nature of their work. They have an obligation to hear both sides of a case and to give reasons for their decisions. Their decisions are subject to appeal. They must disqualify themselves from hearing a case in which they have a personal interest.

With limited exceptions, court hearings are open to the public, and, subject to certain statutory limitations can be reported in the news media.

This complaints policy offers a process by which complaints about judicial conduct can be brought to the attention of the Chief Magistrate and, if appropriate, the magistrate concerned.

It also provides:

- An opportunity for complaints to be dealt with in an appropriate manner
- Valuable feedback to the Court and to its magistrates
- Opportunities for the Court to explain the nature of its work, correct misunderstandings where they have occurred, and,
- Where appropriate, opportunities to improve the performance of the Court.

A magistrate is not obliged to respond to a Complaint received directly from a member of the public.

### Objectives

The objective of this complaints policy is to provide a framework for complaints management across the magistracy.

### Policy statement

The complaint policy and the procedures that follow are underpinned by principles of openness and accountability; responsiveness; natural justice and procedural fairness; and privacy.

- 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 Chief Magistrate.
- Complainants will be assured of anonymity and the complaint will be treated in confidence.

## **What is a complaint?**

For the purposes of this policy, a complaint is defined as an expression of dissatisfaction about the judicial conduct of a magistrate.

Judicial conduct, for the purposes of this policy and procedure, means conduct of a magistrate in court or in connection with a case in the Magistrates Court, or in connection with the performance of a Magistrate's judicial functions.

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

- Disciplining a magistrate
- Dealing with complaints about the conduct of proceedings
- Dealing with complaints about a decision of magistrate that could be dealt with on appeal
- Dealing with complaints about parties to a matter or their legal representatives
- Dealing with complaints about police officers.

## **Complaint categories**

### ***Administrative issues***

A party may make a complaint about the services delivered by the registry staff. Such complaints are generally referred to the Clerk of the Court of the Court concerned.

A party may complain about other administrative staff of the Court. Such complaints are generally referred to the Executive Director, Magistrates Courts Service.

### ***Complaints about judicial decisions and conduct of proceedings – cases that could be dealt with on appeal or review***

Parties who are concerned about the result of a case, or about any other matter in connection with the case, should consider whether or not to appeal or seek review. There are strict time limits for appeals and reviews and parties to act promptly.

The Chief Magistrate has no power to interfere with any decision made by a magistrate and complaints about the result of a case are outside the scope of the complaints policy and procedure.

### ***Complaints in pending proceedings***

Generally, it will not be appropriate for the Chief Magistrate to investigate complaints about the conduct of pending proceedings. In most cases it will be appropriate for you to raise your complaint in court when your matter is next listed for hearing.

### ***Complaints about judicial conduct***

A complaint about judicial conduct must be made in writing addressed to the Chief Magistrate.

If the Chief Magistrate receives such a complaint they will first make sure that the complaint is about judicial conduct. They will make sure that the complaint is not about the result of the case or about something else that was capable of being raised in an appeal or on review and therefore outside the scope of the complaints policy and procedure.

If the Chief Magistrate considers that the complaint is about judicial conduct, they will then consider whether, on the facts, the complaint has substance; and whether to invite the magistrate concerned, to respond.

If the Chief Magistrate considers that dealing with the complaint might have an adverse effect on the disposition of a matter currently before the Court they may defer dealing with the complaint until the determination of the matter. If so, the magistrate dealing with the matter would not normally be advised of the complaint to avoid any possible perception of bias, and the complainant would be informed of this.

The Chief Magistrate will generally provide a formal acknowledgement of receipt of your complaint within 7 working days of your complaint. A considered response will ordinarily be forwarded within 20 working days of receipt of your complaint. If it is not possible to respond within that time a letter will be sent outlining the reason for the delay.

Because the process cannot provide a mechanism for disciplining Magistrates, the Court's response will not address anything other than the substance of the complainant. However, as indicated, it provides an opportunity for the Chief Magistrate to improve the performance of the Court if behaviour falls short of expected judicial standards.

