

Complaints and Disciplinary Proceedings Policy

1. Background

1.1 The Valuers Registration Board of Queensland (“**the Board**”) is Queensland’s property valuation regulator. It is responsible for affording protection to the public, maintaining professionalism within the valuation profession and upholding professional standards of practise. The Board’s jurisdiction to receive Complaints and initiate disciplinary action is an imperative function in protecting public interests and maintaining public confidence in the valuation profession.

2. Purpose

2.1 This document:

- a) sets out the policy used by the Board in dealing with Complaints made against Registered Valuers, Specialist Retail Valuers, or persons holding themselves out to be Valuers in Queensland pursuant to the *Valuers Registration Act 1992 (Qld)* (“**the Act**”) and the Valuers Registration Regulation 2013 (Qld) (“**the Regulation**”);
- b) provides guidance to the Board, Registered Valuers and the public on how Complaints will be managed and disciplinary proceedings will be Conducted;
- c) provides for consistency in the effective treatment of Complaints and disciplinary proceedings.

3. Definitions

3.1 Capitalised terms used in this Policy which are not defined have the meanings defined in the Complaints and Disciplinary Proceedings Procedure (PRO-1).

4. Authority

- 4.1 The Act and the Regulation authorises the Board to receive and investigate Complaints regarding the Conduct of Queensland Registered Valuers and Unregistered Persons, and to take disciplinary action where required.
- 4.2 Section 43 of the Act allows a person who is aggrieved by the Conduct of a Registered Valuer to complain to the Board, and section 44 permits the Board to authorise an investigation.
- 4.3 Sections 42H, 50 and 51 of the Act outline the disciplinary proceedings and action which may be taken by the Board against Registered Valuers and registered Specialist Retail Valuers.
- 4.4 Sections 63 and 64 of the Act outline the Board’s authority in considering Unregistered Persons.
- 4.5 Part 2 of the Regulation provides for the enforcement of the code of professional Conduct.
- 4.6 This Policy was adopted by the Board on 13 November 2018 and applies from 1 January 2019.

5. Scope

- 5.1 This Policy, in conjunction with the Complaints and Disciplinary Proceedings Procedure (PRO-1), applies to Complaints regarding the Conduct of Registered Valuers or Unregistered Persons, and guides the process and Decision making of the Board including:
 - a) determination of a Complainant’s standing to lodge a Complaint;
 - b) determination on the validity of Complaints;

- c) seeking a right of reply from Complaint Respondents;
 - d) Decision to investigate;
 - e) determination to take disciplinary action; and
 - f) where available, mechanisms to appeal a Decision of the Board.
- 5.2 Complaints which are considered to be high risk (including but not limited to matters where there is a serious and immediate threat to any person, the Board, staff employed by the Board, the profession or government) may be dealt with in a manner outside the scope of this Policy.
- 5.3 The Board has authority to investigate matters where, on the information available (including but not limited to the Complaint and the Complaint response) , it considers that the Complaint is not frivolous or vexatious and that reasonable grounds have been presented to suggest that:
- a) a Registered Valuer may have:
 - i. engaged in professional misconduct;
 - ii. engaged in incompetence or negligence in the person's performance as a Valuer; or
 - iii. contravened a prescribed code of professional Conduct.
 - b) or a Specialist Retail Valuer may have:
 - i. knowingly contravened section 28(3) of the *Retail Shop Leases Act 1994* (Qld); or
 - ii. contravened section 29 or 32 of the *Retail Shop Leases Act 1994* (Qld).
 - c) or an Unregistered Person may have contravened the prohibition to practice as a Valuer whilst unregistered.
- 5.4 Where a Complainant is determined as having insufficient standing to lodge the Complaint, but the Board is of the view that the information provided by the Complainant sufficiently demonstrates that there may be reasonable grounds to suggest there has been a breach of the Act, the Board may authorise an investigation on its own initiative.¹
- 5.5 The Act does not authorise the Board to investigate a Complaint about a disagreement over the quantum of a valuation.² The Board is only authorised to consider a Complaint about the Conduct, behaviour or action of a Registered Valuer in a professional capacity.
- 5.6 The Board does not have jurisdiction to settle commercial disputes, to act as an arbitrator or mediator of a dispute between parties to a valuation, to order a valuation be set aside or re-determined or to award damages.
- 5.7 Complaints subject to previous review and determination by the Board may be dismissed if the Complaint has previously been resolved.
- 5.8 Where there are Complaints involving existing or potential legal proceedings which, in the reasonable opinion of the Board, could implicate the credibility of the Valuer or the valuation subject of the Complaint, then, the Board has the discretion to place the Complaint on hold until the finalisation of those proceedings.

