GILSHENAN & LUTON
LEGAL PRACTICE



The Police disciplinary system

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In 2019 the law in relation to how complaints against Queensland police officers are handled changed significantly. The police disciplinary system is an important issue not only for police officers themselves but also for members of the public who wish to complain about police misbehaviour.

Problems with the previous police disciplinary system

For many years the police disciplinary system had been the subject of much criticism. It has been reviewed numerous times by experts and repeatedly found to be slow, inconsistent and unfair to all those involved.

For example, it had become common for complaints against police to take years to be investigated and finalised. Then, by the time an errant officer came to be disciplined, they were being dealt with for misbehaviour which occurred years earlier, and everyone had moved on in the meantime.

If the officer was ultimately found not guilty, they had endured a long wait (and a stalled career) before being cleared.

From 2016 to 2018, a task force comprising senior officers of the Crime and Corruption Commission (CCC), the Queensland Police Service (QPS) and the unions representing police officers were involved in a very detailed process to fix the police disciplinary system once and for all.

Gilshenan &Luton were heavily involved in those discussions on behalf of the Queensland Police Union, a central player in the negotiations and reform process.

Changes to the police disciplinary system

As a result of the taskforce's recommendations, new legislation was introduced and commenced in October 2019.

The principal changes to the police disciplinary system can be summarised as follows:

- New processes have been put in place to make investigations of police misconduct timelier and more responsive. When disciplinary action is to be taken against a police officer, the CCC or QPS will only have 12 months from the date of the misconduct to bring a disciplinary hearing against the officer;
- A new abbreviated disciplinary process has been introduced to allow for the speedy finalisation of complaints where the officer accepts the alleged wrongdoing and wants the matter resolved promptly.
- There is now an increased focus on performance improvement by police, so that if their conduct does not require them to be dismissed (sacked), then the punishments dealt out to them for misconduct will have a greater focus on rehabilitation, re-training and performance improvement;
- Similar to defendants in criminal proceedings, police can now receive fines (in the form of penalty units) as a penalty in disciplinary proceedings;
- Police can now be more easily sentenced to performing unpaid community service, to allow the officer *"give back"* to the community for any wrongdoing;
- The previous practise of suspending punishments against police has now been overhauled. Such suspensions are no longer possible in respect of the dismissal of a police officer. Instead, a new punishment of imposing *"disciplinary probation"* has been introduced. The misbehaving police officer is on probation for a set period and any further misconduct during that period, or failure to comply with conditions or orders, will result in the officer being asked to show cause why they should not be immediately dismissed. Other sanctions can still be suspended.

The new police disciplinary system should bring about significant improvements in the handling and resolution of complaints against police. This has been welcomed by complainants and police officers alike, who - until these reforms - endured long delays awaiting the outcome of such investigations.

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