If the matter warranted it, the Chief Magistrate would bring the conduct complained of to the attention of the Crime and Misconduct Commission.

Once the matter is referred to the Crime and Misconduct Commission the *Crime and Misconduct Act 2001* applies. Consistent with the *Magistrates Act 1991* the Crime and Misconduct Commission in exercising its powers in relation to the conduct of the magistrate must proceed having proper regard for, and proper regard for the importance of preserving, the independence of judicial officers.

This means that the Chairperson of the Crime and Misconduct Commission must consult with the Chief Justice of the Supreme Court in conducting any investigation into the conduct of the magistrate; and the Crime and Misconduct Commission's authority is limited to investigating misconduct of a kind that, if established, would warrant the magistrate's removal.

### ***Complaints about delay in delivery of reserved judgements***

A party may express concerns or make complaints about delay in the delivery of a judgement. A legally represented party may approach the President of the Queensland Law Society and request that the President take up the matter with the Chief Magistrate, or alternatively, write directly to the Chief Magistrate. The Chief Magistrate will look into the matter and, if appropriate, take it up with the magistrate concerned.

Self-represented litigants should write directly to the Chief Magistrate.

The Court aims to deliver all judgements promptly and has a bench mark of three (3) months from the date the case is last heard. Most judgements are delivered within this timeframe, but sometimes they take longer, particularly in complex cases.

### ***Vexatious complaints and complainant misconduct***

The Court may not respond to your 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.

### ***Lawyers appearing in proceedings***

If you have a complaint about the conduct of your lawyer, about a bill you have received from your lawyer, or about the conduct of another lawyer, you should consider contacting the relevant professional body below.

### ***Legal Services Commission***

The Legal Services Commissioner  
Level 25, 307 Queen Street  
Brisbane Qld 4000  
PO Box 10310  
Brisbane Adelaide Street Qld 4000  
Telephone: 3406 7737 (Brisbane)  
1300 655 754 (outside Brisbane – cost of a local call)  
Email: [lsc@lsc.qld.gov.au](mailto:lsc@lsc.qld.gov.au)

### ***Queensland Law Society***

The President,  
Queensland Law Society  
179 Ann Street  
Brisbane Qld 4000  
GPO Box 1785  
Brisbane Qld 4001  
Telephone: 3842 5842  
Email: [info@qls.com.au](mailto:info@qls.com.au)

### ***The Bar Association of Queensland***

The President,  
Bar Association Queensland  
Level 5 Inns of Court  
107 North Quay  
Brisbane Qld 4000  
Telephone: 3238 5100  
Email: [qldbar@qldbar.asn.au](mailto:qldbar@qldbar.asn.au)

### **Complaints about Police**

If you have a complaint about the conduct of a police officer involved in your matter, you should consider contacting the Queensland Police Service or alternatively the Crime and Misconduct Commission.

**Queensland Police Service**

State Coordinator ESC  
Qld Police Headquarters  
200 Roma Street  
Brisbane Qld 4000  
Email: [escstatecoordinator@police.qld.gov.au](mailto:escstatecoordinator@police.qld.gov.au)

**Crime and Misconduct Commission**

The Chairperson  
Crime and Misconduct Commission  
Level2, North Tower Green Square  
515 Pauls Terrace, Fortitude Valley  
(by appointment)

GPO Box 3123  
Brisbane Qld 4001  
Telephone: 3360 6060 or 1800 061 611 (toll free)

**Complaints about Federal Circuit Court Judges**

If you have a complaint about the conduct of a Federal Circuit Court Judge, please refer your complaint to the below.

**Federal Circuit Court of Australia**

The Chief Judge  
Harry Gibbs Commonwealth Law Courts Building  
Level 6, 119 North Quay  
Brisbane Qld 4000  
Telephone: 3248 1100  
Email: [gldreg@fedcourt.gov.au](mailto:gldreg@fedcourt.gov.au)  
Website: [www.federalcircuitcourt.gov.au](http://www.federalcircuitcourt.gov.au)