

TRIBUNAL COMPETENCY FRAMEWORK

PROMOTING PROFESSIONAL EXCELLENCE

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THIS FRAMEWORK OF TRIBUNAL COMPETENCIES IDENTIFIES THE KNOWLEDGE, SKILLS, BEHAVIOURS AND ATTITUDES THAT MEMBERS OF TRIBUNALS ARE EXPECTED TO DEMONSTRATE IN PERFORMING THEIR ROLE.

This Framework has been produced to assist Tribunals in developing a Competency Framework suited to their particular needs. It provides a guide to newly appointed and experienced Members to the full range of critical abilities and qualities expected of them. Members should aim to demonstrate not only that they have achieved high levels of knowledge and technical competence, but that they have also developed the behaviours, motivation and values that are essential to professional excellence.

The Framework is divided into eight 'headline' competencies, associated qualities and performance indicators as follows:

- A Knowledge and Technical skills**
- B Fair Treatment**
- C Communication**
- D Conduct of Hearings**

E Dispute Resolution: Decision Making and Alternative Dispute Resolution (ADR)

1. Decision Making
2. Alternative Dispute Resolution

F Efficiency

G Professionalism and Integrity

H Leadership and Management

Each headline competency represents a core element of the role of a Tribunal Member. All of these are integrated to produce 'professional excellence'. Professionalism, as opposed to technical competence, represents the highest standards of conduct that the community has a right to expect of Tribunal Members and to which all Members should aspire.

Performance indicators are associated with each competency. They provide examples of how competency would be demonstrated in practise. The examples given of necessary knowledge, skills and behaviour

are intended to be illustrative – they are not exhaustive.

Members are not expected to meet all performance indicators on appointment. Competency in each area will develop over time, through experience and participation in a structured professional development program.

The Framework is designed to provide fair and transparent criteria to facilitate the appraisal of Tribunal Members. It will also facilitate a competency based approach to training to ensure that an individual's on-going professional development needs are effectively met.

The practical application of the Framework and its future development will be the subject of continuous evaluation.

**Justice Iain Ross AO
Chair, COAT**

A. KNOWLEDGE AND TECHNICAL SKILLS

RELEVANT QUALITIES

Conscientiousness, commitment to high standards

COMPETENCY

Possess a sound and detailed knowledge of the legal framework and jurisdiction of the Tribunal as set out in the relevant legislation.

Possess a detailed knowledge of the Tribunal's procedure and apply that procedure appropriately.

Specialist Members possess an in depth and up-to-date expert knowledge of the relevant subject matter of the Tribunal's jurisdiction.

EXAMPLES OF PERFORMANCE INDICATORS

Can accurately describe and explain the Tribunal's legal framework, jurisdiction and procedures to parties.

Properly applies appropriate legal principles to issues before the tribunal.

Absorbs and analyses complex and competing factual and legal material.

Logically identifies and articulates critical issues.

Undertakes necessary research, including accessing relevant databases.

Stays up to date with changes to law and procedure.

Broadens and extends knowledge.

Specialist Members keep up to date with their relevant area of expertise.

B. FAIR TREATMENT

RELEVANT QUALITIES

Fairness, courtesy, tolerance and compassion

COMPETENCY

Is aware of and respects diversity in all its forms including differences in beliefs, gender, race, religious customs, age, disability, mental capacity, sexual orientation, social or economic status and lifestyles.

Possesses a sound understanding of the Tribunal's obligation to ensure a fair hearing including the obligation to assist self represented parties and applies that understanding in practice.

EXAMPLES OF PERFORMANCE INDICATORS

Treats all people attending, appearing or working in the Tribunal with courtesy, respect and dignity.

Ensures that the requirements of those with special needs are properly met.

Makes use of interpreters, signers and communication aids such as loop systems, to ensure effective communication between parties and Tribunal Members.

Takes appropriate account of all factors that may unfairly discriminate and undermine full and effective participation by parties and representatives.

Identifies, acknowledges and sets aside personal prejudices.

Uses appropriate forms of address and language.

Provides appropriate assistance to parties and in particular self represented parties.

Asks questions and/or makes comments in a manner that is sensitive to issue of age, beliefs, cultural differences, gender, physical or mental disabilities, race, religious customs, sexual orientation and life styles.

Participates in the Tribunal in a way that enhances and promotes fair and equal treatment, eg. by appropriate approach, attitude and non-verbal communication.

Maintains a proper balance between:

- assisting those appearing before the Tribunal and enabling them to participate fully and
- the impartiality of the Tribunal.

Participates in the Tribunal's cultural competency program as part of their commitment to professional development.

Has a clear understanding of cultural context and the inherent disadvantage experienced by Koori and Culturally and Linguistically Diverse (CALD) communities.

C. COMMUNICATION

RELEVANT QUALITIES

Firmness without arrogance. Courtesy, patience, tolerance, fairness, sensitivity, compassion and self discipline.

COMPETENCY

Communicates effectively with parties, other Members, Mediators and staff.

