

Public Consultation Document

Contents

PUBLIC CONSULTATION DOCUMENT.....	2
Purpose.....	2
How can I make a comment or submission?.....	2
BENEFITS OF A PROFESSIONAL STANDARDS SCHEME.....	2
How will consumers benefit from the Scheme?	2
How does the Scheme enhance the professional standards of Queensland Law Society members?	2
How does limiting participant liability help consumers?.....	2
Continuing Educational Program	3
Complaints and Discipline System	3
THE SCHEME	3
What is a professional standards scheme?	3
What is the Queensland Law Society's Scheme?.....	3
Who administers the Scheme?	3
Who is Queensland Law Society?	4
Where does the Scheme operate?	4
When will the Scheme apply?.....	4
Does the Scheme apply to all members?	4
How does the Scheme operate?	4
How is the level of limited liability of participating [the association] members determined?	4
Can an [the association] member opt out of the Scheme?	4
How will consumers know if a [the association] member is covered by the Scheme?.....	5
How long does the Scheme operate for?.....	5
[THE ASSOCIATION] AND ITS MEMBERS.....	5
Who are [the association] members?	5
What types of work do [the association] members carry out?	5
WHERE CAN I FIND MORE INFORMATION?.....	5

PUBLIC CONSULTATION DOCUMENT

Purpose

The purpose of this Public Consultation Document is for the Professional Standards Councils (Councils) to seek comments and submissions from the public in considering an application for a professional standards scheme by Queensland Law Society Inc.(Society) .

How can I make a comment or submission?

Comments and submissions must be made in writing to the Chief Executive Officer, Professional Standards Councils, within 28 days of public notification.

The Professional Standards Councils is located at Level 2, St James Centre, 111 Elizabeth Street, Sydney, NSW, 2000.

Website: www.psc.gov.au

Email: pscinfo@psc.gov.au

Telephone: 1300 555 772 / (02) 8315 0800.

Comments and submissions received will be public, unless confidentiality is specifically requested, and will be subject to the *Information Privacy Act 2009* (Qld).

BENEFITS OF A PROFESSIONAL STANDARDS SCHEME

How will consumers benefit from the Scheme?

- The Scheme assures that consumers are served by ethical and competent solicitors and that in the event of a civil wrong committed in the course of that service compensation will be paid.

How does the Scheme enhance the professional standards of Queensland Law Society members?

- The Councils expects the Society, as an association seeking approval of a scheme, to demonstrate that its members the subject of the Scheme form a professional community that can protect consumers and manage risk. This includes the requirement that the Society regulates its members in a manner to continually improve professional standards. In meeting this expectation, a number of strategies and services have been implemented. These include continuing professional development; a complaints and discipline system and a risk management framework.

How does limiting participant liability help consumers?

- Consumers may seek damages against a solicitor who has failed to discharge their duty properly. If the solicitor is uninsured or inadequately insured a consumer may be uncompensated. The Scheme ensures solicitors have professional indemnity insurance and that where damages are awarded for certain claims the full amount of compensation awarded is available to the vast majority of consumers.
- In return for the benefit of capped liability participating members are expected to meet

the standards of conduct expected of a profession.

Is the Scheme professional indemnity insurance?

- No. The Scheme provides a statutory cap if damages are awarded against solicitors in an occupational liability claim.

Continuing Educational Program

- Continuing Professional Development is an important professional obligation on participating members to ensure their skills and knowledge are maintained and updated.

The Society requires participating members to obtain 10 CPD points per year, with three mandatory core areas covering practical legal ethics; a practice management and business skills; and professional skills.

The Society provides a comprehensive annual Continuing Education Program to members.

Complaints and Discipline System

- The system for handling complaints about solicitors in Queensland is prescribed by the *Legal Profession Act 2007*. The responsible independent body is the Legal Services Commission. The Society is a co regulator of the profession, it sets and enforces professional standards, and licences solicitors to practice.

Risk Management Framework

- The Society has developed a 5 year risk management plan which identifies risks to professional standards and outlines the key objectives and strategies the Society will implement, monitor and measure to address these risks.

