

QUEENSLAND CIVIL AND ADMINISTRATIVE TRIBUNAL

CITATION: *Legal Services Commissioner v De Fraine* [2025] QCAT 527

PARTIES: **LEGAL SERVICES COMMISSIONER**
(applicant)
v
ANTHONY DE FRAINE
(respondent)

APPLICATION NO: OCR304-24

MATTER TYPE: Occupational regulation matters

DELIVERED ON: 17 December 2025

HEARING DATE: 10 December 2025

HEARD AT: Brisbane

DECISION OF: Justice Davis

Assisted by:

Ms Elizabeth Shearer, Practitioner Panel Member

Dr Julian Lamont, Lay Panel Member

- ORDERS:
- 1. Charge 1 is proved and constitutes professional misconduct.**
 - 2. Charge 2 is proved and constitutes professional misconduct.**
 - 3. Charge 3 is proved and constitutes professional misconduct.**
 - 4. Charge 4 is proved and constitutes professional misconduct.**
 - 5. It is recommended that the respondent's name be removed from the New South Wales roll of Australian Lawyers maintained by the Supreme Court of New South Wales pursuant to the *Legal Profession Uniform Law* (NSW).**
 - 6. The respondent pay the Commissioner's costs of the application to be assessed on the standard basis as if this was a proceeding before the Supreme Court of Queensland.**

CATCHWORDS: PROFESSIONS AND TRADES – LAWYERS – COMPLAINTS AND DISCIPLINE – DISCIPLINARY PROCEEDINGS – PROFESSIONAL MISCONDUCT –

OTHER MATTERS – where the respondent was admitted as a legal practitioner in New South Wales – where the Legal Services Commissioner gave notices to the respondent requiring an explanation about complaints received – where the respondent failed to respond – where the respondent did not take part in the proceedings – where the respondent has abrogated his obligations as a practitioner – whether the respondent is guilty of professional misconduct – whether his name ought be removed from the roll of practitioners – whether he ought pay the costs of the application

Legal Profession Act 2007 (Qld), s 5, s 443, s 456, s 462

Legal Profession Uniform Law (NSW), s 22, s 23, s 461

Council of the Queensland Law Society Inc v Tunn [2004] QCA 412, cited

Legal Services Commissioner v De Fraine [2015] QCAT 292, related

Legal Services Commissioner v De Fraine [2024] QCAT 105, related

Legal Services Commissioner v Tang [2025] QCA 206, cited

APPEARANCES & REPRESENTATION:	A Angeli of counsel appeared for the Legal Services Commissioner No appearance by the respondent
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- [1] The Legal Services Commissioner (LSC) brings disciplinary action against Anthony De Fraine, an Australian lawyer.¹
- [2] Mr De Fraine was admitted as a legal practitioner of the Supreme Court of New South Wales on 6 October 2006.
- [3] Mr De Fraine held practising certificates in Queensland from 2007 to 2012 and then again from 2016 to 2023. He has not held a practising certificate since 30 June 2023.
- [4] In 2015, in this Tribunal, Mr De Fraine was found to have committed professional misconduct in April 2013 and in May 2014. Those are times when Mr De Fraine did not hold a practising certificate. He appeared on a bail application before the Magistrates Court in Rockhampton. He appeared, again in the Magistrates Court in Rockhampton, on two occasions seeking interlocutory directions in criminal matters. He was publicly reprimanded and ordered to pay a pecuniary penalty of \$500.00 and the costs of the LSC.²
- [5] On 7 March 2024, Mr De Fraine was found to have committed unsatisfactory professional conduct. He was publicly reprimanded, fined \$2,000.00 and ordered to pay the LSC's costs.³ That matter concerned one charge of engaging in conduct likely

¹ *Legal Profession Act 2007*, s 5(1).

² *Legal Services Commissioner v De Fraine* [2015] QCAT 292.

³ *Legal Services Commissioner v De Fraine* [2024] QCAT 105.

to a material degree to bring the legal profession into disrepute. The conduct occurred in April 2021 and was constituted by injudicious postings on social media.

