

Board of Professional Engineers of Queensland Policy

Title: Decisions Arising from Investigations		ID: 2.4 (4A)
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1. Rationale

This policy provides guidance to the Board in determining action flowing from an investigation. It is important that all investigations are determined in a consistent, fair and objective manner, in accordance with the legislation and the principles of natural justice.

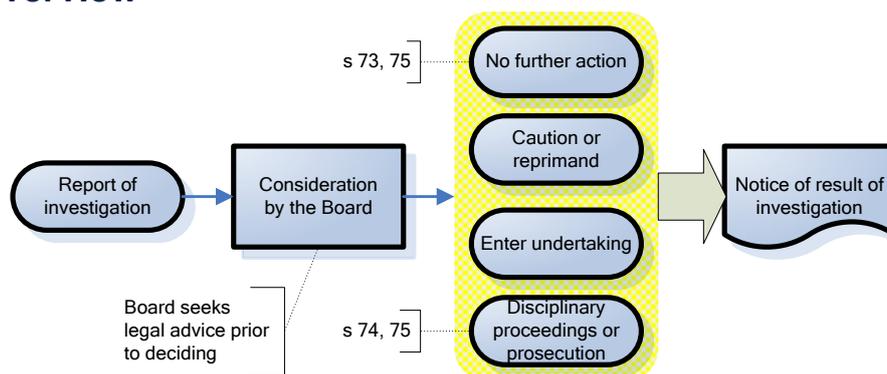
This policy addresses the following specific areas:

- Considering the report and deciding to charge
- The decision process
- Remedies and negotiations

2. Policy

Where the Board has authorised an investigation, it will make a determination as soon as practicable after receiving the final report.

3. Overview



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4. Practice

Considering the report and deciding to charge

On completion of the investigation the investigator is required to report findings to the Board.

The Board will then decide whether to take disciplinary action in accordance with s73 (for registered engineers) or s75 (for other persons) of the Act.

Registered Engineers

In acting under subsection (2), the Board must have regard to the main objects of this Act and the disciplinary grounds.

As soon as practicable after preparing the report, or receiving the report or further report, the Board must decide to do one of the following—

- (a) start a disciplinary proceeding against the registered professional engineer;
- (b) enter into an undertaking agreed with the registered professional engineer, about the engineer's conduct in carrying out professional engineering services, including, for example, to submit to an audit of the engineer's practice of engineering;
- (c) caution or reprimand the registered professional engineer;
- (d) impose a condition, agreed to by the registered professional engineer, on the engineer's registration;
- (e) take no further action about the matter the subject of the investigation.

In making a decision, the Board will consider the gravity of the conclusions of the investigator against the definition of unsatisfactory professional conduct as defined in the dictionary to the Act as:

- (a) conduct that is of a lesser standard than that which might reasonably be expected of the registered professional engineer by the public or the engineer's professional peers;
- (b) conduct that demonstrates incompetence, or a lack of adequate knowledge, skill, judgment or care, in the practice of engineering;
- (c) misconduct in a professional respect;
- (d) fraudulent or dishonest behaviour in the practice of engineering;
- (e) other improper or unethical conduct.

If the conduct clearly is not unsatisfactory professional conduct, the Board will take no further action under s.73(2)(e) and send a notice of the decision to the engineer and an information notice for the decision to the complainant (s.74(3)). The complainant may appeal this decision under s.122(2)(h).

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If the conduct may be unsatisfactory professional conduct but with extenuating circumstances, the Board may reprimand the engineer s.73(2)(c) and send an information notice for the decision to the engineer (s.74(2) and a notice to the complainant (s.74(1)(b)). The engineer may appeal this decision under s.122(2)(g).

If the conduct may be unsatisfactory professional conduct the Board will refer the matter to its legal advisor for legal opinion and the preparation of an application to the Tribunal to hear a disciplinary charge. On receipt of the opinion and draft charge, the Board will make a formal decision under any of the options open to it under (a) to (e) and decide what penalty it will seek from the Tribunal should the engineer plead guilty.

The Registrar will advise the legal advisors of the decision of the Board and instruct them to lodge the application with the Tribunal and send a notice of the decision to the engineer and the complainant (s.74(1)). There are no appeal provisions for this decision.

5. References

Related legislation:

Part 3 – Complaints and Investigations

Part 4 – Reports and Board’s Decisions about Investigations

Part 8 – Reviews and Disciplinary Proceedings