6. Principles governing Complaints and disciplinary proceedings

- 6.1 The Board recognises that receiving Complaints is an imperative function in protecting public interests and maintaining public confidence in the valuation profession, and seeks to ensure that Complaints can be made easily and without charge.
- 6.2 Each Complaint will be managed according to the following:

¹ S 44(1)(b)–(c) *Valuers Registration Act 1992* (Qld).

² *Ibid* s 43.

- a) principles of natural justice, fairness and objectivity will be applied to all Complaints, with matters being dealt with in a consistent and professional manner which is independent of the parties;
 - b) Decisions will be made on a case by case basis and with reference to all relevant information provided to the Board to ensure an appropriate Decision is reached;
 - c) the level of investigation will be commensurate with the nature of the Complaint;
 - d) transparent operations will be achieved by keeping the Complainant informed of the progress in progressing the Complaint, and outlining reasons for the Board's Decision;
 - e) where available, any appeal avenue will be outlined to Complainants and Complaint Respondents;
 - f) personal information related to Complaints will be managed in accordance with the *Information Privacy Act 2009* (Qld), and only used for the purposes of addressing the Complaint and any follow up action required; and
 - g) where appropriate, Complaints and/or Complainants will be referred to alternate legislation or agencies.
- 6.3 The Board will record and report Complaint information to identify Complaint trends, and potential awareness opportunities.
- 6.4 The Board will review the operation of this Policy and its Complaint handling processes annually.
- 6.5 Processes for managing Complaints will, where appropriate, comply with Australian Standard AS/NZS 10002:2014 for the handling of Complaints as well as guidelines and directives from the Queensland Ombudsman.

Complaints and Disciplinary Proceedings Procedure

1. Persons who may lodge a Complaint

- 1.1 Section 43 of the Act permits a Person Aggrieved by the Conduct of a Registered Valuer to lodge a Complaint with the Board. A Complaint can also be lodged against an Unregistered Person.³
- 1.2 If an aggrieved person believes that a Valuer has engaged in professional misconduct or incompetence or negligence in their performance as a Valuer or has breached the code of professional Conduct or that a Specialist Retail Valuer has breached a provision of the *Retail Shop Leases Act 1994* (Qld),⁴ and that Conduct has Adversely Affected the person's Special Interest, then, a Complaint may be made to the Board regarding the Valuer's Conduct.
- 1.3 The Complaint must be more than a disagreement over the quantum of the valuation of the Land. To fall within the jurisdiction of the Act, a Complainant must address each of the following elements in their Complaint:
- a) Aggrieved person - a Complainant must demonstrate a "Special Interest" in the subject matter of the Complaint which is beyond the interests shared by the population at large. For example, a legal or equitable interest in the Land the subject of the valuation would amount to a "Special Interest".
 - b) Adversely Affected - a Complainant must demonstrate their "Special Interest" was Adversely Affected by the Conduct of the Valuer. The Complainant must demonstrate a sufficiently close relationship between the Conduct and the adverse effect. For example, in a situation where, a Purchaser under a contract to buy Land, is refused finance by their bank, without the production of further evidence as to the Valuer's Conduct and how it Adversely Affected the purchaser's Special Interest, that purchaser would not have an ability to lodge a claim against the bank's Valuer for undertaking a valuation of the Land. Similarly, following settlement of a contract to buy Land, a Purchaser who experiences "buyer's remorse" would not, without providing further evidence of inappropriate Conduct on the part of the Valuer which lead to the purchaser's interest in the Land being Adversely Affected, the purchaser would not have standing under the Act, to complain against the banks Valuer.
 - c) Valuers Conduct - an aggrieved person may only complain about the Conduct of a Registered Valuer (i.e. their behaviour or action in a professional capacity). A Complainant must address the manner in which the Valuer Conducted themselves or their behaviour, and whether they have breached the code of professional Conduct or engaged in professional misconduct, incompetence or negligence and that Conduct has Adversely Affected the person's Special Interest. A disagreement about quantum is not, by itself, sufficient to be caught by the Act.
- 1.4 The issue of whether a Complainant has standing is a complex one and will turn on the facts of each case. Whether or not a Complainant has standing will be assessed on an individual basis having regard to the evidence and allegations made against the Registered Valuer in each Complaint.
- 1.5 Section 43(2) of the Act mandates that Complaints can only be received by the Board in writing. Complaints should be submitted using FORM-1 (Complaint against Registered Valuer), FORM-2 (Complaint against Specialist Retail Valuer) or FORM-3 (Complaint against Unregistered Person).