- [6] By late 2021, Mr De Fraine was employed as a lawyer by Beck Legal Group on the Gold Coast.
- [7] While an employee of Beck Legal, Mr De Fraine acted on behalf of four clients in separate matters. I shall refer to these clients as A, B, C and D.
- [8] Each of A, B, C and D made complaints against Mr De Fraine pursuant to ss 428 and 429 of the *Legal Profession Act 2007*.
- [9] Notices were sent by the LSC to Mr De Fraine in relation to each of the complaints.
- [10] In relation to the complaint of A:
 - (a) a notice pursuant to s 437⁴ was sent to Mr De Fraine by the LSC on 28 November 2023;
 - (b) a notice pursuant to s 443(1)(a)(i) was sent to Mr De Fraine by the LSC on 5 January 2024;
 - (c) a notice pursuant to s 443(3) was sent to Mr De Fraine by the LSC on 25 January 2024;
 - (d) a notice pursuant to s 443(1)(a)(i) was sent to Mr De Fraine by the LSC on 7 March 2024; and
 - (e) a notice pursuant to s 443(3) was sent to Mr De Fraine by the LSC on 5 April 2024.
- [11] Mr De Fraine did not respond to any of those notices.
- [12] In relation to the complaint of B:
 - (a) a notice pursuant to s 437 was sent to Mr De Fraine by the LSC on 27 November 2023;
 - (b) a notice pursuant to s 443(1)(a)(i) was sent to Mr De Fraine by the LSC on 5 January 2024
 - (c) a notice pursuant to s 443(3) was sent to Mr De Fraine by the LSC on 25 January 2024;
 - (d) a notice pursuant to s 443(1)(a)(i) was sent to Mr De Fraine by the LSC on 7 March 2024; and
 - (e) a notice pursuant to s 443(3) was sent to Mr De Fraine by the LSC on 5 April 2024.
- [13] Mr De Fraine did not respond to any of those notices.
- [14] With respect to the complaint of C:

⁴ All references to sections are to provisions of the *Legal Profession Act 2007*.

- (a) a notice pursuant to s 437 was sent to Mr De Fraine by the LSC on 27 November 2023;
 - (b) a notice pursuant to s 443(1)(a)(i) was sent to Mr De Fraine by the LSC on 5 January 2024;
 - (c) a notice pursuant to s 443(3) was sent to Mr De Fraine by the LSC on 25 January 2024;
 - (d) a notice pursuant to s 443(1)(a)(i) was sent to Mr De Fraine by the LSC 7 March 2024; and
 - (e) a notice pursuant to s 443(3) was sent to Mr De Fraine by the LSC on 5 April 2024.
- [15] No response was made by Mr De Fraine to any of the notices.
- [16] As to the complaint by D:
- (a) a notice pursuant to s 437 was sent to Mr De Fraine by the LSC on 6 February 2023;
 - (b) a notice pursuant to s 443(1)(a)(i) was sent to Mr De Fraine by the LSC on 5 April 2023;
 - (c) a notice pursuant to s 443(3) was sent to Mr De Fraine by the LSC on 28 April 2023;
 - (d) a notice pursuant to s 443(1)(a)(i) was sent to Mr De Fraine by the LSC on 8 September 2023;
 - (e) a notice pursuant to s 443(3) was sent to Mr De Fraine by the LSC on 23 October 2023;
 - (f) a notice pursuant to s 443(1)(a)(i) was sent to Mr De Fraine by the LSC on 7 March 2024. That notice provoked a response from Mr De Fraine who said that he would provide a response by midday on 8 March 2024. However, no response was forthcoming; and
 - (g) a notice pursuant to s 443(3) was sent to Mr De Fraine by the LSC on 5 April 2024.
- [17] Apart from the limited response to the notice of 7 March 2024, no response was received to any of the notices.
- [18] On 19 December 2024, the LSC filed the current proceedings. Four charges are alleged:
- “Charge 1 – Failure to comply with a requirement given by notice under section 443 of the Act**
- 1. By 12 December 2023 and thereafter, the Respondent, without reasonable excuse, failed to comply with a requirement given by notices issued pursuant to section 443 of the Act.
- ...

