



Civil Resolution Tribunal

Code of Conduct for Tribunal Members

1. General

This Code of Conduct applies to all Civil Resolution Tribunal (“CRT”) members, including vice chairs, and tribunal members, and including temporary tribunal members appointed under section 69 of the *Civil Resolution Tribunal Act* (the “CRTA”) (collectively, the “members”).

Compliance with this Code of Conduct (Code) is a condition of appointment. Each member is responsible to the chair for adherence to this Code. The interpretation and enforcement of the Code are matters within the chair’s authority.

The chair is also required to comply with the Code. Concerns about the chair’s compliance with this Code can be raised with the Tribunal Agency Support Division (TASD), who can then raise them with the Deputy Attorney General (DAG) as appropriate. If the chair has conflict of interest concerns, the chair will address them, including possibly raising them with TASD or the DAG as appropriate.

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

This Code establishes rules of conduct governing members’ professional and ethical responsibilities to enhance public confidence in their integrity and fairness and that of the CRT as a justice sector institution.

The Code’s object is to provide guidance to members about their professional and ethical obligations to render just and fair decisions, and to ensure they do not bring the administration of justice into disrepute.

The Code establishes reasonable minimum expectations governing members’ conduct. While the Code is intended to assist members by establishing appropriate standards of conduct in typical circumstances, the Code cannot anticipate all possible situations. In each case, it remains the individual member’s responsibility to consider the appropriate standard and to act ethically and professionally.

1.1 Decision-Making Responsibilities

Independence & Impartiality:

Members should uphold the principle of independence in decision making. So, members should not be

influenced by extraneous considerations and should not be influenced by partisan interest, public opinion, or fear of criticism.

Members must make their decisions based on the claim's merits and the interests of justice. Members must apply relevant 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 genuinely open mind, and be 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.

Unless facilitating settlement discussions under CRTA section 24, members must not communicate about a proceeding, directly or indirectly, with a party or their representative, or witness, except in the presence of all non-defaulting parties or their representatives, or unless the correspondence is copied to all the participating parties or their representatives.

Conflict of Interest:

Members must prevent real, potential, or apparent conflicts of interest. Members should not have any involvement in an activity that is incompatible with the member's duties and responsibilities or that may call into question their capacity to perform those duties and responsibilities.

A conflict of interest is any interest, relationship, association or activity that is incompatible with the member's obligations to the CRT. For the purpose of this Code, a conflict of interest includes both **pecuniary** and **non-pecuniary** conflicts.

A **pecuniary** conflict of interest will exist where a member has a financial interest that may be affected by the resolution or treatment of a matter before the CRT. The financial interest may be that of the member, the member's relative, or another person with whom the member has a close personal or professional relationship.

A **non-pecuniary** conflict of interest will arise where a member has an association, relationship or non-financial interest or engages in an activity that is incompatible with the member's responsibilities as an impartial decision-maker. The relationships, interests or activities of a close family member or close associate may raise a potential conflict for a member if those individuals will be affected beneficially or detrimentally by the CRT's determinations.

Where there is a circumstance which may give rise to a real or apparent conflict of interest, the member must raise the matter with the chair as soon as possible.

Where a party raises an allegation of a conflict of interest or bias in a dispute, the member:

- (a) May hear submissions from the parties about the alleged conflict or allegation of bias and make a determination on the allegation, or
- (b) Should recuse themselves from the matter immediately if the member considers it appropriate given the nature and circumstances of the allegations (for example, if the member acknowledges an actual pecuniary conflict).

Where a member becomes aware of a possible conflict of interest, or of facts which may give rise to a perception

of bias, and the related circumstances are unknown to the parties, the member must immediately advise the chair. Depending on discussions with the chair, the member may recuse themselves from the determination or advise the parties as soon as possible of the potential conflict, hear submissions on the issue, and provide a written decision.

Panel Deliberations:

The chair may, occasionally, appoint a panel of up to three members to hear a dispute (CRTA, s. 79). After discussion and careful consideration, where a panel member 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.

Conduct towards Parties and Representatives:

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 try to be aware of these types of issues and thoughtfully determine 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 timeframe set or extended by the chair or their designate. 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 CRTA sections 86 and 87, 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 their absence, to the vice chair registrar and operations. Under no circumstances are members authorized to speak to the media on the CRT's behalf.

1.2.1 Protection of Privacy Outside CRT's Offices

CRTA sections 86 and 87 create obligations on members about the security and protection of confidential information. Members must comply with these guidelines to protect the privacy and security of confidential records.

Members must:

- (a) Avoid printing any information or evidence associated with a dispute file or, where printing is necessary,

shred all printed material when it is no longer required,

- (b) If it is necessary to review digital files or printed information, ensure that they are not in open view,
- (c) Not keep or transport digital files or materials on unencrypted flash drives,
- (d) Not share or allow anyone else to see their passwords for their IDIR, member portal or encrypted flash drive,
- (e) Not leave their computer unattended in an unlocked premises (whether at home, office or in a hotel),
- (f) Not leave their computer or encrypted flash drive in a vehicle,
- (g) Have a secure, private space to work on any *Intimate Images Protection Act* disputes, if assigned,
- (h) Lock their computer screen when they are not at the computer to ensure electronic information, database materials, and related electronic file information cannot be viewed by visitors, family members or other unauthorized individuals,
- (i) Follow all Office of the Chief Information Officer (OCIO) security policies and practices about safety of electronic devices and information,
- (j) 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, and
- (k) Return encrypted flash drives 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 vice chair registrar and operations, and
- b) File a police report.

