



# Legal assistance: it's your protection

---

**This document is issued for general guidance only. It does not constitute professional advice. The issues with which it deals are complex and the document necessarily deals only with general principles. No reader should rely on this document for the purpose of making a decision as to action but should seek the appropriate advice from the Union on the particular circumstances of that reader. The Union accepts no responsibility for the consequences should any person act in reliance on this document without obtaining the appropriate advice from the Union.**

---

## Introduction

One of the Union's main objectives is the protection of the legal rights of its members. This is achieved through our legal assistance scheme, one of the most important services offered by the Union.

Provided in accordance with the Union's Constitution and Rules and procedures endorsed by Council and Conference, legal assistance helps to protect teachers in the course of their professional duties.

You face many potential legal pitfalls during your working day. There is the risk of action arising out of accidents to students, accusations from members of the public which are damaging and can cause great anguish, insults in front of your students or in the presence of your peers, or even physical assault by your students or members of the community.

Any legal action, whether it be prosecution or defence, is expensive. Without legal aid, you could face a severe financial setback from which you might never fully recover.

## What legal assistance is available to QTU members?

The Union offers three forms of legal assistance.

### 1. Free legal assistance

Free legal assistance may be granted for both civil and criminal matters arising directly from your employment. Examples include: assault charges; physical abuse allegations; departmental investigations; parent/student complaints; student accidents; abuse/threats against members; disciplinary action; workers' compensation and personal injuries claims against the department.

Free legal assistance will not be granted by the Union where a member is in dispute with another member.

### 2. Subsidised legal assistance

This form of assistance may be granted in relation to matters not arising directly from your employment but which could have a bearing on it.

Subsidised legal assistance is available at 90 per cent of the usual fee, with the Union contributing 30 per cent of cost and outlays and you paying the remainder. In special circumstances, Executive may approve further assistance.

### 3. Extended legal assistance

Extended legal assistance is provided for matters which do not fall within the two categories above, but will not generally be provided where one member is in dispute with another.

The terms of the Union's extended legal service are as follows:

- You will be provided with one free consultation, of up to one half-hour, with the Union's lawyers in Brisbane, or their agents in the country.
- Should you decide to proceed further after the initial consultation, the Union's lawyers will bill you for any work arising from the consultation at the rate of 75 per cent of their normal fee in personal matters and 90 per cent in commercial matters.
- There is no limit on the number of referrals you can make to the Union's lawyers in any year, provided that each referral is for a different matter.

You should note that many matters will take longer than one half-hour to be effectively addressed by our lawyers.

Where two members are involved in divorce proceedings or other family law matters, the Union's lawyers will endeavour to arrange separate representation for both parties.

Please telephone the Union to obtain your referral to our lawyers.

### **How does the Union's legal assistance scheme compare with those of other unions?**

The Queensland Teachers' Union prides itself on providing one of the best legal assistance schemes of any union in Australia. We have not found another union in the country which is able to match our free legal assistance scheme.

### **How do I apply for legal assistance?**

The Union requires a written request (mail, fax or email) for legal assistance. However, urgent requests will be dealt with initially by telephone. If you wish to access the extended legal assistance scheme, you should telephone the Union.

### **Who is eligible for legal assistance?**

All QTU members are eligible as long as they were a financial member at the time of the incident and at the time of application for legal assistance. Legal assistance may be granted to people who have ceased to be eligible for QTU membership (e.g. retired teachers) for a matter which occurred when they were QTU members.

### **Why can't the Department of Education provide my legal assistance?**

The Department of Education could not legitimately provide legal assistance for QTU members because it would have a conflict of interest in the vast majority of our present legal cases.

Frequently, the Department or the Crown is the initiator of the legal action or has a conflict of interest in relation to matters where members require legal assistance.

No state government will allow funds to be spent defending departmental officers (e.g. teachers/tutors) when Crown funds are also being expended to investigate, discipline or prosecute them.

Only the Queensland Teachers' Union can provide the legal assistance required to protect QTU members' interests and jobs.

### **Wouldn't it be cheaper to buy my own legal insurance from an insurance company?**

Some QTU members have investigated this option. The results reveal that legal insurance offering the same level of legal assistance as that currently provided by the Union would require the payment of premiums well in excess of current QTU dues. Most insurance policies also have

exclusions (i.e. matters not covered by the policy) and some require the payment of an excess on each claim. In addition, the Union's lawyers are experts in the field of education law and have been working with the QTU for over 40 years.

### **How does the legal assistance scheme help QTU members?**

The following case studies show how the legal assistance scheme helps members in their working lives.

#### **Case study - physical contact allegation**

A teacher was alleged to have grabbed a student by the arm and dragged him out of the classroom. A departmental officer was to conduct an investigation. The Union's lawyers helped the member to prepare a statement for use in the investigation.

#### **Case study - playground accident**

A teacher was on playground duty when a student injured herself on playground equipment. A few days after the accident, the teacher received a letter from the student's solicitor asking the teacher to answer a number of questions relating to the accident. The Union's lawyers prepared a response to the solicitor's letter.

#### **Case study - defamation**

A parent made a number of untrue statements about a teacher to members of the parent body. The Union's lawyers wrote to the parent warning him to cease making such comments.

#### **Case study - verbal abuse**

A parent came to a classroom and verbally abused a teacher because of the alleged treatment of her son. The Union's lawyers wrote to the parent informing her she had breached the wilful disturbance provisions of the *Education (General Provisions) Act 2006* (Qld) and that she could be fined for such behaviour.

#### **Case study - a police interview**

A police officer contacted a teacher wanting to discuss an assault allegation involving a student. The Union's lawyers contacted the police officer and arranged a police interview where our member had a legal representative present.

### **Union assistance**

If you require legal assistance or Union advice in relation to a legal matter, please contact the Union.