

Complaints about Inappropriate Personal Conduct

The Office of the NSW Legal Services Commissioner (OLSC) strongly believes that everyone involved in the provision or receipt of legal services is entitled to an environment free from sexual harassment, discrimination, workplace bullying or other inappropriate personal conduct. Rule 42 of the [Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015](#) and Rule 123 of the [Legal Profession Uniform Conduct \(Barristers\) Rules 2015](#) prohibit conduct that constitutes discrimination, sexual harassment or workplace bullying. We are committed to eliminating such conduct from the legal profession. Everyone has the right to feel safe at work and to complain about unsafe working environments.

We encourage anyone who has been subjected to, has witnessed or has knowledge of discrimination, sexual harassment or workplace bullying by someone in a law practice or barristers' chambers to notify the OLSC so that we can take appropriate action.

Anyone can notify the OLSC by making a formal complaint or by making an informal report. This document provides information about making a formal complaint to the OLSC. For information about making an informal report, please see our information sheet titled 'Informally Reporting Inappropriate Personal Conduct'.

We have a highly dedicated and specially trained Personal Conduct Team to assist those who wish to make a formal complaint or informal report about inappropriate personal conduct. If you prefer to speak to a member of the Personal Conduct Team confidentially over the telephone, please call (02) 9377 1865 and ask to speak to a member of the Personal Conduct Team.

Making a formal complaint

The OLSC has the power to investigate inappropriate personal conduct under the Legal Profession Uniform Law (NSW) (Uniform Law) once a formal complaint has been made. Formal complaints may result in disciplinary action being taken against the person who engaged in the inappropriate personal conduct.

You can make a formal complaint by accessing the relevant complaint form on our [website](#). For assistance or further information, please contact a member of the Personal Conduct Team by telephone on (02) 9377 1865.

How we deal with formal complaints

These are the usual steps in dealing with a formal complaint about inappropriate personal conduct:

1. Following receipt of a complaint, the OLSC conducts a preliminary assessment. The purpose of preliminary assessment is to identify the allegations being made, assess whether the conduct complained of would, if established, amount to unsatisfactory professional conduct or professional misconduct and assess whether the available material provides a factual basis for the allegations made. The OLSC is not bound by rules of evidence and may inform itself of any matter in any manner as it thinks fit. We will contact the complainant before progressing the complaint any further.
2. After preliminary assessment, and prior to any investigation commencing, the complaint may be closed without further consideration of its merits. If an investigation is commenced, the lawyer is notified of the complaint and must, as soon as practicable, be given a summary or details of the complaint and a notice informing them of their right to make submissions. It is the OLSC's usual practice to give the lawyer a complete copy of the complaint. However there may be good reasons in a particular matter to provide only an edited summary.
3. When the submissions from the lawyer are received they are ordinarily forwarded to the complainant for comment. Information may also be sought from persons other than the lawyer. The Commissioner has coercive powers to compel the provision of written information and the production of documents, by the lawyer and other persons.

Possible outcomes of a formal complaint

On completion of an investigation, there are a number of possible outcomes depending on the nature of the conduct complained of and the available evidence.

- i. The file may be closed, for various reasons, including if the complaint is found not to have reached the threshold for disciplinary action.
- ii. If the Commissioner finds the lawyer has engaged in unsatisfactory professional conduct, he may make various orders cautioning or reprimanding the lawyer, an order requiring an apology from the lawyer, an order requiring the lawyer to undertake training or counselling or be supervised, an order requiring the lawyer to pay a fine (not exceeding \$25,000.00) or an order recommending the imposition of specified conditions on the lawyer's practising certificate.
- iii. If the Commissioner is of the opinion that the conduct may amount to unsatisfactory professional conduct that would be more appropriately dealt with by the Occupational Division of the NSW Civil and Administrative Tribunal (the disciplinary Tribunal), he may initiate and prosecute disciplinary proceedings in the Tribunal. A complainant may be required to give evidence in the proceedings.
- iv. If the Commissioner is of the opinion that the alleged conduct may amount to professional misconduct, he may initiate and prosecute proceedings in the disciplinary Tribunal. As noted above, a complainant may be required to give evidence in the proceedings. In addition to the orders available to the Commissioner (outlined in (ii) above), the Tribunal may make orders restricting the lawyer's entitlement to practice.

The complainant and the lawyer will be given written notification of the Commissioner's decision, and a statement of reasons for the decision. Disciplinary action taken against a lawyer may be published on the Register of Disciplinary Action maintained by the OLSC, which is accessible to members of the public.

FAQs

Who can make a formal complaint?

Anyone who has experienced, witnessed or has knowledge of inappropriate personal conduct can make a formal complaint to the OLSC.

What if the person who engaged in inappropriate personal conduct was not a lawyer?

The Uniform Law does not enable the OLSC to deal with complaints about non-lawyers. However, you can make a complaint about the lawyer who was responsible for supervising the person who engaged in inappropriate personal conduct. If you are unsure about whether we can deal with your complaint, please contact a member of the Personal Contact Team on (02) 9377 1865.

Can I make a formal complaint anonymously?

No. If you wish to remain anonymous while giving us information about a person who has engaged in inappropriate personal conduct, please see our information sheet titled 'Informally Reporting Inappropriate Personal Conduct'. Please note that if you make an anonymous informal report, you can still choose to make a formal complaint at a later time.

When can a formal complaint be made?

A formal complaint can be made anytime within 3 years after the inappropriate personal conduct occurred. The Commissioner may be able to deal with complaints made outside of this timeframe in limited circumstances.

Do I have to attempt to resolve the matter with the person who engaged in inappropriate personal conduct before making a formal complaint?

No. You do not have to attempt to address the conduct yourself before lodging a formal complaint with us.

What if a claim has been lodged through a Tribunal (e.g. Fair Work Commission) or the Courts?

You can still lodge a formal complaint with us. However, to avoid any prejudice to pending or ongoing proceedings, we may suspend dealing with your complaint until the proceedings have been finalised.

What if I signed a non-disclosure agreement?

It is the OLSC's view that a non-disclosure agreement cannot displace an individual's statutory right to make a formal complaint. However, if you have signed a non-disclosure agreement, you may wish to obtain your own legal advice before making a formal complaint.