³ Refer to s 3.3 of this document (Complaints and Disciplinary Proceedings Procedure: PRO-01).

⁴ S 28(3), s 29, s 32 *Retail Shop Leases Act 1994* (Qld).

- 1.6 Where a Complainant is not a Person Aggrieved or is unable to demonstrate the elements required for the Complaint to fall within the jurisdiction of the Act, it will be communicated to the Complainant in writing.
- 1.7 In the absence of a Complaint by an aggrieved person, the Board has jurisdiction to authorise an investigation of Conduct of a Registered Valuer or Unregistered Person where it suspects, on reasonable grounds that the person has contravened the Act or Regulation.⁵

2. Who must the Complaint be against

- 2.1 The Board has jurisdiction to investigate Complaints against Registered Valuers, registered Specialist Retail Valuers and Unregistered Persons.
- 2.2 In cases where the Valuer was registered at the time of the alleged offence but at the time of the Complaint is unregistered, the Valuer is taken to be registered for the purposes of considering the Complaint.
- 2.3 In cases where the Valuer was unregistered at the time of the alleged offence but at the time of the Complaint is registered, the Valuer is taken to be unregistered for the purposes of considering the Complaint.
- 2.4 In situations where a Complaint is lodged against a valuation firm or body corporate, consideration will be given as to whether the Board has jurisdiction to receive and consider the Complaint but it is the responsibility of the Complainant to provide sufficient information to the Board to allow the Board to consider whether the Complaint comes within the provisions of the Act.

3. Categories of Complaints

- 3.1 Complaints which can be made against a Registered Valuer include instances where the Valuer is alleged to have engaged in:
- professional misconduct;⁶ or
 - incompetence or negligence in his or her performance as a Valuer;⁷ or
 - a breach the code of professional Conduct.⁸
- 3.2 Complaints which can be made against a registered Specialist Retail Valuer include instances where the person is alleged to have:
- knowingly contravened section 28 (3) of the *Retail Shop Leases Act 1994* (Qld);⁹ or
 - contravened section 29 or 32 of the *Retail Shop Leases Act 1994* (Qld).
- 3.3 Complaints which can be made against an Unregistered Person include instances where the person is alleged to have:
- held himself or herself out as being a Registered Valuer;¹⁰ or
 - carried on or attempted to carry on the business of a Registered Valuer;¹¹ or
 - taken, used or exhibited a name, letter, word, title, description or symbol that, either alone or in the circumstances in which it is taken-¹²
 - is capable of being reasonably understood to indicate; or
 - is intended by the person to indicate;

⁵ S 44(1) *Valuers Registration Act 1992* (Qld).

⁶ *Ibid* s 50(1)(a).

⁷ *Ibid* s 50(1)(b).

⁸ *Ibid* s 44(1)(b).

⁹ *Ibid* s42H(1).

¹⁰ *Ibid* s 63(1)(a).

¹¹ *Ibid* s 63(1)(b).

¹² *Ibid* s 63(1)(c).

that the person is a Registered Valuer or is entitled to carry on the business of a Registered Valuer.

4. Complaints about historic Conduct

4.1 Complaints against Registered Valuers:

- a) The Board imposes no time limit for making a Complaint, however, it is unlikely to exercise its discretion under the Act to authorise an investigation of Conduct where the subject matter of the Complaint arose more than two years before the date a Complaint is lodged with the Board.
- b) In situations where the Board receives a Complaint where the matter of the Complaint arose more than two years ago, it will consider:
 - i. when the Conduct that is the subject of Complaint first came to the knowledge of the Complainant;
 - ii. the explanation for the delay in making the Complaint;
 - iii. whether, and the extent to which, the parties might be prejudiced by the effluxion of time;
 - iv. whether the Complaint is subject, or has been subject, to previous court action (refer section 7).

