

PAY EQUITY HEARINGS TRIBUNAL
MEMBER ACCOUNTABILITY FRAMEWORK
(includes CODE OF CONDUCT, Schedule A)

1. DESCRIPTION OF THE FUNCTIONS: Chair, Vice-Chairs and Members

A. Chair

The Chair will provide strategic leadership to the Tribunal and will strive to achieve measurable outcomes by overseeing the work of the Tribunal within the parameters of the Tribunal's legal framework, mandate and mission.

Key Duties

Law and Procedure

The Chair will:

- Establish and monitor regulatory and adjudicative processes including the efficient assignment of cases and effective case management practices.
- Set the Tribunal's goals by designing and monitoring the Tribunal's adjudicative processes, and by establishing and reporting on measures of service quality and performance.
- Arrange for and chair meetings of the Vice-Chairs and Members to discuss emerging issues, build support for policy and process change, engage in professional sharing and development, and promote clarity and predictability in the exercise of independent decision-making.
- Provide oversight, or personally assume cases or assignments that are complex or high profile, which involve new or novel considerations of law, multiple parties or stakeholders, or that have significant public interest.

Strategic Leadership

The Chair will:

- Mentor and develop Vice-Chairs and Members by providing oversight and advice, and discussing and encouraging professional development of and among appointees.
- Represent the Tribunal and act as the key liaison/spokesperson in dealings with the government, the public and sector stakeholders to maintain constructive relationships with each group.
- Ensure independence in adjudicative functions.
- Remain current in developments in administrative law and related matters in Ontario, Canada and other jurisdictions.
- Maintain open, effective and regular communication with the CEO/management of the Tribunal so that plans and initiatives are understood and effectively executed.

- Make recommendations to government/Minister regarding impact of proposed policies (where appropriate).

Tribunal Governance

The Chair will:

- Establish and monitor controls to ensure the Tribunal has sound governance practices.
- Participate in the preparation and execution of the Memorandum of Understanding with the Minister responsible for the PEHT.
- Provide input to government policy development and recommend legislative changes to the government, where requested, appropriate and warranted.
- Attend or make presentations to legislative committees as requested.
- Make recommendations for appointments or re-appointments that respect and promote the principles of quality, merit, equity and diversity
- Ensure an annual report of the Tribunal is provided to the Minister for approval and tabling before the Legislature.
- Ensure that the Minister is informed in a timely fashion of the existence or emergence of issues relating to the Tribunal's mandate.
- Establish performance measures and targets for the Tribunal that are both realistic and challenging.
- Direct or cooperate with any periodic reviews and internal or external audits.
- Ensure appointees are aware of their obligations and that they act in compliance with the Tribunal's Code of Conduct and Conflict of Interest rules. The Chair will ensure a process is in place to allow disclosure in keeping with the requirements set out in the *Public Service of Ontario Act, 2006*.

Qualifications

The Chair will typically have all the qualifications of a Vice-Chair plus the following:

- Experience and ability to set strategic direction, articulate and work towards a vision and oversee the implementation of plans and strategies to deliver efficient, effective and high quality services.
- In-depth understanding of the professional, institutional, policy and community context in which the PEHT operates.
- Comprehensive knowledge of the administrative justices system, legislation under the Tribunal's jurisdiction and related laws and legal processes.
- Understanding of the Tribunal's rules of practice and supporting procedures.
- Effective communication and interpersonal skills to positively influence and communicate with staff, stakeholders and the public.

- Commitment to the protection of the public interest within the mandate of the Tribunal.
- Commitment to respect diversity and to maintain fair, transparent processes that meet the highest professional standards of the Tribunal's Code of Conduct.

B. Vice-Chair

The Vice-Chair will exercise professional judgement in conducting proceedings at the Tribunal. The Vice-Chair will undertake independent analysis and evaluation of facts and evidence as well as reasoned thinking and application of relevant law.

The Vice-Chair will have the knowledge and ability to anticipate, recognize and effectively resolve disputes. The Vice-Chair will render decisions to bring independent, equitable and impartial resolution to disputes. Effective judgement leads to fair, efficient processes and brings clarity and resolution to complex and contentious situations or issues.

Key Duties

Law and Procedure

The Vice-Chair will:

- Conduct consultations and hearings, or perform other duties as assigned by the Chair, in accordance with the governing statute and other applicable laws as well as within the policies, procedures and rules of practice developed by the Tribunal.
- Make rulings necessary for the proper and expeditious conduct, control and completion of the hearing or review.
- Review and analyze all evidence and submissions thoroughly and make decisions based on the evidence, giving due consideration to relevant law.
- Make rulings and issue written decisions in a timely manner that are independent and free of outside influence, including government influence.
- Issue clear, well-written, soundly reasoned decisions.
- Where the parties agree or where the law permits, act as a mediator and endeavour to facilitate a resolution between the parties.
- Participate in initial training and stay current in the field by engaging in ongoing professional development, participating in scheduled and ad-hoc meetings of the Tribunal and its Members, as well as participating on committees and working groups related to the work of the PEHT.
- Work constructively and contribute to a collegial atmosphere at the Tribunal by sharing knowledge, time and experience with other appointees and staff.

Integrity and Fair Practices

The Vice-Chair will:

- Deal with conflict and diverging interests while maintaining decorum, due process, and professional and respectful interactions among all participants in Tribunal proceedings.

