



**MAGISTRATES COURT
OF QUEENSLAND**

**PROTOCOL FOR THE BAR TO RAISE CONCERNS ABOUT
JUDICIAL CONDUCT**

PREAMBLE

- A. There exists an informal procedure by which a barrister can raise concerns through the President of the Bar Association about the courtroom conduct of a Magistrate. In that informal process, the President communicates those concerns to the Chief Magistrate who gives consideration as to whether and what steps should be taken and acts accordingly.
- B. This Protocol is intended to document that procedure.

THE PROCEDURE

The steps in the procedure are:

1. Members of the Bar may contact the President of the Bar to raise concerns about the conduct of a magistrate. The raising of their concern will be treated confidentially, save to the extent that disclosure to others is necessary for the purposes of this Protocol. The member of the Bar raising a concern need not be the person who has been the subject of the conduct, but must have firsthand knowledge of the conduct sufficient to raise the concern.
2. The President will make an assessment of the conduct and, for this purpose may ask for more information from the member about the nature of the conduct and its impact.
3. After such assessment as the President deems necessary, if the President is of the view that conduct may be of the type that warrants it, the President may raise the matter with the Chief Magistrate on a confidential basis. If the matter raised concerns the Chief Magistrate then the President may raise the matter with a Deputy Chief Magistrate. That Deputy Chief Magistrate may act under this Protocol in relation to the matter as the Chief Magistrate could, had the matter concerned a different magistrate.
4. In appropriate cases, the President may raise concerns with the Chief Magistrate in accordance with this Protocol of their own motion. Before doing so, the President will take into account, but not be bound by, the wishes of aggrieved members.
5. After a matter has been raised with the Chief Magistrate they will make such enquiry as they think fit so as to inform themselves of the validity of the concern. The Chief Magistrate may:
 - a) Bring the matter to the attention of the relevant magistrate (without, so far as is possible, identifying which barrister has raised the concern where the President has advised that the barrister would prefer not to be identified);
 - b) Watch or listen to any in-court recording relevant to the conduct;

- c) Read any transcript of hearing(s) relevant to the conduct;
 - d) Give the magistrate the opportunity to express their views.
6. If, after informing themselves about the conduct complained of, the Chief Magistrate is of the view that there is no substance to the concern raised or that the conduct does not warrant any further action the Chief Magistrate shall inform the President.
7. The Chief Magistrate may take steps which include, but are not limited to, one or more of the following:
- a) Discussing their views about the conduct with the magistrate;
 - b) Discussing with the magistrate whether any further action is appropriate;
 - c) Informing the President that discussion has taken place with the magistrate concerned;
 - d) Informing the President in general terms of the outcome of any discussion with the magistrate;
 - e) Advising the President of any further step that has been agreed or has occurred;
 - f) Informing the President of the extent to which the President might disseminate any information provided by the Chief Magistrate.
8. The President shall not inform any third party (including the barrister raising the concern) of their discussions with the Chief Magistrate concerning any such matter without the express approval of the Chief Magistrate.
9. The President may raise with the Chief Magistrate any matter in relation to the operation of the Protocol or in relation to judicial conduct more generally.

DATED this 6th day of February 2020

His Honour, Judge Terry Gardiner
Chief Magistrate

DATED this 6th day of February 2020

Ms Rebecca Treston QC, President
Bar Association of Queensland