EXAMPLES OF PERFORMANCE INDICATORS

Treats all people attending, appearing or working at the Tribunal with courtesy, respect and dignity.

Ensures effective communication between the Tribunal and all parties appearing before it.

Asks clear, concise and relevant questions which are understood by those to whom they are addressed.

Uses clear, concise and plain language to explain any relevant factual, legal or procedural issues to the parties.

Interacts appropriately with the parties at a hearing.

Employs active listening skills, eg. is attentive, checks perception etc.

Uses appropriate body language, eg. uses appropriate posture, gesture, facial expression, eye contact etc.

Regularly checks the understanding of all participants.

Makes effective use of those who support, interpret, assist and represent parties in the Tribunal process, to enable all to participate fully in the proceedings, and ensures effective use of all types of communications aids.

Articulates decisions using clear and concise language so that the parties understand the findings, reasons and decisions.

In panel hearings the presiding Member effectively communicates with the other Members to ensure that there is an opportunity for full discussion and that each Member expresses an opinion on all issues to be decided.

D. CONDUCT OF HEARINGS

RELEVANT QUALITIES

Firmness without arrogance. Courtesy, patience, tolerance, fairness, sensitivity, compassion and self discipline.

COMPETENCY

Conducts hearings in a manner that establishes and maintains the independence and authority of the Tribunal and enables proper participation by all involved.

Manages the hearing process to facilitate the fair and timely determination of the dispute.

Ensures that the hearing addresses all relevant issues.

EXAMPLES OF PERFORMANCE INDICATORS

Facilitate the participation of all parties and representatives to ensure fair treatment and a fair hearing.

Controls the proceedings through fair and effective management and intervention.

Appropriately conducts proceedings in accordance with current procedural rules.

Treats all parties and representatives even-handedly.

Makes fair and effective use of adjournments while minimising delay.

Maintains effective control with a proper balance between formality and informality.

Logically identifies critical issues.

Identifies areas requiring clarification or investigation and clarifies uncertainty.

Is punctual and well-prepared and exhibits familiarity with the points at issue in the case.

Behaves in a measured, calm and non-confrontational manner and deals effectively with inappropriate conduct.

Is objective, open minded and inspires respect and confidence.

Maintains a proper balance between:

- assisting those appearing at the Tribunal and enabling them to participate fully; and
- the impartiality of the Tribunal.

Ensures that each party is properly heard.

Explains to the parties what will happen after the hearing has ended.

Prioritises effectively and minimises delays and irrelevancies.

Maintains an effective and cooperative working relationship with staff.

Where appropriate, identifies areas of agreement between the parties, clarifies the issues in dispute and encourages the parties to negotiate and settle their dispute.

Ensures that if a party does not attend, the case is properly considered in accordance with the rules of procedure and the requirements of justice.

E. DISPUTE RESOLUTION: DECISION MAKING AND ALTERNATIVE DISPUTE RESOLUTION (ADR)

1. DECISION MAKING

RELEVANT QUALITIES

Decisiveness, confidence, courage, independence and impartiality

COMPETENCY

Exercises sound judgment and the appropriate exercise of discretion.

Identifies and assimilates relevant facts and expert evidence.

Uses a structured decision making process to produce well-structured, concise and clear reasons for decisions.

Makes and delivers decisions in a timely manner.

Uses appropriate dispute resolution techniques to assist parties to resolve their dispute.

EXAMPLES OF PERFORMANCE INDICATORS

Weighs relevant issues and matters of law to formulate reasoned and coherent decisions.

Objectively and impartially evaluates evidence.

Makes relevant findings of fact based on the evidence before the Tribunal and distinguishes those facts which are irrelevant.

Ensures that the issues are identified, makes findings of fact by reference to relevant evidence and applies the relevant law in making decisions.

Applies specialist expertise, where relevant, to understand and evaluate the evidence.

Treats decisions of the Tribunal with respect, in the interests of comity and consistency.

Makes firm, confident decisions and makes unpopular decisions when necessary.

Relies on own judgment but seeks assistance from other Members where appropriate and provides such assistance when requested to do so.

Makes timely and appropriate procedural decisions.

Where appropriate gives oral decisions.

Produces well-structured, reasoned oral or written decisions that use clear and concise language so the parties understand the decision and the reasons for it.

Where appropriate gives oral decisions that are clear, articulate, appropriately concise and determines the issues for consideration; make findings of fact relevant to those issues and apply the relevant law so that the parties understand the decision and the reasons for it.

Written decisions to be edited and proof-read prior to publication.

2. ALTERNATIVE DISPUTE RESOLUTION (ADR)

RELEVANT QUALITIES

Confidence, creativity, impartiality and empathy

COMPETENCY

Mediators exercise high level mediation skills.

Manages mediations and other ADR processes effectively to facilitate the fair and voluntary resolution of disputes in a timely way.

Possesses high level communication skills.

PERFORMANCE INDICATORS

Treats all parties and representatives with courtesy, respect and dignity.

