

QUEENSLAND CIVIL AND ADMINISTRATIVE TRIBUNAL

CITATION: *Legal Services Commissioner v McCormick (No. 2)*
[2025] QCAT 376

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

v

MATTHEW DAVID MCCORMICK
(respondent)

APPLICATION NO/S: OCR133-24

MATTER TYPE: Occupational regulation matters

DELIVERED ON: 9 October 2025

HEARING DATE: On the papers

HEARD AT: Brisbane

DECISION OF: Justice Williams

Assisted by
Ms Petrina Macpherson, Practitioner Panel Member
Mr Keith Revell, Lay Panel Member

ORDERS: **1. The application by Mr Bresler for a compensation order is dismissed.**
2. The application by Mr Shea and Mr Munschi for a compensation order is dismissed.

CATCHWORDS: PROFESSIONS AND TRADES – LAWYERS –
COMPLAINTS AND DISCIPLINE – PROFESSIONAL
MISCONDUCT AND UNSATISFACTORY
PROFESSIONAL CONDUCT – OTHER MATTERS –
where the Tribunal made findings of unsatisfactory
professional conduct and professional misconduct against
the Respondent in respect of the Respondent’s conduct
towards his clients (the complainants) – where the
complainants sought compensation orders pursuant to s
464 of the *Legal Profession Act 2007* (Qld) (LP Act) –
where the law practice engaged by the complainants no
longer exists – whether a compensation order could be
made pursuant to the general power in s 456(1) of the LP
Act – whether a compensation order could be made against
the Respondent practitioner

Legal Profession Act 2006 (ACT) s 442
Legal Profession Act 2006 (NT) s 534
Legal Profession Act 2007 (Qld) s 456, s 464

Legal Profession Act 2007 (Tas) s 491
Legal Profession Uniform Law 2014 (NSW) s 308
Legal Profession Uniform Law 2022 (WA) s 308
Legal Profession Uniform Law Application Act 2014 (Vic) s 308

Legal Services Commissioner v Jiear [2012] QCAT 221, followed

APPEARANCES & REPRESENTATION: Following orders made on 26 August 2025 and reasons being published, this issue was heard and determined on the papers pursuant to s 32 of the *Queensland Civil and Administrative Tribunal Act 2009* (Qld)

Applicant: B Clements (sol) of Clements Fitzgerald Lawyers

Respondent: No appearance

REASONS FOR DECISION

- [1] On 26 August 2025, reasons were published in respect of the discipline application brought by the Legal Services Commissioner (**LSC**) against Matthew David McCormick (**Respondent**) (the **Reasons**).¹
- [2] The defined terms in the Reasons are used in these reasons, unless stated to the contrary.
- [3] In the Reasons, this Tribunal found that four charges of failing to deliver legal services competently, diligently and as promptly as reasonable possibly were proved and constituted unsatisfactory professional conduct. Further, two charges of failing to comply with a written notice issued by the LSC under s 443(3) of the LP Act without reasonable excuse were proved and found to constitute professional misconduct.
- [4] The findings of unsatisfactory professional conduct and professional misconduct were made in relation to the Respondent's conduct in respect of his clients: Mr Oren Bresler, Mr Stephen Shea and Mr Jonathan Munschi.
- [5] The Reasons considered the compensation claims by Mr Oren Bresler, Mr Stephen Shea and Mr Jonathan Munschi and made some preliminary comments. The order required further information and submissions be provided to be able to consider the applications for compensation.
- [6] The following further material was received:
 - (a) Email from Mr Oren Bresler attaching further evidence in respect of the quantum of his compensation claim.
 - (b) Further submissions on behalf of the LSC.
 - (c) Affidavit of Thea Marilyn Johnson sworn 15 September 2025, on behalf of the LSC.
- [7] The issues which remain to be determined are:

¹ *Legal Services Commissioner v McCormick* [2025] QCAT 299.

- (a) Whether there is a proper basis to order that ML or Ashlar Legal repay the amount charged to the complainants pursuant to s 464(a) and/or (d) of the LP Act?
 - (b) Whether there is a proper basis to order that the Respondent personally pay the compensation pursuant to the general power in s 456(1) of the LP Act or otherwise?
- [8] Before considering these issues, it is convenient to outline the further evidence which has been provided in the affidavit of Ms Johnson.

