

## Guidelines for employing or engaging disqualified or convicted persons

### General policy

Either a law practice or a disqualified/convicted person, or both, may apply to the Society for approval of the disqualified/convicted person to be a lay associate of a law practice.

The onus of satisfying the Council that the application should be granted rests with the applicant(s).

The applicant(s) remains responsible for providing information relevant to the application and should communicate with the Society in a candid and frank manner. This includes disclosing all relevant information, whether supportive or unsupportive, within the applicant's(s') knowledge or possession.

Approvals are usually conditional upon both the law practice and the disqualified/convicted person giving undertakings to the Society encapsulating appropriate measures, tailored to the particular circumstances of the case, to ensure the maintenance of professional standards, the protection of the public and appropriate supervision and management.

By way of illustration only, both the law practice and the disqualified/convicted person can reasonably anticipate that undertakings concerning the following issues will be sought:

- How the disqualified/convicted person will be described in all of the law practice's material, letters, costs agreements, advertising and communications with all other parties.
- Limitations on the disqualified/convicted person handling trust property.
- Limitations on the disqualified/convicted person being in charge of an office or other professionals.
- Limitations on the signing of correspondence by the disqualified/convicted person.
- Supervision and management arrangements concerning the performance of work by the disqualified/convicted person.

It is the general policy of the Council that approval will not be given to the employment of a person convicted of an offence involving dishonesty unless the applicant satisfies the Council that there are exceptional circumstances that justify the Council deviating from that policy.

### General process

Every application should, in the first instance, be addressed to:

The Manager  
Professional Standards Department  
Queensland Law Society  
GPO Box 1785  
BRISBANE QLD 4001

The Manager, Professional Standards, will be responsible for progressing the application through to the Council for its consideration.

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Every application should address the following matters:

- 1 The circumstances, in detail (including dates), giving rise to the disqualification and/or conviction of the individual in question, together with any relevant documentation.
- 2 The employment history of the individual since the disqualification and/or conviction.
- 3 Rehabilitative measures undertaken by the individual since the disqualification and/or conviction.
- 4 The capacity in which the individual seeks to be engaged by a law practice, including:
  - (a) the nature and scope of work proposed to be undertaken;
  - (b) proposed title;
  - (c) proposed locality where work is to be carried out;
  - (d) proposed hours of work; and
  - (e) the identity of the principal who will be directly responsible for the supervision and management of the individual.
- 5 The area(s) of law in which the individual proposes to practice.
- 6 The attitude of the parties to the giving of undertakings similar to those illustrated above.
- 7 Any other relevant information, either supportive or unsupportive, that the Society should be made aware of in considering such an application.

### Submission of the application to council

Once all relevant information in relation to an application has been collated, the Manager, Professional Standards will submit the application to Council for its consideration and determination.

The applicant(s) will be advised of Council's decision in accordance with the process set out in sub26(4) of the *Legal Profession Act 2007*.

### Application by a disqualified/convicted person where there is no prospective employer

In circumstances where a disqualified/convicted person is the applicant and no particular law practice has been identified as the potential employer, the application should, as far as is possible, cover the matters outlined above.

If Council is satisfied, upon the limited information available, it is appropriate in the circumstances that the applicant be permitted to be engaged as a lay associate of a law practice, Council may, without limiting any other action it may decide to take, grant 'in principle' approval of the application. The granting of such approval is for the purpose of facilitating the applicant in securing a position as a lay associate with a particular law practice.

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Subsequent to a particular law practice being identified as a potential employer, and the applicant discharging his/her disclosure obligation under s26(5) of the *Legal Profession Act 2007*, the law practice should submit the following further information in support of the applicant's application:

- 1 Confirmation that the applicant has discharged their disclosure obligation as required by s26(5) of the *Legal Profession Act 2007*.
- 2 The capacity in which it is proposed that the applicant will be engaged by the law practice, including:
  - (a) the nature and scope of work proposed to be undertaken;
  - (b) proposed title;
  - (c) proposed locality where work is to be carried out;
  - (d) proposed hours of work; and
  - (e) the identity of the principal who will be directly responsible for the supervision and management of the applicant.
- 3 The area(s) of law in which the applicant will practice if the application is finally granted.
- 4 The attitude of the law practice to the giving of undertakings similar to those illustrated above.
- 5 Any other relevant information, either supportive or unsupportive, that the Society should be made aware of in considering such an application.

### Submission of the further information to council

Once all further relevant information in relation to the application has been collated, the Manager, Professional Standards will re-submit the application to Council for its consideration and determination.

The applicant(s) will be advised of Council's decision in accordance with the process set out in subs26(4) of the *Legal Profession Act 2007*.