THE SCHEME

What is a Professional Standards Scheme?

- Professional Standards Schemes are legal instruments that bind associations to monitor, enforce and improve the professional standards of their members, and protect consumers of professional services. In return for these commitments, Professional Standards Schemes cap the civil liability or damages that professionals who take part in an association's scheme may be required to pay if a court upholds a claim against them.

What is the Queensland Law Society's Scheme?

- The Society's Professional Standards Scheme serves the dual purpose of:–
 - (a) Protecting the public as consumers of legal services provided by solicitors in Queensland; and
 - (b) Improving the professional standards of solicitors in Queensland.

The Scheme limits the civil liability of participating members to selected amounts provided they meet the Scheme's requirements

Who administers the Scheme?

- The Society, and in particular the Council, Chief Executive Officer and the General Manager Regulation.

Who is Queensland Law Society?

- The Queensland Law Society is the professional association for more than 11,000 solicitors in Queensland. It is a body corporate continued in existence under s679 of the *Legal Profession Act 2007* (LPA 2007). It is governed by a Council, elected by the membership. It has specific statutory responsibilities in relation to the regulation of solicitors in Queensland. In addition to its statutory responsibilities, the Society has objectives including the preservation and maintenance of the integrity of the profession.

Where does the Scheme operate?

- Queensland Law Society is applying to the Queensland, New South Wales, Victorian, Western Australian, South Australian, Tasmanian and Australian Capital Territory and Northern Territory Professional Standards Councils for approval of a scheme.

When will the Scheme apply?

- The scheme will apply for 5 years from its commencement date.

Does the Scheme apply to all members?

- No it does not. The scheme applies to:
 - (a) All solicitor members who hold a practising certificate and are not excluded or exempted from the scheme
 - (b) All persons to whom, by virtue of ss. 20, 21 or 21A of the *Professional Standards Act 2004* (Qld), the Scheme applies
 - (c) ILP (incorporated legal practice) Members
- The Scheme does not apply to a practitioner who only holds a corporate practising certificate or is a government legal officer. Nor does it apply to an eligible member who has applied to be exempted from the Scheme

How does the Scheme operate?

- The Scheme provides participating members with the benefit of a statutory cap if damages are awarded against them for work done in the course of their occupation. The person must have the benefit of insurance to the amount at least equal to the liability cap (monetary ceiling) applying at the time.

How is the level of limited liability of participating Queensland Law Society members determined?

The monetary ceiling (maximum amount of liability) applicable for the purposes of limitation of liability under the Scheme at the relevant time are set out in this table:

Class	Description	Monetary ceiling
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1	Participating Members who at the relevant time were in a law practice that consisted of up to and including 20 principals and where the law practice generates total annual fee income for the financial year at the relevant time up to and including \$10 million.	\$1.5m
2	<p>a) Participating Members who at the relevant time were a law practice that consisted of greater than 20 Principals; or</p> <p>b) Participating Members who at the relevant time were in a law practice that generated total annual fee income for the financial year at the relevant time greater than \$10 million.</p>	\$10m

The Scheme provides discretionary authority on the Society to specify a higher maximum amount of liability than would otherwise apply under the scheme. The discretion can be for a specified case, a class of cases or all cases.

Can a Queensland Law Society member opt out of the Scheme?

- No. The Society may exempt a member from the scheme upon written application by the member.

How will consumers know if a Queensland Law Society member is covered by the Scheme?

- Participating members must display the disclosure statement in the form prescribed by regulation 6 of the Professional Standards Regulation 2017 (Q), on all business documents sent to existing and potential clients.

How long does the Scheme operate for?

- The Scheme will operate for 5 years from the date of commencement.

QUEENSLAND LAW SOCIETY AND ITS MEMBERS

Who are Queensland Law Society members?

- The solicitors of Queensland.

What types of work do Queensland Law Society members carry out?

- Solicitors advise in all areas of legal practice encompassing all of the community it's privileged and it's destitute.

WHERE CAN I FIND MORE INFORMATION?

Contact the Queensland Law Society at psscheme@qls.com.au