Charge 2 – Failure to comply with a requirement given by notice under section 443 of the Act

2. By 22 January 2024 and thereafter, the Respondent, without reasonable excuse, failed to comply with a requirement given by notices issued pursuant to section 443 of the Act.

...

Charge 3 – Failure to comply with a requirement given by notice under section 443 of the Act

3. By 22 January 2024 and thereafter, the Respondent, without reasonable excuse, failed to comply with a requirement given by notices issued pursuant to section 443 of the Act.

...

Charge 4 – Failure to comply with a requirement given by notice under section 443 of the Act

4. By 19 April 2023 and thereafter, the Respondent, without reasonable excuse, failed to comply with a requirement given by notices issued pursuant to section 443 of the Act.”

- [19] Mr De Fraine has not engaged in the proceedings. No response has been filed and he did not appear at the hearing of the application on 10 December 2025.

Relevant statutory provisions

- [20] Section 3 of the *Legal Profession Act* states its main purposes:

“3 Main purposes

The main purposes of this Act are as follows—

- (a) to provide for the regulation of legal practice in this jurisdiction in the interests of the administration of justice and for the protection of consumers of the services of the legal profession and the public generally;
- (b) to facilitate the regulation of legal practice on a national basis across State borders.”

- [21] Control of the profession is achieved by a scheme which regulates admission to the profession and then regulates conduct of admitted members through a means including a disciplinary regime.⁵

- [22] The LSC is established by Chapter 7, which also creates the office of the Commissioner. Various powers are bestowed upon the LSC, importantly here, by Part 4, which establishes the disciplinary regime.

⁵ Chapter 4.

- [23] Investigative powers are conferred upon the LSC by Part 4.6. Section 443 of the *Legal Profession Act* provides, relevantly:

“443 Powers for investigations

- (1) The entity⁶ carrying out an investigation as mentioned in section 435 or 436⁷ may, for the investigation—
 - (a) require an Australian legal practitioner who is the subject of the investigation—
 - (i) to give the entity, in writing or personally, within a stated reasonable time a full explanation of the matter being investigated; or
 - (ii) to appear before the entity at a stated reasonable time and place; or
 - (iii) to produce to the entity within a stated reasonable time any document in the practitioner’s custody, possession or control that the practitioner is entitled at law to produce; or
 - (b) engage a person, whom the entity considers is qualified because the person has the necessary expertise or experience, to report on the reasonableness of an Australian legal practitioner’s bill of costs.
- (2) Subject to subsection (6), the Australian legal practitioner must comply with a requirement under subsection (1)(a).
Maximum penalty—50 penalty units.
- (3) If the practitioner fails to comply with the requirement, the entity may give the practitioner written notice that, if the failure continues for a further 14 days after the notice is given, the practitioner may be dealt with for professional misconduct.
- (4) If notice under subsection (3) is given and the failure continues for the 14 day period—
 - (a) the Australian legal practitioner is taken to have committed professional misconduct, unless the practitioner has a reasonable excuse for not complying with the requirement within the period; and
 - (b) the commissioner may apply to the tribunal for an order in relation to the charge that the practitioner has committed professional misconduct as stated in paragraph (a) as if the

⁶ Which includes the Legal Services Commission.

⁷ These sections authorise investigation of a complaint.

application were an application in relation to a complaint against the practitioner...” (emphasis added)

[24] By s 443(1), the LSC may require a practitioner to provide information in relation to a complaint. If the information is not provided, the LSC may then issue a notice under s 443(3). In the event of failure to comply with that notice, the consequences provided by s 443(4) flow. One consequence is a finding of “professional misconduct” unless a reasonable excuse for non-compliance is shown. As earlier observed, Mr De Fraine has not engaged in the process and no reasonable excuse for non-compliance appears on any of the material before the Tribunal.