Further evidence

- [9] The further affidavit of Ms Johnson of the Commission sets out additional evidence in respect of ML and Ashlar Legal relevant to the applications for compensation.
- [10] Relevantly:
- (a) The Respondent held a principal practising certificate as the incorporated legal practitioner director of McCormicks Group Pty Ltd ACN 158 618 261 trading as McCormicks Law (referred to as ML in the Reasons and in these reasons) from 8 June 2012 to 15 November 2019.
 - (b) The Respondent held an employee practising certificate at ML from 19 December 2019 until 16 June 2021.
 - (c) The Respondent held an employee practising certificate at Ashlar Legal Pty Ltd ACN 164 299 567 trading as Ashlar Legal (referred to as Ashlar Legal in the Reasons and in these reasons) from 17 June 2021 to 30 June 2022 and 2 July 2021 to 18 July 2022.
 - (d) ML was registered on 28 May 2012 and deregistered on 18 April 2025.
 - (e) ML commenced as an incorporated legal practice on 8 June 2012 and ceased on 23 June 2021.
 - (f) Ashlar Legal was registered on 17 June 2013.
 - (g) Ashlar Legal commenced as an incorporated legal practice on 21 July 2017 and ceased on 30 October 2022.
 - (h) On 31 October 2022 Ashlar Legal changed their company name to Jones Legal Pty Ltd.
 - (i) Jones Legal Pty Ltd trading as Jones Associates commenced as an incorporated legal practice on 1 November 2022 and remains operating as at the date of Ms Johnson's affidavit.
- [11] The issues need to be considered in light of the LP Act provisions and the principles set out in the Reasons and this further evidence.

Whether there is a proper basis to order that ML or Ashlar Legal repay the amount charged to the complainants pursuant to s 464(a) and/or (d) of the LP Act?

- [12] The Reasons set out s 464 of the LP Act in full. Each subsection of s 464 applies to a "law practice".

- [13] Schedule 2 of the LP Act defines a “law practice” to be:
- (a) an Australian legal practitioner who is a sole practitioner;
 - (b) a law firm;
 - (c) an incorporated legal practice; or
 - (d) a multi-disciplinary partnership.
- [14] In respect of Mr Bresler’s claim for compensation:
- (a) Mr Bresler retained the Respondent and ML in December 2019.
 - (b) Various communications occurred between 28 and 29 July 2021.
 - (c) Mr Bresler made unsuccessful attempts to get a response from the Respondent between 29 July 2021 and 6 August 2021.
 - (d) A complaint was made to the LSC on 6 August 2021.²
 - (e) The engagement was with ML and the invoices were issued by ML.
 - (f) There was no engagement with Ashlar Legal and no invoices were issued by Ashlar Legal.
 - (g) At the time of the failures to communicate in respect of Charge 1, the Respondent was employed at Ashlar Legal. However, the Respondent was communicating by telephone and text message and there is nothing to suggest the communications, or lack of communication, was done as part of the Respondent’s employment at Ashlar Legal.
- [15] The LSC submits that, because ML is no longer a law practice and no longer exists, no order can be made against ML under s 464(a) or (d) of the LP Act.
- [16] In respect of Mr Shea and Mr Munschi’s claim for compensation:
- (a) Mr Shea and Mr Munschi engaged the Respondent and ML in 2020.
 - (b) The Respondent, while an employee of ML, made various failures in the period between 12 January 2021 and 5 May 2021 that gave rise to Charge 3.
 - (c) The Respondent, while an employee of ML, failed to provide correspondence in the period between 5 May 2021 and 3 June 2021 and this conduct gave rise to Charge 4.
 - (d) The whole of the conduct the subject of the complaint to the LSC and particularised in Charges 3 and 4 occurred while the Respondent was an employee of ML.
- [17] Again, the LSC submits that because ML is no longer a law practice and no longer exists no order can be made against ML under s 464(a) or (d) of the LP Act.
- [18] The Tribunal is satisfied that s 464 of the LP Act applies to law practices and the relevant law practice, ML, is no longer a law practice and no longer exists. Accordingly, no compensation order can be made under s 464 against ML.

² Affidavit of Thea Marilyn Johnson, Exhibit TMJ-7.

- [19] Further, the Tribunal is satisfied that there is no basis to make a compensation order against Ashlar Legal as it was not the relevant law practice in respect of either of the claims for compensation.

Whether there is a proper basis to order that the Respondent personally pay the compensation pursuant to the general power in s 456(1) of the LP Act or otherwise?

- [20] The LSC contends that the decision of *Legal Services Commissioner v Jiear* [2012] QCAT 221 sets out the correct approach and s 456(1) of the LP Act does not extend to support a compensation order.
- [21] Further, the LSC contends that s 464 of the LP Act only applies to law practices and does not apply to employee practitioners. Whilst the LSC acknowledges that this creates significant complications and shortfalls in the case of incorporated legal practices, this is an issue to be addressed by Parliament.
- [22] The LSC ultimately submits that as the relevant incorporated legal practice has ceased and is deregistered, the complainants are unable to obtain compensation under the LP Act.³
- [23] The Reasons briefly referred to the decision of the Tribunal in *Legal Services Commissioner v Jiear*. It is appropriate to consider the Tribunal's reasoning on this issue in more detail. The Tribunal relevantly stated:

“[27] Mr Jiear is not, it must be accepted, a “law practice”, and therefore exposed to a compensation order pursuant to ss 464(d)(1) and 465. The term is defined in Schedule 2 of the [LP Act] in a way which shows it does not extend to an individual. He does not, the Tribunal accepts, fulfil the definition and is not, therefore, amenable to a claim from [the complainant].

