

SUBMISSION TO THE DEPARTMENT OF COMMUNICATIONS AND THE ARTS AND THE ATTORNEY-GENERAL'S DEPARTMENT ON ACCESS TO RETAINED DATA IN CIVIL PROCEEDINGS

2 February 2017

The Queensland College of Teachers (the QCT) was established in January 2006 under the *Education (Queensland College of Teachers) Act 2005 (Qld)* (the QCT Act). The QCT is the body responsible to the Queensland Minister for Education and Minister for Tourism and Major Events, for a range of functions associated with the regulation of the teaching profession in Queensland. Its functions include registration and disciplining of teachers, approval of preservice teacher education programs, development and implementation of professional standards for teachers, development and implementation of a continuing professional development framework, and the promotion of the teaching profession to the public.

There are currently approximately 104,675 teachers on the register in Queensland.

The QCT was established to achieve the following objects:

- uphold the standards of the teaching profession;
- maintain public confidence in the teaching profession; and
- protect the public by ensuring education in schools is provided in a professional and competent way by approved teachers.

The welfare and best interests of children are the primary considerations of the QCT in performing its functions under the QCT Act.

The QCT Act establishes a disciplinary framework for dealing with relevant teachers, whose alleged conduct may be grounds for disciplinary action, including if a teacher has behaved in a way, whether connected with the teaching profession or otherwise, that does not satisfy the standard of behaviour generally expected of a teacher. If, for example, the QCT reasonably believes that minor disciplinary action is not likely to be appropriate, then the matter may be referred to the Queensland Civil and Administrative Tribunal (QCAT).

QCAT may, on the application of a party or its own initiative, make an order for a document or thing to be produced.¹ The QCT may seek an order that a telecommunications provider produce a document evidencing the data set outlined in section 187AA of the *Telecommunications (Interception and Access) Act 1979* (the TIA Act).

It is common for disciplinary cases involving a breach of the professional boundary between the teacher and a student to include the use of telecommunications to convey inappropriate communications and to develop inappropriate relationships. In these cases the QCT needs to prove that a relevant teacher was the subscriber of a particular service and other facts such as the date, time, duration and type of a communication, and the location of equipment used to make the communication.

The QCT has an inherent role in the protection of children via the regulation of teachers' conduct. The important role that the QCT has in protecting the safety and well-being of

¹ S 63 *Queensland Civil and Administrative Tribunal Act 2009 (Qld)*



students and maintaining the public's confidence in the teaching profession justifies any detrimental impact on the rights of teachers as a result of accessing the data set as outlined in section 187AA of the TIA Act.

The QCT submits that the prohibition in section 280(1B) of the *Telecommunications Act 1997* should not apply to disciplinary referrals that it makes to QCAT.