4.2 Complaints against Unregistered Persons who have contravened section 63 of the Act:

- a) The *Justices Act 1886* (Qld)¹³ requires that court proceedings by the Board be initiated within one year from the time when the matter of the Complaint arose.
- b) The Board may exercise its discretion to abstain from authorising an investigation where the alleged offence against section 63 of the Act occurred more than 12 months ago.

5. Complaints outside the jurisdiction of the Board

5.1 Complaints received by the Board which are outside of the jurisdiction of the Board cannot be considered.

5.2 Where the subject matter of a Complaint relates solely to a disagreement over the quantum of a valuation, the Complaint will be considered to be outside the jurisdiction of the Board.

6. Frivolous or vexatious Complaints

6.1 The Board may refuse to investigate a Complaint if it is considered to be frivolous or vexatious.

6.2 A Complaint may be considered frivolous when on the information provided, it appears that it is of little weight, or worth, and it may be considered vexatious when the Complainant is not acting bona fide and merely wishes to cause inconvenience, harassment, distress or expense to the Board or the Valuer.

7. Complaints subject to court action

7.1 Where a Complaint, Complainant or Valuer directly or indirectly refers to an existing or potential legal proceeding which, in the reasonable opinion of the Board, could implicate the credibility of the Valuer or the valuation which is subject to the Complaint then, the Complainant, and if relevant, the Valuer, will be asked to clarify whether any proceedings exist or are being contemplated.

7.2 If the Board receives confirmation that such proceedings do exist or are being contemplated, then the Board has discretion to advise the parties to the Complaint that the Complaint will be placed on hold until the finalisation of those proceedings.

¹³ S 52(1) *Justices Act 1886* (Qld).

8. Unreasonable Complaint Conduct

8.1 There may be occasions when the Conduct of a party to a Complaint could be considered unreasonable, including:

- a) frequent, lengthy, repeated or abusive telephone calls, which occupy significant staff time and resources;
- b) frequent letters, emails, faxes or visits seeking resolution of issues beyond the scope of the original Complaint or before the Decision due date;
- c) making frivolous or vexatious Complaints or enquiries;
- d) seeking information, advice or resolution from a variety of staff about the same issue;
- e) any contact which involves abusive or threatening language or behaviour;
- f) the Complainant or Valuer continuing to contact the Board after the Complaint has been resolved with reasons being provided and all avenues of review having been exhausted.

8.2 In circumstances where it is considered there is unreasonable behaviour by a Complainant or Valuer, the Board will refer to the Australasian Parliamentary Ombudsman, *Managing Unreasonable Complainant Conduct Practice Manual* (2nd Ed., 2012). This does not preclude the Board from managing its interactions with the applicable party via an alternate means deemed commensurate to the unreasonable behaviour.

9. Receiving a Complaint

9.1 Following receipt of a Complaint, the Secretary will advise the Complainant that the Complaint has been received.

9.2 The progress of the Complaint, the resolution and response to the Complaint will be monitored by the Secretary. Complainants and, if applicable, Complaint Respondents will be kept informed of progress and the outcome of the Complaint.

9.3 Once the Board determines that a Complaint comes within the jurisdiction of the Act, the Board will run the Complaint in accordance with the provisions of the Act. A Complainant may not be entitled to be a party to any proceedings or steps that the Board may determine necessary to initiate as a result of the Complaint.

10. Initial Complaint assessment

10.1 The Board will assess a new Complaint at its subsequent meeting following the date on which a Complaint is received. Consideration by the Board will include, but is not limited to:

- a) assessing whether the Complainant has standing to complain (Aggrieved Person and frivolous or vexatious test);
- b) assessing what the Complaint is about (i.e. whether it is professional misconduct, incompetence or negligence, breach the code of professional Conduct, breach of specific provisions of the *Retail Shop Leases Act 1994* (Qld),¹⁴ or practicing whilst unregistered);
- c) evaluating whether the Board has jurisdiction to consider the Complaint;
- d) determining whether there is sufficient information and identifying potential avenues of enquiry;
- e) classifying matters that must be proven if issues/allegations are to be substantiated;
- f) determining limitation periods which may apply.

¹⁴ S 28(3), s 29, s 32 *Retail Shop Leases Act 1994* (Qld).

