

Chapter 16 Standards and Discipline

16.1 Discipline	2
16.1.1 The discipline system	2
16.1.2 The complaint system	3

MSM Issue 54
Public Edition

16.1 Discipline

The Commissioner is responsible for the efficient and proper administration, management and functioning of the Service, including the discipline of members (see s. 4.8: 'Commissioner's responsibility' of the PSAA and s. 7(k): 'Particular matters within scope of prescribed responsibility' of the Regulations). To fulfil this responsibility, the Commissioner may make guidelines relating to the disciplinary process (see s. 7.44: 'Guidelines' of the PSAA). This section and the Complaint Resolution Guidelines (see ESC webpage of the Service Intranet) exist to provide for fair and timely resolution of complaints and a system which identifies instances of unacceptable conduct and takes swift action to correct the behaviour and prevent a repeat of the conduct, primarily through management intervention strategies.

Scope

The Service consists of officers and staff members. For staff members, the Commissioner's responsibility is fulfilled in compliance with the PSAA and the *Public Sector Act* (PSA). Staff members, as well as officers, are integral members of the Service and will be treated and valued equally, while acknowledging their individual legislative and industrial entitlements.

Purpose

The purpose of discipline is to:

- (i) maintain public confidence in the Service;
- (ii) maintain the self-esteem of members of the Service;
- (iii) maintain confidence in the ability of the Service to fulfil its statutory functions;
- (iv) maintain proper standards of conduct for members of the Service (by specific and general deterrence principles);
- (v) maintain the efficiency of the Service; and
- (vi) protect the reputation of the Service.

Authorities

The following authorities are applicable to:

- (i) officers:
 - (a) PSAA;
 - (b) Police Service Administration Regulation;
 - (c) *Crime and Corruption Act* (CCA);
 - (d) *Queensland Civil and Administrative Tribunal Act*; and
- (ii) staff members:
 - (a) PSA;
 - (b) Public Sector Regulation;
 - (c) PSAA;
 - (d) CCA; and
 - (e) Public Service Directive No. 04/23: Appeals.

16.1.1 The discipline system

The discipline system is a part of the overall performance management scheme employed by the Service. The effective management of conduct and performance is paramount to maintain public confidence in the Service.

General performance and conduct of a member are recorded through other systems such as the Development and Performance (DAP) system. The discipline system is to be used to record and deal with conduct which reaches the threshold to become a disciplinary complaint. Where appropriate, outcomes and professional development strategies are to be recorded on the DAP system to ensure the required improvements in behaviour are achieved and supervisors are provided with the information required to effectively manage their staff. Access to the DAP system is restricted to members and their supervisor. Members are entitled to have a support person, union representative or legal representative to assist them in the process.

One of the primary aims of the complaint system is to improve performance by providing appropriate training and guidance to members whose conduct has come into question due to an identified underlying issue. A member's willingness to show insight into their behaviour and take part in professional development strategies may alleviate the need to impose more arduous action to improve behaviour. Integrity, however, is the essential quality required to be a member. Members found to be lacking in integrity can expect to be dealt with in an appropriate manner.

Line supervisors are an integral part of maintaining appropriate standards of discipline within the Service. Supervisors have a crucial role in setting and maintaining standards throughout the Service. Supervisors should also be involved in drafting and implementing professional development strategies to correct subject member behaviour which needs to be improved.

Professional development strategies should:

- (i) be simple, effective, transparent and fair; and
- (ii) provide measurable outcomes for subject members.

For further information see Chapter 3: 'Local Management Resolution' of the Complaint Resolution Guidelines.

The Service recognises there will be instances of misconduct which are so serious, repeated in nature or of such public concern that a sanction/penalty provided for in the PSAA or PSA, may need to be imposed. Discipline is not meant to be punitive in nature and any strategies or sanctions/penalties must be imposed with the objectives of improving performance and protecting the reputation of the Service. Even where a sanction/penalty is imposed, professional development strategies should also be considered as part of a holistic response to the inappropriate conduct. For further information see Chapter 7: 'Sanction Guidelines' of the Complaint Resolution Guidelines.