[28] Nor, the Tribunal is persuaded, is the general power to make any order it thinks fit, contained in s 456(1), a power which the [LP Act] extends to permit orders for payment of money from a practitioner to a complainant when a compensation order cannot be made.

[29] The legislation is, of course, to be interpreted in a way that would best achieve the purposes of the [LP Act]: *Acts Interpretation Act 1954*, s 14A. As a matter of general principle, however, when a statute contains clear words setting out a course of action that is to be followed for a particular purpose, it is usually interpreted on the basis that the same course is not to be achieved by some other method.⁴ To put the principle another way, where a particular procedure is designated in an act to achieve something, other procedures are usually excluded.

[30] As Gavan Duffy CJ and Dixon J said in *Anthony Hordern and Sons Ltd v The Amalgamated Clothing and Allied Trades Union of Australia*⁵:

...when the Legislature explicitly gives a power by a particular provision which prescribes the mode in which it shall be exercised and the conditions

³ However, if the Respondent had been operating as a sole practitioner this issue might not arise.

⁴ *R v Wallis: ex parte Employers Association of Wool Selling Brokers* (1949) 78 CLR 529, 550 (per Dixon J).

⁵ (1932) 47 CLR 1, 7.

and restrictions which must be observed, it excludes the operation of general expressions in the same instrument which might otherwise have been relied upon for the same power.

- [31] Here the [L]egislature has, in Part 4.10 of the [LP Act], provided a specific scheme and mechanism for complainants to be awarded compensation arising from the misconduct of a law practice and, under s 456(4), this Tribunal is specifically empowered to make a compensation order.
- [32] In those circumstances, it may be concluded that the Legislature did not intend to extend the general discretionary power in the Tribunal to make any order it thinks fit under s 456(1) so as to include the particular power to order compensation granted under later, explicit provisions.”
- [24] The Tribunal prefers the reasoning of the Tribunal in *Legal Services Commissioner v Jiear* over the potential relief discussed in *Legal Services Commissioner v Mackie* that the Tribunal may be able to order the Respondent to pay compensation under the general power in s 456.⁶
- [25] Accordingly, s 456(1) of the LP Act does not provide a power for the Tribunal to order compensation to be paid by the legal practitioner. Consequently, the Tribunal does not have power to make a compensation order against the Respondent.
- [26] The Tribunal notes that in contrast to s 464 of the LP Act which limits a compensation order to a “law practice”:
- (a) Section 308 of the *Legal Profession Uniform Law 2014* (NSW), s 308 of the *Legal Profession Uniform Law Application Act 2014* (Vic) and s 308 of the *Legal Profession Uniform Law 2022* (WA) provide that a compensation order may include an order that the “respondent lawyer or law practice” pay monetary compensation or repay an amount.⁷
 - (b) Section 442 of the *Legal Profession Act 2006* (ACT) provides for a compensation order for “an Australian legal practitioner” to pay compensation.
 - (c) Section 534 of the *Legal Profession Act 2006* (NT) provides that a compensation order is an order that “the practitioner” pay compensation, being the Australian legal practitioner against whom a complaint has been made.
 - (d) Section 491 of the *Legal Profession Act 2007* (Tas) provides for a compensation order that “the practitioner” pay compensation, being the Australian legal practitioner against whom a complaint has been made.
- [27] As recognised by the LSC, s 464 of the LP Act does not provide a remedy to complainants seeking compensation where the relevant “law practice” is an incorporated legal practice and the incorporated legal practice has ceased and/or is deregistered. The unfortunate consequence is that in cases such as the current case there is no power to be able to make a compensation order.

⁶ [2012] QCAT 570, at [28].

⁷ It is relevant to note that s 464 of the LP Act remains in the same form as when it was introduced by the *Legal Profession Bill 2007*, which predates the implementation of the *Legal Profession Uniform Law* in other States.

Orders in respect of the applications for compensation orders

[28] In all of the circumstances:

- (a) The application by Mr Bresler for a compensation order must be dismissed.
- (b) The application by Mr Shea and Mr Munschi for a compensation order must be dismissed.

[29] Accordingly, the Tribunal orders as follows:

1. The application by Mr Bresler for a compensation order is dismissed.
2. The application by Mr Shea and Mr Munschi for a compensation order is dismissed.