

CCT - COUNCILLOR CONDUCT TRIBUNAL

PRACTICE DIRECTION¹

No 1 of 2019

Effective: 5 February 2019

General Hearing Protocol

1. The purpose of this practice direction is to establish general procedures relating to hearings of the Councillor Conduct Tribunal (CCT) in accordance with the requirements of section 150DV of the *Local Government Act 2009* (the Act), including:
 - a. to inform all parties and legal practitioners appearing before the Tribunal of some of the general procedures for Tribunal hearings;
 - b. to ensure CCT proceedings, Members, parties, representatives and witnesses to Tribunal hearings are correctly identified during the recording process; and
 - c. to clarify other hearing related protocols.

Background to the establishment of the Councillor Conduct Tribunal

2. From 3 December 2018, the Act as amended by *the Local Government (Councillor Complaints) and Other Legislation Amendment Act 2018* (the amending Act), now provides a simpler, more streamlined system for making, investigating and determining complaints about councillor conduct in Queensland. It requires Local Governments to implement new procedures for dealing with councillor conduct complaints and for mandatory Code of Conduct training for councillors.
3. The amending Act created the statutory office of the Independent Assessor whose role includes the investigation of complaints about the conduct of councillors. One outcome of an investigation may be that the Independent Assessor makes an application to the new Councillor Conduct Tribunal for a hearing in regard to suspected misconduct (section 150AL of the Act).

Composition of the Tribunal

4. The Councillor Conduct Tribunal is established under Section 150DK of the Act, and is an independent body, made up of qualified persons appointed by the Governor in Council. The Tribunal comprises the President and a number of casual members. For hearing a matter about the conduct of a councillor, the Tribunal will be constituted by at least 2, but not more than 3 members chosen by the President. This composition may be the President and two casual members, or two or three of the casual members as nominated by the President. Where the President is not a member of the sitting Tribunal, the President will nominate one of the members to act in the capacity of chair of the Tribunal.
5. For dealing with an administrative or a procedural matter related to hearing a matter about the conduct of a councillor, the Tribunal may consist of the President or not more than 3 members of the conduct tribunal chosen by the President.

¹ Section 150DV of the *Local Government Act 2009* allows the Councillor Conduct Tribunal President to issue practice directions for conducting a hearing.

6. Unless otherwise indicated to the parties by the Tribunal via the Registrar before the proceedings commence, or by the Chair at the hearing, the following procedures will be followed.

Opening, adjourning, resuming and closing CCT hearings

7. The hearing support officer will announce the commencement, adjournment, resumption and closing of CCT hearings as follows:

Opening at commencement of days hearings

Silence, all stand. The Councillor Conduct Tribunal is now in session.

Short Adjournment

Silence, all stand. The Councillor Conduct Tribunal is adjourned until [time when hearing is to be resumed]

Resumption after short adjournment

Silence all stand. The Councillor Conduct Tribunal is now resumed.

Resumption and the commencement of a new hearing

Silence, all stand the Councillor Conduct Tribunal is now resumed.

Adjournment of hearing to another day

Silence, all stand. The Councillor Conduct Tribunal is adjourned until tomorrow morning (date) at (time) or (to another date).

Closing at the end of the hearing or at the end of the day hearing

Silence, all stand. The Councillor Conduct Tribunal is closed.

8. When the announcement is made those present in the hearing room should, where possible, stand and remain standing in silence until the Tribunal Members enter the hearing room and take their seat or leave the hearing room, as the case may be.
9. The parties and their representatives or support persons may remain seated for the hearing and are not required to stand to address the Tribunal members, other than as indicated above.

Identifying Proceedings, Those Appearing and Witnesses to CCT Matters

10. At the commencement of the hearing, the CCT President or Chair will identify the proceeding – by stating the full name of the matter before the Tribunal and specifying the file number.
11. The CCT President or Chair will then ask all parties appearing in the proceeding including a person who appears without representation to clearly state:
 - a. his or her surname and initials (spelling the surname);
 - b. the capacity, including the professional capacity, if any, in which he
 - c. or she appears;
 - d. the party or parties whom he or she represents, if that be the case
 - e. including the name of any instructing solicitor and legal firm as the
 - f. case may be.

12. In circumstances where a party is unable to announce their appearance, the CCT President or Chair should ensure that this information is read into the record on behalf of the party or is conveyed to the hearing support officer for retention in the Tribunal's records.
14. Where a witness is called to give evidence, the person calling the witness will announce and spell the given and surname of the witness.

Telephone or video evidence

15. If a party would like a witness to give evidence at a hearing by telephone or video, a request must be made to the President or Chair. Unless the President or Chair otherwise allows, the request must be made in writing (including email) to the Registrar, at least 5 working days before a scheduled hearing and must:
 - a. set out the reasons for the request; and
 - b. state whether the other party agrees to the request.
16. The President or Chair may decide to hold a directions hearing before deciding whether the request will be granted.
17. If evidence is to be given either by telephone or videoconference, the party who is calling the witness must:
 - a. make all necessary arrangements with the witness, including ensuring the witness will have access to all relevant documents; and
 - b. give the CCT as early as possible the details for contacting the witness.
 - c. Unless otherwise agreed, the costs of taking evidence by videoconference must be paid for by the party who made the request.

Form of address

18. Unless otherwise indicated by the CCT President or Chair, the form of address of Tribunal Members is:

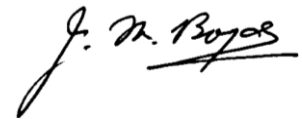
Member	Guideline	Example
President	Refer to the member as "President"	"Yes, President"
Chair (when the President is not a member of the Tribunal panel and one of the Tribunal Members has been appointed as chair of the panel)	Refer to the member as "Chair or Chairperson"	"Yes, Chair" or "Yes Chairperson"
Member	Refer to the member as "Member" or if there is need to identify a particular member refer to the member as "Member [followed by their surname]".	"Yes, Member" or "Yes, Member Smith"

Oaths and affirmations

19. The CCT will usually require any person who appears before it at a hearing to give evidence, including the councillor and any other witnesses, to take an oath or make an affirmation in accordance with the *Oaths Act 1867* to verify that the answers given will be true. It is an offence under section 214 (LGA) for a witness to fail to comply with a requirement to take an oath or make an affirmation.

Recording and transmitting devices

20. The use of cameras of any kind, including mobile phone cameras, and audio or video recording or transmission devices is strictly prohibited on CCT premises without the express permission of the President or Chair.
21. Mobile phones are not to be used in CCT hearing rooms. They must be switched off or switched to silent before entering a hearing room where a matter is to be, or is being, heard.

A handwritten signature in black ink, appearing to read 'J. M. Boyd', with a horizontal line underneath the name.

**John Boyd
President**

5 February 2019