



## **CODE OF CONDUCT FOR CRT MEMBERS**

Updated: December 13, 2017

### **1 General**

The requirement to comply with this Code of Conduct is a condition of appointment. Tribunal members (including the Vice Chairs, and temporary Members appointed under section 69 of the Act, together “Members”) who fail to comply with these standards may be subject to disciplinary action up to and including termination under the *Civil Resolution Tribunal Act* (the “Act”), section 74.

Members must faithfully, honestly, and impartially perform their duties (Act, s. 83) and must not, except in the proper performance of their duties, disclose to any person any information they have obtained as Members (Act, s. 87).

This Code establishes rules of conduct governing the professional and ethical responsibilities of Members to enhance public confidence in their integrity and fairness. The Code establishes reasonable minimum expectations governing the conduct of all Members. Members must ensure their own compliance with this Code. Members also have an obligation to bring to the attention of the Chair any circumstance which raises a reasonable apprehension of that Member’s possible contravention of this Code.

#### **1.1 Decision-Making Responsibilities**

Members must make their decisions based on the merits and justice of the case, and must apply the law and policy to the evidence in good faith and to the best of their ability. Members must approach the hearing and determination of every claim with a mind that is genuinely open with respect to every issue, and open to persuasion by convincing evidence and argument. Members must avoid doing or saying anything that would cause a reasonable, well-informed individual to think otherwise.

At any stage of a proceeding, Members must not communicate about the proceeding, directly or indirectly, with any party, representative, or witness, except in the presence of all parties and/or their representatives, or unless the correspondence is copied to all the parties and/or their representatives.

The Chair may, occasionally, appoint a panel of up to three Members to hear a claim (Act, s.79). After discussion and careful consideration, where a member of a panel is unable to agree with the proposed decision of a majority of the panel, that Member should not abandon strongly held views on an issue of substance, either for the sake of panel unanimity, or in exchange for agreement on any other point. Instead, the Member should prepare a reasoned dissent in a timely fashion.

While upholding appropriate legal and procedural standards, the CRT strives to be as accessible and understandable as possible to the people who use it. Some participants may have barriers or have cultural backgrounds that make aspects of their behaviour and/or communication unfamiliar. CRT Members must endeavour to be aware of these types of issues and how best to work appropriately with all CRT participants.

At all times, Members must treat the parties and representatives appearing before the CRT with respect and patience. Members are responsible for ensuring that decisions are written in a neutral and respectful tone, in plain language, and are rendered within the applicable timeframe. Members must prepare their written reasons without undue delay. Peer reviewers should provide feedback at the earliest opportunity.

## **1.2 Confidentiality**

As a result of their duties, Members acquire confidential information. In accordance with sections 86 and 87 of the Act, Members must not disclose to anyone such confidential information except as may be necessary to discharge their obligations.

All inquiries from the media must be referred to the Chair, and in her absence, to the Registrar/Executive Director. Under no circumstances are Members authorized to speak to the media on behalf of the CRT.

### **1.2.1 Protection of Privacy outside CRT's Offices**

Sections 86 and 87 of the Act create obligations on Members with respect to the security and protection of confidential information. Members must comply with these guidelines to protect the privacy and security of confidential records.

The following practice directive applies to Members' handling of documents, files, and electronic files and information where these are taken outside the CRT offices. Members must:

- (a) log in and log out files using procedures outlined by CRT;
- (b) transport paper files in a locked carrying case and, if possible, keep them with the Member at all times;
- (c) if it is necessary to review the files while travelling, ensure that they are not in open view;
- (d) always store paper files in a locked carrying case, locked filing cabinet, or locked room, to ensure they cannot be viewed by anyone other than Members or staff;
- (e) not leave files unattended in unlocked premises (whether at home, office or in a hotel);
- (f) not leave files in a vehicle, even if it is locked. If absolutely necessary, files may be locked in a trunk if the vehicle is parked in a secure location;

(g) not leave electronic information, database materials, and related electronic file information unattended or in an area where they can be viewed by visitors, family members and other unauthorized individuals;

(h) follow all security policies and practices established for computerized systems;

(i) not take physical or electronic files stored on a device outside of Canada. Under certain circumstances, Members may securely access cloud-based files while travelling;

(j) return files to the CRT offices as soon as possible.

If, despite the above precautions, a theft occurs and files and/or electronic systems containing personal information are stolen, Members must immediately:

(a) notify the Chair or the Registrar/Executive Director immediately; and

(b) file a police report immediately.

The Chair or her designate will notify:

(c) the Office of the Information and Privacy Commissioner of the theft;

(d) individuals whose personal information was stolen of the theft and what information about them was taken.

## **2 Conduct**

### **2.1 General**

Members will not engage in discriminatory behaviour contrary to the Human Rights Code. Members will not engage in harassment of a personal, sexual, or racial nature. Members will not engage in retaliation against anyone raising a concern or making a complaint in good faith under the Human Rights Code.

### **2.2 Collegial Responsibilities**

The conduct and language of Members must meet acceptable social standards and must contribute to a positive work environment. A Member's conduct must not compromise the integrity of CRT or the public service.

Members will foster a collegial approach in performing their adjudicative functions and exchange views, information, and opinions in a spirit of respect for the independence of each other as decision makers. A Member will not publicly comment, orally or in writing, on any matter before CRT, or on a colleague's conduct, and shall not divulge confidential information unless legally required or appropriately authorized to do so.

Members will be available for consultation or discussions on any policy, legal, or practice or procedural issue, and will treat the views and opinions of colleagues with respect.