11. Right of reply from Complaint Respondent

- 11.1 In most instances, following the initial Complaint assessment by the Board, the Secretary will issue a notice to the Complaint Respondent inviting a reply in response to the Complaint, and will do so by providing a copy of the Complaint and its supporting documents.
- 11.2 A Complaint Respondent will be given sufficient opportunity to present their position and to comment on any adverse allegations.
- 11.3 In situations where a Complainant does not consent to the release of the Complaint to the Complaint Respondent, and the Complaint includes personal information, the Board will seek to obtain consent from the Complainant to release the Complaint for the purposes of addressing the Complaint and any follow up action required. If consent is not provided, the Board will be unable to progress the Complaint any further and the matter will be closed.

12. Subsequent Complaint assessment

- 12.1 On receipt of the reply from the Complaint Respondent which addresses each of the allegations made out in the Complaint, at the next available meeting, the Board will consider whether there is sufficient information to support an allegation that a Registered Valuer or Unregistered Person may have contravened a provision of the Act or the Regulation.

13. Decision to investigate

- 13.1 The Board may decide to investigate the Conduct of a Registered Valuer or Unregistered Person which is the subject of Complaint or the Conduct of a Registered Valuer¹⁵ or Unregistered Person where no Complaint exists. The Board must consider there is sufficient information to support an allegation that a Registered Valuer or Unregistered Person may have contravened a provision of the Act or the Regulation.
- 13.2 The Board will make determination on the appointment of an impartial investigator to a Complaint. Where it has been resolved to appoint an investigator, the Secretary will inform both the Complainant and the Complaint Respondent. The appointment and proceedings of the investigator will follow the provisions set out in part 4 of the Act.

14. Courses of action following an investigation

- 14.1 The Board may take the following action on receipt of an investigation report:
- a) if the report indicates no prima facie case has been made out, the file will be closed and a written advice will be sent to the Complainant and the Complaint Respondent.
 - b) If the report substantiates an accusation, and the Board reasonably considers there is a Disciplinary Finding of professional misconduct,¹⁶ or incompetence or negligence in the person's performance as a Registered Valuer,¹⁷ or a breach of a code of professional Conduct,¹⁸ the Board may:
 - i. take disciplinary action against the Valuer under section 51 of the Act; or
 - ii. refer the matter to the Queensland Civil and Administrative Tribunal (QCAT) to decide.
 - c) If the report substantiates an accusation, and the Board reasonably considers that an Unregistered Person has contravened section 63 of the Act, the Board may initiate proceedings in the Magistrates Court.

¹⁵ Limited to situations where there are reasonable grounds to suggest there has been a contravention to a prescribed code of professional conduct.

¹⁶ S 50(1)(a) *Valuers Registration Act 1992* (Qld).

¹⁷ *Ibid* s 50(1)(b).

¹⁸ *Ibid* s 44(1)(b).

14.2 A determination to take a course of action outlined in section 14.1 will be made by the Board within reasonable time of receiving the investigation report, however such determination will be delayed if the Board requires further information pertaining to the disciplinary inquiry or if the investigation report is inconclusive.

15. Disciplinary action against Registered Valuers

15.1 Where the Board determines to take disciplinary action against a Registered Valuer under section 51 of the Act, then the Board may, subject to section 52, do 1 or more of the following:

- a) admonish or reprimand the Valuer;
- b) order the Valuer to give an undertaking to abstain from particular Conduct;
- c) order the Valuer to pay to the Board a penalty of an amount equal to not more than 20 penalty units.

15.2 Before taking action against a Valuer under section 51, the Board must give to the Valuer written notice of its intention to take the action. The notice must state:

- a) the professional misconduct, incompetence or negligence alleged against the Valuer;
- b) the facts and circumstances forming the basis for the allegations; and
- c) a day, at least 14 days after the day the notice is given, by which the Valuer may, in relation to the allegations stated in the notice:
 - i. make written representations to the Board;
 - ii. request the Board to hear him or her; or
 - iii. require the Board to refer the matter to QCAT.

15.3 When deciding the action to be taken against a Valuer under section 51 of the Act, the Board must consider any representations made by the Valuer about the allegations¹⁹ in accordance with natural justice requirements. If the Valuer requires the Board to refer the matter to QCAT, the Board cannot proceed to take action against the Valuer under section 51.