[25] Professional misconduct is defined by s 419 as follows:

“419 Meaning of *professional misconduct*

(1) ***Professional misconduct*** includes—

- (a) unsatisfactory professional conduct of an Australian legal practitioner, if the conduct involves a substantial or consistent failure to reach or keep a reasonable standard of competence and diligence; and
- (b) conduct of an Australian legal practitioner, whether happening in connection with the practice of law or happening otherwise than in connection with the practice of law that would, if established, justify a finding that the practitioner is not a fit and proper person to engage in legal practice.

(2) For finding that an Australian legal practitioner is not a fit and proper person to engage in legal practice as mentioned in subsection (1), regard may be had to the suitability matters that would be considered if the practitioner were an applicant for admission to the legal profession under this Act or for the grant or renewal of a local practising certificate.”

Findings and sanction

[26] I find that in relation to each charge Mr De Fraine has failed to comply with a notice issued pursuant to s 443(3). The LSC did not attempt to prove against Mr De Fraine the truth or otherwise of the complaints made by the clients which led to the notices being sent. What is proved against Mr De Fraine is the failure to comply with the notices. That is all that is charged.

[27] The *Legal Profession Act*, for good reason, regards such conduct seriously. As already observed, by force of statute, the failure to comply with a s 443(3) notice is professional misconduct. However, professional misconduct can be of varying degrees of seriousness. Professional misconduct does not of itself automatically lead to findings of unfitness such as to justify removal from the roll.⁸

⁸ *Legal Services Commissioner v Tang* [2025] QCA 206.

- [28] Part of the obligation of legal practitioners is to submit to regulation. Part of that entails submission to any lawful step taken by the LSC. Those principles are illustrated by s 443(3), which makes a failure to comply with a notice professional misconduct.
- [29] Here, Mr De Fraine has abrogated his professional responsibilities. He has, as it were, “opted out”. He has not engaged with the LSC’s investigation of his professional conduct. He has failed to provide any information to the LSC. He has failed to comply with numerous statutory notices, including the s 443(3) notices that were given in relation to the four complaints. Mr De Fraine has not engaged in the current proceedings which concern his conduct.
- [30] The privilege of legal practice is regulated by the *Legal Profession Act*. The *Legal Profession Act* regulates the profession for the public’s protection. Part of a lawyer’s ethical obligations is to submit to regulation.⁹
- [31] A lawyer who, like Mr De Fraine, effectively removes themselves from regulation by failing to comply with the legislation is clearly unfit for practice and the privilege of practice must be removed.

Appropriate orders

- [32] Mr De Fraine was not admitted in Queensland. He is though, an “Australian lawyer”¹⁰ and is subject to the jurisdiction of this Tribunal.
- [33] The appropriate order is to recommend that he be removed from the New South Wales Roll of Australian lawyers maintained by the Supreme Court of New South Wales.¹¹
- [34] Section 462(1) of the *Legal Profession Act* concerns costs:

“462 Costs

- (1) 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.”

- [35] No exceptional circumstances appear on the evidence before the Tribunal and Mr De Fraine should be ordered to pay the LSC’s costs assessed on the standard basis as if this were a proceeding before the Supreme Court of Queensland.

Orders

- [36] The following orders are made:
1. Charge 1 is proved and constitutes professional misconduct.
 2. Charge 2 is proved and constitutes professional misconduct.
 3. Charge 3 is proved and constitutes professional misconduct.

⁹ See, as an example, *Council of the Queensland Law Society Inc v Tunn* [2004] QCA 412.

¹⁰ *Legal Profession Act 2007*, s 5(1).

¹¹ *Legal Profession Uniform Law* (NSW), ss 22, 23, 461(2); *Legal Profession Act 2007*, s 456(3)(a).

4. Charge 4 is proved and constitutes professional misconduct.
5. It is recommended that the respondent's name be removed from the New South Wales roll of Australian Lawyers maintained by the Supreme Court of New South Wales pursuant to the *Legal Profession Uniform Law* (NSW).
6. The respondent pay the Commissioner's costs of the application to be assessed on the standard basis as if this was a proceeding before the Supreme Court of Queensland.