### **2.3 Skills and Training**

Members will endeavour to develop and enhance their knowledge of both substantive and procedural matters related to CRT claims and proceedings, and will participate in ongoing training and professional development.

Members will make themselves available to participate, as assigned, in other functions and activities such as training new Members, peer reviewing decisions, participating in committees, or developing practices and procedures.

### **2.4 Personal Relationships between Members**

Members and employees who are direct relatives, or who permanently reside together, may not be employed in situations where:

- (a) a reporting relationship exists where one Member/employee has influence, input or decision-making power over the other employee's performance evaluation, salary, premiums, special permissions, conditions of work and similar matters; or
- (b) the working relationship affords an opportunity for collusion between the two individuals that would have a detrimental effect on CRT's interests.

The above restriction on working relationships may be waived provided that the Chair is satisfied that sufficient safeguards are in place to ensure that CRT's interests are not compromised.

Members must disqualify themselves as participants in personnel decisions when their objectivity would be compromised for any reason, or a benefit or perceived benefit could accrue to them.

### **2.5 Use of CRT Assets**

Members must not use CRT assets, internet facilities, space or time for any non-CRT purpose without the prior authorization of the Chair or her designate. The Member must comply with all applicable laws and regulations and must respect the legal protection provided by copyright and licenses with respect to both software programs and data.

When using the CRT's internet resources, users are responsible for ensuring that their use of internet access is appropriate and consistent with ethical conduct under the current applicable policy. This policy does not prohibit Members from making or receiving occasional brief personal electronic messages or private telephone calls.

### **2.6 Accepting Gifts**

Members must not directly or indirectly ask for or accept a gift, favour, service, or promise of future benefit from any individual or organization that appears before CRT.

This provision is not intended to prohibit the normal presentation of gifts to persons participating in public functions, or the normal exchange of gifts between friends that does not amount to a real or

apparent conflict of interest, or does not otherwise call into question the Member's objectivity and impartiality. This provision is also not intended to prohibit infrequent attendance at lunches, dinners, or public events of a common and reasonable nature in the company of an individual or representative of an organization which regularly appears before CRT.

If there is any doubt regarding the propriety of accepting a gift or accepting an invitation to attend an event, the Member should consult with the Chair.

## **2.7 Outside Activities**

Members must ensure that their outside activities do not interfere with the impartial, effective, and timely performance of their responsibilities. Members must not engage in activities that bring the CRT into disrepute. Unless so authorized by the Chair, Members must not perform outside activities in a manner that appears to be officially supported by or connected to CRT, or appears to represent CRT opinion or policy. Members must not use their position with the CRT to lend weight to the public expression of a personal opinion. Members must not use CRT letterhead for personal correspondence or non-CRT related matters.

Members are free to engage in political activities so long as they are able to maintain their impartiality and the perception of impartiality in relation to their duties and responsibilities. Members' political activities must be clearly separated from activities related to their role as Members. Members must not engage in political activities during working hours or use CRT facilities, equipment, or resources in support of such activities.

Members will not introduce partisan politics at the local, provincial, or national levels into the workplace. This does not apply to informal private discussions among co-workers.

## **2.8 Outside Remunerative and Volunteer Work**

Members may engage in remunerative employment with another employer, carry on a business, receive remuneration from public funds for activities outside their position, or engage in volunteer activities, provided it does not:

- (a) interfere with the performance of their duties as a Member of the CRT;
- (b) bring the CRT or the government into disrepute;
- (c) represent a conflict of interest or create the reasonable apprehension of a conflict of interest;
- (d) appear to be an official act or to represent CRT or government opinion or policy;
- (e) involve the unauthorized use of work time or government premises, services, equipment, or supplies to which they have access by virtue of their employment;
- (f) gain an advantage that is derived from their employment as a Member of CRT; or

(g) if applicable, result in payment while the Member is in receipt of short term and/or long term disability plan payments.

## **2.9 Reporting and Consequences**

Members have a duty to report any situation that they believe contravenes the law, misuses public funds or assets, or represents a danger to public health and safety or is a significant danger to the environment. Members can expect such matters to be treated in confidence, unless disclosure of information is authorized or required by law.

Members who are concerned that the conduct of another Member may threaten the integrity of the CRT have a duty to discuss the issue with the Member in question, where appropriate, and the Chair or her designate as soon as practicable.

Any Member who, in good faith, believes there has been a breach of this Code, and reports the matter to the Chair or her designate is protected from any reprisal.

The Chair shall, if the allegation is not considered frivolous or vexatious, make whatever inquiries or investigations the Chair determines to be necessary and may, if appropriate, report the results and any steps consequently taken to the person who made the report. If the Chair considers the allegation is substantive, the Chair will notify the Member whose conduct has been reported and give the Member an opportunity to respond, both to the allegation and to any proposed disciplinary action.

Breach of a provision of this Code by a Member may constitute grounds for discipline, up to and including termination under section 74 of the Act. If the breach occurs in good faith, or through inadvertence, such factors will be taken into account in determining if discipline is imposed and the disciplinary sanction warranted.

## **3. Obligations after Ceasing to be a Member**

Members who cease to hold office continue to be bound by the obligations of confidentiality in respect of any matter arising while they were a Member. Members who cease to hold office may not take improper advantage of their former office.

Members who cease to hold office are prohibited from appearing or making written submissions in a proceeding or matter before the CRT as counsel, advocate, or representative on behalf of a party to the proceeding or matter until six months after the Member's appointment ends.