15.4 Each Complaint will be considered on the circumstances surrounding it. When determining the disciplinary action commensurate to the offence, the Board will be guided by:

- a) public interest considerations;
- b) disciplinary action previously determined appropriate for similar offences and circumstances;
- c) the Valuers Conduct during the Complaint process and all the information received during the Complaint process; and
- d) the following schedule—

Possible Disciplinary Action	Considerations
Admonish or reprimand the Valuer ²⁰	Except in special circumstances, the Board will consider imposing this disciplinary action against a Valuer who is found to have committed an offence under the Act. Whether special circumstances exist will be considered on a case by case basis.
Order the Valuer to give an undertaking to abstain from particular Conduct ²¹	Where the offence or offences appear to be the standard practice of the Valuer, or have been subject to a prior Complaint and the Valuer repeated their behavior in the current Complaint, the Board will consider seeking the undertaking.

¹⁹ S 52(4) *Valuers Registration Act 1992* (Qld).

²⁰ *Ibid* s 51(1)(a).

²¹ *Ibid* s 51(1)(b).

Where, during the investigation into the Complaint, the Board has formed the view that;

- the actions of the Valuer appeared to be a “one off” and “out of the ordinary” incident; or
- the Valuer has demonstrated an awareness of and a willingness to correct their procedures and processes to avoid a repeat of the incident that lead to the Complaint and subsequent offence; or
- the Board is of the view that there is nothing to gain from requiring the Valuer to provide the undertaking; or
- the offence or offences which the Registered Valuer has committed cannot logically or practically be the subject of an undertaking;

then, the Board may determine not to obtain this undertaking.

Where the Valuer—the subject of the Complaint— has numerous other Complaints leading to various offences against them, the Board will consider seeking this undertaking.

Where the Board has been satisfied that the Valuer has demonstrated an acknowledgement of the importance and seriousness of complying with the Act and supporting documentation the Board may determine not to obtain this undertaking.

Order the Valuer to pay to the board a penalty of an amount equal to not more than 20 penalty units²²

When considering whether to impose a monetary penalty the Board will consider:

- a) the seriousness of the offence by the Valuer; and
- b) the Valuer’s circumstances; and
- c) whether the Valuer has been the subject of a prior Complainant and if so, whether the Valuer had repeated their behavior in the current Complaint or had no regard to the prior Complaint; and
- d) whether the Valuer cooperated with the investigator appointed by the Board and the Board; and
- e) whether the Valuer has demonstrated an acknowledgement of the importance and seriousness of complying with the Act and supporting documentation; and
- f) the Valuer’s Conduct during the Complaint process.

Take no further action²³

In special circumstances considered on a case by case basis.

In circumstances where, during the investigation, it appears that the actions of the Complaint were vexatious or frivolous and the Valuer demonstrated an understanding of the behaviour which lead to the Complaint.

15.5 The Board may, in special circumstances (including but not limited to situations where the Board has initiated the Complaint) refer determination of the disciplinary action to QCAT.

²² S 51(1)(c) *Valuers Registration Act 1992* (Qld).

²³ *Ibid* s 50(2)(b)(ii).

16. Publication of a Decision

16.1 Where the Board resolves to publish a **Decision** on the website, the Decision will be posted as soon as practicable following the time when the Secretary becomes aware of the Decision and resolution to publish.²⁴

16.2 Except in special circumstances, Decisions posted on the website will remain on the site for the following periods of time:

Posting	Time
Publish notice of action taken under section 51(1) of the Act without the Registered Valuer's name	Where a Decision is posted on the website without a Valuer's name, it may remain on the website indefinitely at the discretion of the Board.
Publish notice of action taken under section 51(1) of the Act with the Registered Valuer's name	Where a Decision is posted on the website with a Valuer's name, except where a Decision results in a Valuer's registration being suspended or cancelled, it will remain on the website for a period of not less than 2 years. As soon as practicable following that time, the Valuer's name will be removed from the website. Once the Valuer's name is removed from the website, the Decision may remain on the website indefinitely at the discretion of the Board.

