

Section 26(2) of the *Legal Profession Act 2007* (Qld) (the Act) provides the Society may approve a disqualified or convicted person to be a lay associate of a law practice. The Society has provided separate guidelines for such applications. Those guidelines specify such applications should only be made when an offer of employment to a disqualified or convicted person as a lay associate of a law practice is contemplated.

The Society recognises that a search for employment as a lay associate by a disqualified or convicted person may be facilitated by an ‘in principle’ approval granted to that job seeker. The purpose of these Guidelines is to set out the processes to be followed where a person seeks such ‘in principle’ approval.

Such ‘in principle’ approvals are not granted under Section 26 and are not binding upon the Society in that any ‘in principle’ approval will not act as an undertaking or representation by the Society as to the future exercise of its discretion under section 26(2). Rather, such ‘in principle’ approval is indicative of the position the Society may take in relation to an application under Section 26 to employ the applicant, based on the actual facts and circumstances provided in the ‘in principle’ application at that time. Any subsequent application under Section 26 will be considered under those separate Section 26 guidelines as a new and independent application by the law practice or proposed lay associate, the outcome of which includes the possibility of refusing an application.

Any ‘in principle’ approval is given in good faith by the Society for the sole purpose of assisting a person’s quest for employment and is not an application under the Act. Consequently, there is no right of review of that decision to QCAT under s26 (4)(b) of the Act or to the Council of the Queensland Law Society.

Where an application is made for an ‘in principle’ approval, the applicant should, as far as possible, cover 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 passage of time and 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 and the remorse and contrition shown by the applicant for the conduct resulting in his/her disqualification 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
5. The area(s) of law in which the individual proposes to work.
6. The attitude of the applicant to the giving of undertakings similar to those illustrated below.
7. Any other relevant information (e.g. the police brief on prosecution, transcript of the sentence), either supportive or unsupportive, that the Society should be made aware of in considering such an application.

The illustrative undertakings:

- 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.

If an offer of employment is subsequently contemplated by a law practice, an application must be made under Section 26. That application should address the matters set out in those separate guidelines and will be processed in accordance with those guidelines.

Process

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

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

The General Manager, Professional Standards Department will be responsible for progressing the application through to the Council for its consideration. The applicants will be advised of Council's decision.