

QUEENSLAND CIVIL AND ADMINISTRATIVE TRIBUNAL

CITATION: *Legal Services Commissioner v Henaghan* [2025] QCAT 258

PARTIES: **LEGAL SERVICES COMMISSIONER**
(applicant)

v

CHRISTOPHER MATTHEW HENAGHAN
(respondent)

APPLICATION NO/S: OCR135-24

MATTER TYPE: Occupational regulation matters

DELIVERED ON: 3 July 2025

HEARING DATE: 29 May 2025

HEARD AT: Brisbane

DECISION OF: Justice Freeburn

Assisted by:
Ms Susan Forrest, Practitioner Panel Member
Dr Julian Lamont, Lay Panel Member

ORDERS:

- 1. The Tribunal finds that the respondent engaged in professional misconduct.**
- 2. The Tribunal recommends that Christopher Matthew Henaghan be removed from the roll pursuant to section 456(3)(a) of the *Legal Profession Act 2007* (Qld).**
- 3. The respondent pay the applicant's costs of the discipline application.**

CATCHWORDS: PROFESSIONS AND TRADES – LAWYERS – COMPLAINTS AND DISCIPLINE – PROFESSIONAL MISCONDUCT AND UNSATISFACTORY PROFESSIONAL CONDUCT – CRIMINAL OFFENCES – where the Legal Services Commissioner brings a discipline application against the respondent – where the respondent was convicted on one count of maintaining an unlawful sexual relationship with a child – where the respondent accepted and admitted the conduct subject of the disciplinary charge – where the applicant submits the Tribunal ought to be satisfied that the Respondent's conduct amounts to professional misconduct – where the Respondent does not contest that his conduct amounts to

professional misconduct – whether the respondent’s conduct amounts to professional misconduct

PROFESSIONS AND TRADES – LAWYERS – COMPLAINTS AND DISCIPLINE – PROFESSIONAL MISCONDUCT AND UNSATISFACTORY PROFESSIONAL CONDUCT – CRIMINAL OFFENCES – where the Legal Services Commissioner files a discipline application against the respondent – where the applicant submits that tribunal should recommend the removal of the respondent’s name from the roll– where respondent accepts his name should be removed from the roll – whether the appropriate sanction is for the tribunal to recommend that the respondent’s name be removed from the roll

Legal Profession Act 2007 (Qld), s 419, s 456, s 462

Adamson v Queensland Law Society Inc (1990) 1 Qd R 498, applied

Law Society of South Australia v Rodda [2002] SASC 274, cited

Legal Services Commissioner v Desacola [2023] QCAT 271, cited

Legal Services Commissioner v Randall [2019] QCAT 217, cited

APPEARANCES & REPRESENTATION:	This matter was heard and determined on the papers pursuant to s 32 of the <i>Queensland Civil and Administrative Tribunal Act 2009</i> (Qld)
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REASONS FOR DECISION

- [1] Mr Henaghan was admitted to the legal profession in New Zealand in 1981. Then he became admitted in Victoria in 1985 and in New South Wales in 1997. He held an unrestricted practising certificate from 2011 to 2021, and then an unrestricted employee practising certificate from September 2021 until February 2022. Then, for the reasons that follow, Mr Henaghan’s practising certificate was cancelled.
- [2] On 19 April 2022, Mr Henaghan was sentenced to a term of imprisonment of 5 years, suspended after 20 months, for maintaining an unlawful sexual relationship with a child. The offending conduct had occurred a decade previously, from March 2012 to March 2014. The complainant was between 9 and 12 years at the time of the offences. Mr Henaghan was between 53 and 55 years old.
- [3] The sentencing remarks of Judge Holliday in the District Court at Southport explain the circumstances of the offending. Mr Henaghan was related to the complainant. He breached the trust of the complainant as well as her family.
- [4] Mr Henaghan has served his term of imprisonment and has returned to New Zealand.
- [5] At the first directions hearing, Mr Henaghan confirmed that he accepted and admitted the conduct the subject of the disciplinary charge. He said he did not intend to take any part in the proceeding. He said that:

- (a) he should be struck off the roll;
 - (b) the conduct the subject of the charge amounts to professional misconduct; and
 - (c) the appropriate order is to recommend that Mr Henaghan's name be removed from the roll pursuant to s 456(3)(a) of the *Legal Profession Act 2007* (Qld).
- [6] Notwithstanding those admissions and acceptance of the position, the tribunal must be satisfied that the allegations the subject of the charge have been proved to the requisite standard and determine the appropriate characterisation and sanction for itself.
- [7] There is proof of the allegations the subject of the charge. The disgraceful conduct is described in detail in the sentencing remarks of Holliday DCJ. In a directions hearing before the tribunal, Mr Henaghan confirmed that between 1 March 2012 and 31 March 2014 he maintained a sexual relationship with the complainant/child whilst residing in Queensland. He confirmed that the complainant was aged between 9 and 12 at the time of his offending. Mr Henaghan confirmed and accepted that he was guilty of a serious offence and that he was not a fit and proper person to remain on the roll. He confirmed that his conduct amounted to professional misconduct and that the appropriate order is a recommendation that his name be struck off the roll.
- [8] Mr Henaghan's conduct constitutes professional misconduct. As Thomas J said in *Adamson v Queensland Law Society Inc* (1990) 1 Qd R 498 at 507:
- “The test to be applied is whether the conduct violates or falls short of, to a substantial degree, the standard of professional conduct observed or approved by members of the profession of good repute and competency.”
- [9] The conduct here comfortably satisfies that test. The LSC referred the tribunal to three other similar cases: *Legal Services Commissioner v Desacola* [2023] QCAT 271; *Law Society of South Australia v Rodda* [2002] SASC 274 and *Legal Services Commissioner v Randall* [2019] QCAT 217. Each shows that this type of conduct means that clients cannot trust the practitioner, that such a practitioner cannot command the respect of clients, and that public trust and confidence in the profession would be undermined by such a practitioner remaining a member of the profession.
- [10] The conduct here is far more sustained and serious than those three cases.
- [11] The tribunal is satisfied the conduct is professional misconduct.
- [12] The appropriate sanction is an order recommending the removal of Mr Henaghan's name from the roll. His conduct demonstrates that he is not a fit and proper person to remain on the roll at the time of this hearing. And the probability is that he is permanently unfit to practice.
- [13] Section 462(1) of the *Legal Profession Act* provides that:
- A disciplinary body must make an order requiring a person whom it has found to have engaged in prescribed conduct to pay costs, including costs of the commissioner and the complainant, unless the disciplinary body is satisfied exceptional circumstances exist.
- [14] There are no exceptional circumstances here. Mr Henaghan should pay the costs.