16.3 Where a matter is referred to QCAT and QCAT finds a Registered Valuer has engaged in professional misconduct, incompetence or negligence, QCAT may make an order under the Act.²⁵ Subject to any direction from QCAT, or any special circumstances:

- a) the Board will publish reference to an order made by QCAT; and
- b) if an order is made under the Act to cancel a Valuers registration, the Board must publish notice of the cancellation of a Valuers registration.²⁶

16.4 Where the Board resolves to publish an order made by QCAT under the Act, subject to the terms of the order that has been made, the Board's website will contain a reference or link to where the QCAT order can be located on the Queensland Courts website together with the name of the Registered Valuer. Except in special circumstances, this reference will remain on the website for the following periods of time:

Posting	Time
Where the reference to the QCAT order does not contain the Valuer's name	The reference to the QCAT order may remain on the website indefinitely at the discretion of the Board.
Where the reference to the QCAT order does contain the Valuer's name	The Valuers name will remain on the website: <ol style="list-style-type: none"> a) for the period of time specified in the QCAT order; or b) if no period of time is specified in the QCAT order, while the order contains directions which have not been satisfied or remain current; or c) if the QCAT order does not contain directions which have not been satisfied or remain current, for a period of not less than 2 years. <p>As soon as practicable after that time, the name of the Valuer will be removed from the website but the reference to the QCAT order itself may remain on the website indefinitely, at the discretion of the Board.</p>

²⁴ S 51(3), s 59(5)b), s 59(6) *Valuers Registration Act 1992* (Qld).

²⁵ *Ibid* s 59.

²⁶ *Ibid* s 59 (5)(b).

- 16.5 When considering whether to exercise discretion to remove a reference to a Decision or a QCAT order from the website, the Board will have regard to:
- whether it is in the public interest to have the reference remain in the website; and
 - whether it is in the interest of the Registered Valuers profession to have the reference remain on the website; and
 - any submission by the Valuer.

17. Cancelled/Suspended Registrations

- 17.1 A Valuers registration may be cancelled by the Board²⁷ or by QCAT.²⁸ Where this occurs, the person's name and other particulars will be removed from the register and the Board will publish notice of the removal in a newspaper circulating throughout the State and on the Board's website.
- 17.2 A Valuer's registration may be suspended by QCAT.²⁹ Where this occurs, the register will be updated to record that the person's registration has been suspended. It may also at the discretion of the Board, record the period the suspension applies for.
- 17.3 An individual may be subject to an order where that person has been found to have held themselves out to be a Registered Valuer.³⁰ Subject to any direction from the courts, or any special circumstances, the Board will publish a reference to any order made under this provision³¹ together with the name of the individual.

Where this occurs, subject the terms of the order that has been made and any special circumstances, the name of the individual and the reference to the order will remain on the website indefinitely at the discretion of the Board.

18. Responding to Complaints

- 18.1 The Board's final response to both the Complainant and Complaint Respondent will be provided in writing. The final response will ordinarily include:
- the Board's Decision and the reasons for the Decision;
 - contact details for the Secretary handling the Complaint; and
 - if available, information about any right of appeal.

19. Complaint appeal process

- 19.1 If a Complainant considers that the administrative action taken by the Board is not compliant with the Act or Regulation, the Complainant may request a review of the Complaint to be undertaken by the Queensland Ombudsman.
- 19.2 If a Valuer seeks to appeal the Board's notice of intention to take disciplinary action, the Valuer may refer the matter to QCAT for determination.³²

20. Internal and external Complaint reporting

- 20.1 The Complaint Register will be used to provide information on Complaints, the Secretary will:
- each month, provide the Board with update on the number and status of Complaints received by the Board
 - annually, publish, via the Annual Report, the number of Complaints received by the Board, including the number completed and the number requiring further action. This data will be in de-identified format.

²⁷ S 39 (1) *Valuers Registration Act 1992* (Qld).

²⁸ *Ibid* s 59.

²⁹ *Ibid*.

³⁰ *Ibid* s 63.

³¹ *Ibid*.

³² *Ibid* s 52(2)(c)(iii).

21. Privacy

21.1 Personal information related to Complaints will be managed in accordance with the *Information Privacy Act 2009* (Qld), and only used for the purposes of addressing the Complaint and any follow up action required.

