

Applications for disciplinary action – Architects

SACAT hears disciplinary matters about architects under the *Architectural Practice Act 2009*. This can include where a person has acted:

- unlawfully
- improperly
- negligently
- unfairly
- in some other way outlined by the Act

Who can bring a disciplinary application against architects?

Disciplinary action is brought in the public interest to maintain the standards of the architecture profession, to deter inappropriate conduct and to protect the public. Disciplinary proceedings can be brought by:

- the Registrar of the Architectural Practice Board of South Australia; or
- the Minister or professional body; or
- a representative body.

Those entities have dedicated resources to investigate and bring disciplinary action at the Tribunal in the public interest.

Members of the public who are “aggrieved” by the conduct of an architect, architectural business, can also make an application directly to the Tribunal if they think that person or provider acted in a way that constitutes grounds for disciplinary action. However, such action is not brought to compensate the person “aggrieved” but to protect the public.

It is for the Tribunal to determine if a person is “aggrieved” and is able to bring a disciplinary application to the Tribunal.

If the person “aggrieved” suffers from a mental or physical incapacity, a person acting on their behalf may also bring an application for disciplinary action to the Tribunal.

What is involved in a disciplinary matter?

Where an application for disciplinary action has been made to the Tribunal, the applicant must be able to:

- identify the legislative provision they wish to rely on
- state and describe the conduct said to justify the disciplinary findings, and identify the relevant legislative provisions relied upon
- identify the facts, acts or omissions alleged to constitute the conduct that justifies disciplinary action
- provide any supporting documents and
- pay any relevant application fees

Applications for disciplinary action are adversarial proceedings and require the participation of both the applicant and respondent to put forward their version of the facts and applicable law before the Tribunal. The parties may need to call witnesses (including expert witnesses) and provide documents to prove or defend the allegations.

The applicant has an obligation to prove the allegations against the person they are bringing a disciplinary action against, this is known as the “onus of proof”. The allegations must be proved by the applicant on the balance of probabilities.

Do I need to be legally represented?

Parties do not need to be legally represented in SACAT, but it can be helpful to seek legal advice before instituting or defending disciplinary proceedings. Various organisations in South Australia provide free legal advice or assistance.

Find out more about legal representation at SACAT on our webpage, [Preparing for a hearing](#).

Can costs be awarded against a party?

Yes, because the proceedings are adversarial and one or the other party may be legally represented. At the end of the proceedings, depending on the outcome, the Tribunal may order one party to pay the other party's legal and other costs related to the proceedings.

Process for disciplinary matters

Once an application has been made, and any relevant fee has been paid, SACAT will provide a copy of the application, and any documents provided in support, to the architect who is the subject of the application.

Within 21 days of receiving a copy of the application, the architect must provide a response to SACAT.

SACAT will schedule a directions hearing shortly after the application is received. The directions hearing will usually be held four to six weeks after the application is first made.

At or after the first directions hearing, the Tribunal may decide that a further directions hearing is needed, refer the matter to a conference, or may decide that the matter is ready to go to a full hearing, where it will make a decision about the application.

What SACAT can do in disciplinary matters

If the Tribunal finds that there has been unlawful, improper, negligent, unfair or other relevant conduct it can decide that disciplinary action should be taken in accordance with the *Architectural Practice Act 2009*.

Depending on the relevant Act, a range of orders can be made by the Tribunal, including:

- a reprimand
- a fine
- cancellation or suspension of a registration

- disqualification of the person from holding registration
- imposition of a condition on the person's registration

Any fine that is imposed by the Tribunal is payable to the Architectural Practice Board of South Australia and not to the individual who has brought an application.

What SACAT cannot do in disciplinary matters

As a result of disciplinary action taken at the Tribunal, SACAT **cannot**:

- investigate a complaint made against a person
- resolve a private dispute
- make orders to compensate a consumer for reimbursement of any monies under the terms of a contract or agreement
- take any immediate action about a person's conduct

If you are seeking any of the outcomes listed above, you may wish to speak to the Architectural Practice Board of South Australia about your options in lodging a complaint or seek legal advice where appropriate.

Fees

Please be aware, that if you want to bring an application for disciplinary action to SACAT for resolution, you may be required to pay an application fee before your application will be accepted.

Contact the Tribunal

If you would like to speak to a staff member about the disciplinary jurisdiction of the Tribunal, please telephone SACAT on 1800 723 767 (select option 4 and then option 7).

This information sheet does not constitute legal advice and does not relate to the circumstances of any individual matter. If you wish to have legal advice you should seek that independently.