16.1.2 The complaint system

Receipt and assessment of complaints

A complaint against a member may be received by either the Crime and Corruption Commission (CCC) or the Service. On receipt of a complaint, nominated members of the CCC and/or the Service will assess the complaint and determine the organisation which will manage the complaint. For further information see Chapters 1: 'Complaint Entry' and 2: 'Assessment and Management of Complaints' of the Complaint Resolution Guidelines.

Investigations

The disciplinary system is not intended to be legalistic or adversarial in nature. Investigations are to be conducted in a timely manner and in compliance with natural justice and the principles of procedural fairness. Flexible strategies may be employed by investigators to enable timely resolution of complaints providing they comply with all relevant legislation, policy and guidelines. Where appropriate, such strategies may include email requests for versions and early contact with the subject member. Once sufficient evidence has been obtained to establish the truth of a matter under investigation, an investigator should look at strategies to resolve the matter as soon as possible. For further information see Chapter 4: 'Investigative Processes' of the Complaint Resolution Guidelines.

Investigating complaints with criminal aspects

Due to the nature of policing duties, some disciplinary complaints will deal with allegations which may substantiate criminal (or regulatory) offences as well as grounds for discipline. As a general rule, consideration will be given to criminal allegations before considering disciplinary matters. Members detailed to investigate criminal aspects of a disciplinary complaint are acting in their capacity as an officer and may utilise their powers pursuant to the PPRA. Members detailed to investigate disciplinary aspects of a disciplinary complaint are acting in their capacity as a representative of the employer and may use appropriate powers provided by the PSAA. Information obtained using powers pursuant the PPRA must not be used in the disciplinary investigation. Similarly, any information obtained using powers provided by the PSAA must not be used in a criminal investigation. For further details about this issue and other matters such as natural justice and double jeopardy see Chapter 5: 'Investigative Issues' of the Complaint Resolution Guidelines.

Investigation outcomes

Once an investigation is finalised, a report is to be forwarded to the Assistant Commissioner, ESC or delegated case manager with appropriate recommendations concerning proposed management and/or disciplinary actions. Where the complaint is not capable of substantiation or can be resolved by professional development strategies, the subject member's discipline record is to clearly indicate that no decision concerning substantiation was made. Any professional development strategies provided will be noted in the form of a training record and actioned through the member's DAP.

Where management actions or professional development strategies are insufficient to address the alleged conduct and a sanction/penalty is required to resolve a matter to fulfil the purpose of discipline, a disciplinary proceeding can be commenced. The standard of proof for disciplinary proceeding is the civil standard on the balance of probabilities. Members who are subject to disciplinary action are entitled to appeal any action taken against them pursuant to the relevant legislation. For further information see Chapter 6.1: 'Discipline Proceeding' of the Complaint Resolution Guidelines.

If a disciplinary proceeding is required to resolve an allegation against an officer, an Abbreviated Disciplinary Proceeding (ADP) may be commenced with the agreement of the CCC. The ADP will provide the opportunity for a subject officer to resolve a complaint in a timely fashion with a known outcome. If the ADP is not successful, further investigations may be conducted before a full disciplinary proceeding is considered. For further information see Chapter 6.2: 'Abbreviated Discipline Process' of the Complaint Resolution Guidelines.

Timeliness

The purpose of discipline is best served when disciplinary complaints are resolved in a timely manner. At all stages of the disciplinary process investigators are to be cognisant of the time limitations for commencing disciplinary proceedings against officers (see s. 7.12: 'When disciplinary proceeding must be started' of the PSAA). The Service will use these time limitations as aspirational goals for any disciplinary proceedings against staff members. For serious matters, proceedings for corrupt conduct can still be considered pursuant to the *Crime and Corruption Act*. Appropriate professional development strategies can be imposed at any time and are not affected by time limitations.

Commissioner's direction (does not apply to criminal investigations)

The Commissioner has lawfully directed all members to truthfully, completely and promptly answer any question put to them by a member conducting a disciplinary or administrative investigation or inquiry (see s. 4.9: 'Commissioner's directions' of the PSAA). The requirement for members of the Service to answer all questions directed to them truthfully, completely and promptly and to comply with any lawful direction applies throughout the disciplinary investigation and during any subsequent disciplinary proceeding.

MSM Issue 54
Public Edition