The chair or their designate will notify:

- a) The Office of the Information and Privacy Commissioner of the theft, and
- b) Individuals whose personal information was stolen of the theft, if known, 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

Members must try to promote collegiality among members and with CRT staff. There is an expectation of judicial collegiality with positive connotations of cooperativeness and joint efforts toward achieving the CRT's goals and optimal function.

Members' conduct and language must meet acceptable social standards and must contribute to a positive work environment. A member's conduct must be professional and not compromise the integrity of other members, the 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 professionalism and respect for each other's role as independent decision makers.

Members will be available for consultations or discussions on tribunal policy, legal, or practice or procedural issues during which members will treat colleagues, and their opinions and views, with respect and professionalism.

Responsibilities to the CRT

Members will maintain a high level of expertise in adjudication and procedural issues, as well as in the relevant law in the CRT's jurisdictions. Members will make every effort to comply with the CRT's policies, procedures, and standards.

Where members question the appropriateness of any policy, procedure or standard, they will raise that issue with colleagues and the chair in the appropriate forum.

Members will not publicly criticize the decisions, procedures, or structures of the CRT or individual staff or members. A member will not publicly comment, orally or in writing, on any matter currently or previously before the CRT, or on a colleague's conduct, and will not divulge confidential information unless legally required or appropriately authorized to do so.

2.3 Skills and Training

Members will try 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 relatives, or who permanently reside together, may not be engaged in situations where:

- (a) A reporting relationship exists where one member/employee has influence, input or decision-making power over the other's performance evaluation, remuneration, 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 the CRT's interests.

The chair may waive the above restriction on working relationships if 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 their 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 the 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 the CRT.

If there is any doubt about 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 authorized by the chair, members must not perform outside activities in a manner that appears to be officially supported by or connected to the CRT or appears to represent government or the CRT's opinion or policy. Members must not use their position with the CRT to lend weight to the public expression of a personal opinion or to appear to gain any advantage.

Members must not use CRT letterhead or a CRT email address for personal correspondence or non-CRT related matters. Members must not use a CRT email address for any personal correspondence if it could give the impression that the member is using their CRT role for personal benefit or status.

Members must not speak on the CRT's behalf, or represent that they speak on the CRT's behalf, without the chair's express permission.

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.

A member must inform the chair in advance of their official candidacy if they are running in an election for a position in any level of government, including local, municipal, provincial, or federal.

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 CRT member.
- b) Bring the CRT or the government into disrepute,
- c) Appear to be an official act or appear to represent the CRT or government opinion or policy.
- d) Involve the unauthorized use of work time or government premises, services, equipment, or supplies to which they have access by virtue of their employment.
- e) Gain an advantage that is derived from their employment as a CRT member.
- f) Violate the current Treasury Board Directive on member remuneration.
- g) Result in payment while the member is in receipt of short term or long-term disability plan payments.
- h) Represent a conflict of interest or create the reasonable apprehension of a conflict of interest.

A member may hold positions such as strata council or board member. If the strata council, board, or other organization becomes a party in a CRT dispute, the member must disclose this to the chair as soon as possible.

If there is any other potential or perceived conflict of interest with a member's CRT role arising from outside activities, the member must disclose this conflict to the chair at the earliest opportunity.

2.9 Reporting and Consequences

Code of Conduct Breaches

Members who are concerned that another member's conduct threaten the CRT's integrity have a duty to confidentially discuss the issue with the member in question, where appropriate, and the chair or their designate as soon as practicable. The chair will also consider any public complaints about Code breaches.

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

The chair will, 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 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 action.

Failure to comply may result in the chair recommending against the member's reappointment and subject to action up to and including rescission of the member's appointment under CRTA section 74. If the breach occurs in good faith, or through inadvertence, such factors will be considered in determining if discipline is imposed and the disciplinary sanction warranted.

Reporting of Wrongdoing under the Public Interest Disclosure Act (PIDA):

PIDA provides a framework for employees to report specific kinds of serious wrongdoing.

Under PIDA, members are considered "employees." CRTA sections 1(1) and 68 defines "tribunal members" to include full and part-time members, temporary members, the chair, and vice chairs. This means that tribunal members, current and former, may avail themselves of the processes and protections available under PIDA in a safe way.

Under section 7 of PIDA, members can make good faith disclosures about wrongdoing as defined in PIDA that they reasonably believe may have occurred or are about to occur.

Section 9 of PIDA requires organizations to have procedures to manage requests for advice and disclosures by its employees. The CRT has established procedures that are posted internally. A CRT employee may make a disclosure to or request advice directly from their supervisor or the CRT's Designated Officer, the vice chair quality assurance, or through a confidential email address.

3.0 Obligations after Ceasing to be a Member

Members who cease to be members continue to be bound by the confidentiality obligations for any matter that arose while they were a member. Former members may not take improper advantage of their former role.

Former members are prohibited from appearing or making written submissions in a proceeding or matter before the CRT as counsel or a party's representative until at least six months after the member's appointment ends.