Legislative and other authority

Valuers Registration Act 1992 (Qld)
Valuers Registration Regulation 2013 (Qld)
API Code of Professional Conduct 2015
Information Privacy Act 2009 (Qld)
Ombudsman Act 2001 (Qld)
Public Sector Ethics Act 1994 (Qld)

Resources

AS/NZS 10002:2014 Guidelines for Complaint management in organisations
Queensland Ombudsman Complaints Management Policy and Procedure Guide
Department of Natural Resources, Mines and Energy Complaints Management Framework

Related policy or documents

Valuers Registration Board of Queensland Complaint Form (**FORM-1, FORM-2 and FORM-3**)
Valuers Registration Board of Queensland Checklist High Risk Complaints (**CHKLST-1**)

Definitions of terms used in this policy, procedure and supporting documentation

Adversely Affected means that an interest is adversely affected by the Valuers Conduct, and that there is a sufficiently close relationship between the Conduct and the adverse effect.

Complaint means a statement of unsatisfactory or unacceptable professional Conduct relating to a Registered Valuer or Unregistered Person.

Complainant means the individual person lodging the Complaint.

Complaint Respondent means the person who the Complaint is brought against.

Conduct refers to the manner in which the Valuer Conducts himself or herself, or his or her behaviour.

Decision means any resolution by the Board to impose disciplinary action under section 51(1) of the Act.

Disciplinary Finding means a finding that a disciplinary ground exists.

Land means any interest in any part of the earth including above and below the surface, and everything annexed, attached to or built on or in it including:

- a) all subdivisions of Land; and
- b) any form of Land Tenure; and
- c) any part of the earth including the substance of the Land surface such as soil, gravel, sand, clay, dirt; and
- d) airspace;

Land also includes Unallocated State Land but, for the purposes of the Act, it does not include a valuation of any of the following items unless those items are being valued together with Land:

- e) Minerals or Petroleum Products which have been mined and removed from Land;

- f) a structure on Land without any form of Land Tenure included in that valuation, for example, cost assessments or cost estimates in relation to a building, structure or improvement in the course of an architect's, engineer's or quantity surveyor's professional duties;
- g) any right to take or use water granted under the *Water Act 2000* (Qld);³³
- h) crops harvested or to be harvested from Land.

Where the items referred to in paragraphs (e) – (h) above are being valued together with Land, they will be Land for the purposes of the Act.

Land Tenure is any means of identifying who has the right to use and occupy Land in accordance with the varying degrees of ownership.

Minerals mean "Minerals" as defined in the *Mineral Resources Act 1989* (Qld).³⁴

Petroleum Products mean petroleum and LPG and fuel gas as defined in the *Petroleum and Gas (Production and Safety) Act 2004* (Qld).³⁵

Person Aggrieved means a person which has a Special Interest that is Adversely Affected by the Conduct of the Registered Valuer.³⁶

Registered Valuer means a Valuer registered under the Act, whose particulars are made out in the Register of Valuers of Queensland.

Special Interest means having an interest in the subject matter of the proceeding, which is more than a mere intellectual or emotional concern,³⁷ and something beyond the interest shared by the population at large.

Specialist Retail Valuer means a person whose name is recorded on the list of Specialist Retail Valuers.

Unallocated State Land means all land that is not—

- a) freehold land, or land contracted to be granted in fee simple by the State; or
- b) a road or a reserve, or a national park, conservation park, State forest or timber reserve; or
- c) subject to a lease, licence or permit issued by or for the State, other than a permit to occupy under the *Land Act 1994* (Qld) issued by the chief executive.

Unregistered Person means a person not registered under the Act, and whose particulars are not made out in the Register of Valuers of Queensland.

Valuer means a person who, in any capacity, holds himself or herself out as ready to make a valuation of Land.

Review:
January 2020

Supersedes:
Complaints and Disciplinary Proceedings Procedures Manual (February 2012)
Guidelines for lodging a Complaint and Complaint Form (July 2017)
Complaints subject to Court Action Policy Statement (July 2009)

³³ S 27(2)(b) *Water Act 2000* (Qld).

³⁴ S 6 *Mineral Resources Act 1989* (Qld).

³⁵ S 10–11 *Petroleum and Gas (Production and Safety) Act 2004* (Qld).

³⁶ S 7(1)(a) *Judicial Review Act 1991* (Qld), *BHP Coal Mines Pty Ltd v Minister for Natural Resources and Mines* [2005] QSC 121 at [10] and *Australian Conservation Foundation Inc v Commonwealth* (1980) 146 CLR 493 at 530-531.

³⁷ *Australian Conservation Foundation Inc v Commonwealth* (1980) 146 CLR 493 at 530-531.

Complaints and disciplinary proceedings flow chart

