

## **PRACTICE NOTE OF TEACHERS DISCIPLINARY TRIBUNAL**

### **PRACTICE NOTE 1: CHILD WITNESSES**

**DATE:       XXX2021**

1. The purpose of this practice note is to provide some guidance to parties of the procedures the Tribunal intends to follow when a child is called as a witness.
2. The Tribunal recognizes that special considerations apply to child witnesses.
3. Although not criminal proceedings the Tribunal will be guided by the relevant provisions of the Evidence Act 2006, including sections 79, 95, 106 and 107 of that Act (see attached).
4. For the purposes of this Practice Note:
  - a. A “child witness” is someone who is under 18 years old at the time the Complaints Assessment Committee refers a matter to the Disciplinary Tribunal.<sup>1</sup>
  - b. All references to “the teacher” mean the teacher who is responding to a Notice of Charge or Referral made by the Complaints Assessment Committee.
  - c. A “legal representative” means a barrister or solicitor, a legal officer of one of the Teachers’ Unions or another representative approved by the Tribunal.
5. A child witness is entitled to have a support person, who is not a witness in the case, to sit with them. The Tribunal and other party should be notified of the name of the support person.
6. The party calling the child witness may apply to the Tribunal to make directions about the way in which the evidence is given. Consideration will be given to one or more of the following:
  - a. Using screens so that the child witness cannot see the teacher, but the Tribunal and legal representatives can see the child witness.
  - b. Having the child witness give their evidence remotely, by using an audio-visual link.

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<sup>1</sup> This is consistent with the definition of “child witness” in the Evidence Act 2006

- c. Using a video record of the child witness's evidence as an alternative way of giving evidence.
7. The other party may object to any of the above. The Tribunal will consider all arguments and then issue a direction for the mode of evidence.
8. Any party calling a child witness who is to attend the hearing in person should make arrangements with the Tribunal secretary to be shown the hearing room before the hearing commences.
9. A teacher who is not represented by a legal representative may not question a child witness called by the Complaints Assessment Committee. If the teacher has questions for the child witness, the Chair or Deputy Chair of the Tribunal may appoint a lawyer to assist solely for the purpose of questioning the child witness on behalf of the teacher. The Chair may prohibit questions that are vexatious, frivolous, irrelevant or objectionable in any way.
10. The Tribunal will consider having all of its questions directed through one member of the Tribunal panel. In deciding this, the Tribunal will have regard to the relevant factors set out in section 95(3) and (4) of the Evidence Act 2006 (see attached).

***Video record***

11. If a video record is to be used as an alternative way of giving evidence:
  - a. It must be recorded and dealt with substantially in accordance with any regulations made under the Evidence Act 2006;
  - b. A copy must be given to the teacher's legal representative for viewing before the hearing;
  - c. If the teacher is not represented, they may apply to the Tribunal for arrangements to be made for the teacher to view the video at the offices of the Teaching Council, the Complaints Assessment Committee legal representative or a local Police Station;
  - d. Any copy that is made must be returned to the Teaching Council or Complaints Assessment legal representative within 7 days of the completion of hearing. If an appeal is lodged, a copy will be made available to the teacher's legal representative.

- e. where a party objects to the use of the video record, the Chair or Deputy Chair may view the video before deciding on its admissibility.