Makes clear and comprehensive opening statements which explain the process and the importance of confidentiality.

Actively listens, summarises and reframes effectively.

Regularly checks the understanding of all participants.

Assists parties to identify options for settlement.

Prioritises self-determination to ensure that parties give informed consent to any agreement.

Maintains confidentiality at all times, including in private sessions.

Empowers parties to draft terms of settlement that are clear, accurate and concise.

F. EFFICIENCY

RELEVANT QUALITIES

Commitment to serving the public. Commitment to efficient administration and self discipline.

COMPETENCY

- Manages hearings to facilitate the fair and timely resolution of dispute.
- Actively manages cases to promote the efficient and just determination of disputes.
- Makes effective use of all available Tribunal resources, including computing facilities and appropriate software.

EXAMPLES OF PERFORMANCE INDICATORS

- Works at an appropriate pace.
- Adopts proactive approach focusing on key issues.
- Manages cases using the most efficient approach and procedures.
- Exercises discretion in the course of proceedings to ensure the efficient use of time.
- Establishes and enforces realistic time estimates.
- Promptly discharges administrative responsibilities.
- Works cooperatively with other Tribunal Members and staff.
- Prioritises effectively.
- Is punctual and well prepared.
- Uses information technology and other resources effectively.
- Uses automated order entry systems where available.
- Decisions are made in a timely manner consistent with the Tribunal's performance benchmark for the delivery of reserved decisions.

G. PROFESSIONALISM AND INTEGRITY

RELEVANT QUALITIES

Capacity to handle stress and the isolation of their role in making decisions. Sense of ethics, patience, honesty, tolerance, consideration for others and personal responsibility.

COMPETENCY

Maintains the independence, authority and reputation of the Tribunal.

Maintains personal independence and integrity.

Promotes the highest standards of behaviour.

EXAMPLES OF PERFORMANCE INDICATORS

Shows an ability and willingness to learn and develop professionally.

Complies with the training requirements of the Tribunal and takes responsibility for his or her own professional development.

Recognises and discloses potential conflicts of interest.

Behaves with dignity and professionalism.

Is scrupulously fair to all participants in proceedings, attending properly to any particular needs.

Remains detached and manages own reactions and emotions.

Treats all people attending, appearing or working at the Tribunal with courtesy, respect and dignity.

Respects and complies with the law.

Avoids any perception of bias by avoiding use of words or conduct that might give rise to the perception of an absence of impartiality.

Remains and appears impartial between parties whether individuals, professionals or public bodies.

Writes clear, well reasoned decisions in a time frame which is consistent with the relevant performance indicator.

Complies with the Tribunal's Code of Conduct.

Works in a collegiate way with other Members and Tribunal staff.

H. LEADERSHIP AND MANAGEMENT

RELEVANT QUALITIES

Responsibility, imagination and commitment to efficient administration.

COMPETENCY	EXAMPLES OF PERFORMANCE INDICATORS
<p>All Members</p> <hr/> <p>Strategically plans and organises work.</p> <hr/> <p>Manages change.</p> <hr/> <p>Supports and develops talent.</p> <hr/> <p>Encourages and facilitates teamwork.</p> <hr/> <p>Members in Leadership Positions</p> <hr/> <p>Provide leadership in:</p> <ul style="list-style-type: none"> • the delivery of key projects; and/or • the management and determination of complex cases <hr/> <p>Possess administrative and leadership skills of a high order.</p> <hr/> <p>Supports and develops talent.</p> <hr/> <p>Encourages and facilitates teamwork.</p> <hr/> <p>Leads and delivers key projects.</p> <hr/> <p>Manages and determines complex cases.</p> <hr/> <p>Adopts a strategic approach to the professional development of other Members.</p> <hr/> <p>Manages and fosters knowledge transfer.</p> <hr/>	<p>All Members</p> <hr/> <p>Strategically manages resources.</p> <hr/> <p>Appropriately deals with performance issues.</p> <hr/> <p>Effectively manages tasks allocated to them.</p> <hr/> <p>Uses initiative creatively to solve problems.</p> <hr/> <p>Participates in the mentoring program and the Tribunal's appraisal process.</p> <hr/> <p>Members in Leadership Positions</p> <hr/> <p>Develop the Tribunal's jurisprudence by well reasoned decisions dealing with complex legal or factual issues.</p> <hr/> <p>Works in partnership with other Members and the administration to achieve objectives in key projects.</p> <hr/> <p>Effectively manages knowledge transfer within their area of responsibility and across the Tribunal.</p> <hr/> <p>Effectively manages meetings and encourages contribution.</p> <hr/> <p>Initiates and supports innovation and continuous improvement.</p> <hr/> <p>Delegates appropriately to support and foster talent.</p> <hr/> <p>Engages regularly with the community to report on new initiatives and to obtain feedback.</p> <hr/> <p>Regularly interacts with Registry to facilitate innovation and improve the performance of their area of responsibility.</p> <hr/>