



CODE OF CONDUCT FOR MEMBERS OF THE CONSUMER, TRADER AND TENANCY TRIBUNAL

This Code of Conduct is issued by the Chairperson of the Consumer, Trader and Tenancy Tribunal pursuant to Schedule 3 of the *Consumer, Trader and Tenancy Tribunal Act 2001* and applies to all Members of the Tribunal.

PURPOSE

This Code seeks to provide guidance to Members in the performance of their statutory functions as Members of the Tribunal. It is intended to provide practical assistance in performing their duties as Members and in identifying and resolving situations which may present ethical conflicts. It also sets out the standards of behaviour expected of each Member of the Tribunal.

COMPLIANCE WITH TRIBUNAL OBJECTIVES

Members must act in accordance with the objectives of the Tribunal as set out in section 3 of the *Consumer, Trader and Tenancy Tribunal Act 2001*. To this end, Members must work with the staff and other Members of the Tribunal to:

- ensure that the Tribunal is accessible, its proceedings are efficient and effective and its decisions are fair,
- enable proceedings to be determined in an informal, expeditious and inexpensive manner,
- ensure the quality and consistency of the Tribunal's decision making.

In addition, Members are expected to contribute to the effective administration of the Tribunal by participating in its various committees and working groups and by assisting to implement and promote its corporate and strategic goals and objectives.

GENERAL PRINCIPLES

In the performance of their duties Members must demonstrate fairness, integrity, impartiality, expertise and timeliness.

FAIRNESS

At the most basic level, fairness refers to the obligation of Members to give all parties the opportunity to present their respective positions and to receive an unbiased determination.

More broadly, all of the concepts addressed by this Code of Conduct contribute to the fairness of the process.

Members must:

- abide by the principles of natural justice and procedural fairness, in particular, by giving each party a reasonable opportunity to present their case and to answer the case against them,
- ensure the Tribunal is accessible by being aware of barriers such as language, cultural background, literacy or disability which may impede a party in presenting their case,
- control the proceedings in order to create an environment which is courteous and respectful of all participants,
- communicate in a clear, plain manner which can be understood by the parties,
- ensure proceedings are conducted in a manner which is transparent and seen to be fair,
- make decisions according to the law, with due regard to fairness and equity and the substantial merits of the case.

INTEGRITY

Members, as persons required to make decisions about the behaviour and standards of others, will, in carrying out their duties as Members and in their personal behaviour, act in a manner which upholds the status and reputation of the Tribunal.

In performance of their duties Members must:

- conduct hearings and make decisions with due rigour, diligence and intellectual honesty,
 - be patient, courteous, tolerant and treat all parties, representatives, witnesses, interpreters, staff, other Members and any other persons having business with the Tribunal in a way that respects each person's dignity,
 - protect parties and their representatives from any behaviour of other parties which may threaten their dignity, including behaviour which is unnecessarily aggressive or which is racist, sexist or shows religious or other bias,
 - not disclose any confidential information otherwise than as permitted by law.
-

In their private life Members should:

- demonstrate respect for and observance of the law,
- refrain from commenting inappropriately on the operations of the Tribunal, individual Members or staff,
- exercise discretion in their social contacts and activities.

IMPARTIALITY

Members must act impartially, avoiding conflicts of interest both real and apparent, and must carry out their duties as Members without bias and without yielding to external influences.

In the performance of their duties Members must:

- always apply the law equally and without bias,
- undertake their Tribunal responsibilities independently and free from influence external to proceedings,
- advise the parties of any matter which might give rise to a perception of bias or conflict of interest and determine whether in the circumstances it is appropriate to conduct the proceedings,
- refrain, save in exceptional circumstances, from any communication (either orally or in writing) or association during the course of proceedings with a party, legal representative or witness in the absence of the other party or parties or their representatives.

In addition, Members should:

- if engaged in another profession, occupation or business, take care to ensure that those activities do not undermine the discharge of their responsibilities as a Member,
- refrain from engaging in partisan political activity which is directly related to the work of the Tribunal and which may impinge upon the perception of impartiality of the Member or the Tribunal.

EXPERTISE

Members must maintain and exercise a high level of skill and knowledge relevant to the discharge of their duties.

Members should:

- undertake and participate in professional development and training programs aimed at enhancing knowledge and skills relevant to their duties,
 - keep informed of developments in substantive and procedural matters within the jurisdiction of the Tribunal,
 - ensure wherever possible that decisions are consistent with previous decisions of the Tribunal and provide detailed reasons where they are not followed,
-

-
- be aware of the objectives of legislation applied by the Tribunal and the social context of proceedings,
 - regularly review and evaluate their own performance and capacity as a Member,
 - support and encourage the development of colleagues.

TIMELINESS

Members must resolve matters in a timely manner in order to ensure that the Tribunal's proceedings are efficient, effective and inexpensive.

In the conduct of proceedings Members must:

- clearly identify the issues in dispute and orders sought,
- facilitate settlement of some or all of the matters in dispute,
- adjourn only when necessary,
- ensure that any interim orders note the issues in dispute, the timetable for exchange of documents and allocate a realistic time for the hearing,
- ensure that evidence is given as concisely as possible, while still allowing full ventilation of all relevant issues,
- provide oral reasons wherever possible,
- deliver reserved decisions and provide written reasons promptly.

POST SERVICE CONDUCT

After ceasing to be a member of the Tribunal it is expected that a former member:

- should continue to behave in a way that upholds the standing and reputation of the Tribunal,
- should not appear before the Tribunal as a representative, expert witness or consultant where that appearance would compromise the ability of the Tribunal to fulfil its obligations to act impartially,
- must not use or take advantage of confidential information obtained in the course of his or her duties as a member.

COMPLIANCE WITH THE CODE

If a Member does not comply with the Code, the Chairperson may direct the Member to take specified action to improve his or her conduct. In cases of serious breach the Chairperson may refer a matter to the Peer Review Panel. Whether such action will be taken will depend on factors such as the seriousness of the conduct in question, whether there is a pattern of such conduct, the intent of the Member concerned and the effect upon the Tribunal or others of the conduct.

Many of the standards in the Code are in general terms and it is not suggested that disciplinary action is necessarily appropriate when reasonable Members might be uncertain as to the bounds of particular conduct.

The Code of Conduct does not stand alone but forms part of the accountability framework within which both the Tribunal and the Members operate. It is complementary to the Tribunal's procedures and policies, including the performance management process, the complaints process and the Tribunal's obligations towards Members in relation to training and professional development. The Code may be reviewed from time to time to ensure its relevance.

Kay Ransome
Chairperson

23 July 2003