- Recognize and deal appropriately with situations that may involve an issue of bias or conflict of interest in accordance with the Tribunal's Code of Conduct and Conflict of Interest rules.

Qualifications

The Vice-Chair will have the following abilities, skills and knowledge in order to carry out their responsibilities effectively:

- Experience in interpreting and applying statutes, with specific knowledge of the Tribunal's governing legislation and related laws.
- Understanding of the professional, institutional and community context within which the PEHT operates.
- Understanding of the justice system and administrative law and the concepts of fairness and natural justice.
- Impartiality and sound judgement to fairly assess cases involving issues regarding conflicting verbal or written evidence and the assessment of credibility.
- Commitment to ongoing professional development to enhance expertise and remain current in the field.
- Well-developed dispute resolution skills.
- Self-confidence and sensitivity to the diverse interests of parties in order to maintain effective control in confrontational and stressful situations.
- Willingness and ability to travel.

C. Member

Members participate in hearings as part of a tri-partite panel, in accordance with the governing legislation and other applicable laws, applying the policies, procedures and rules of the Tribunal. Members will show skill and experience particular to the position, including an appreciation of constituent positioning and advocacy, as appropriate.

Key Duties

Law and Procedure

The Member will:

- Prepare for and participate in hearings as part of a tri-partite panel, and participate in making rulings and/or writing decisions in accordance with the governing statute and other applicable laws, as well as within the policies, procedures and rules of practice developed by the Tribunal.
- Participate in making rulings and issuing written decisions that are independent and free of outside influence, including government influence.
- Where the parties agree or where the law permits, act as a mediator among the parties and endeavour to facilitate a resolution of their dispute.
- Stay current in the field by engaging in ongoing professional development.
- Work constructively and contribute to a collegial atmosphere at the PEHT by sharing knowledge, time and experience with other appointees and staff.
- Maintain positive, productive and appropriate relationships with stakeholders and all parties appearing before the Tribunal.

Integrity and Fair Practices

The Member will:

- Ensure equal access, fair treatment and due process in dispute resolution and hearing and review practices.
- Recognize and deal appropriately with situations that may involve an issue of bias or conflict of interest in accordance with the Tribunal's Code of Conduct and Conflict of Interest rules.

Qualifications

The Member will have the following abilities, skills and knowledge in order to carry out their responsibilities effectively:

- Experience in interpreting and applying statutes, with specific knowledge of the Tribunal's governing legislation and related laws.

- Understanding of the professional, institutional and community context within which the PEHT operates.
- Understanding of the justice system and administrative law and the concepts of fairness and natural justice.
- Impartiality and sound judgement to fairly assess cases involving issues regarding conflicting verbal or written evidence and the assessment of credibility.
- Commitment to ongoing professional development to enhance expertise and remain current in the field.
- Commitment to respect diversity, and to maintain fair, transparent processes that meet high professional standards.

SCHEDULE A

PAY EQUITY HEARINGS TRIBUNAL CODE OF CONDUCT

Purpose

This Code of Conduct sets out the standards of conduct governing the professional and ethical responsibilities of members of the Pay Equity Hearings Tribunal from the beginning of their term of appointment and ongoing obligations as Order-in-Council appointees (specifically Chair, Alternate Chair, Vice-Chairs and Members—collectively, OICs). It addresses the principles of good conduct and collegial responsibility. OICs are responsible for applying an appropriate standard of conduct and acting in an ethical and professional manner.

This Code of Conduct does not refer to appointees' legislated obligations regarding a conflict of interest or political activity rights and obligations. For the parameters of conflict of interest and political activity, OICs are governed by the *Public Service of Ontario Act, 2006* and its regulations. Further, this Code is not intended to conflict with any legal or professional requirements.

Compliance with Laws

OICs shall act in accordance with all applicable laws.

OICs shall not commit or condone any unethical or illegal acts or encourage others to do so.

OICs should be familiar with legislation, policies and directives that apply to their work and the work of the Tribunal in order to comply with or facilitate compliance with applicable laws.

Fairness and Courtesy

OICs have an obligation to comply with procedural fairness and natural justice, and to act impartially in the conduct of proceedings, including in matters of law, attitude and demeanour.

Timeliness

OICs should ensure that proceedings are concluded in a timely manner, avoiding unnecessary delays and cancellations of proceedings.

Parties are entitled to a decision as soon as practicable after the conclusion of the proceeding. OICs should meet the timeliness standards established by legislation or the Board.

Quality and Consistency

OICs should be fully prepared for a proceeding and should conduct proceedings in orderly fashion.

OICs should render decisions that give consideration to relevant facts and evidence as well as law and jurisprudence.

Expertise and Competence

OICs should commit the time and effort required for the work of the Tribunal.

OICs should remain current in the field by participating in Tribunal discussions and ongoing professional development.

Integrity

OICs should act with honesty, integrity and high ethical standards. OICs shall not engage in conduct that exploits their position as Order-in-Council appointees.

Collegiality

OICs should foster a collegial working environment.

Objectivity and Impartiality

OICs should approach every proceeding and every issue arising in a proceeding with an open mind and free of influence in decision-making.

Confidentiality

OICs shall consider the privacy interests of individuals in the conduct of hearings and decisions, and act in accordance with applicable laws.

OICs must not disclose information that the Tribunal considers to be confidential.

OICs must not take advantage of confidential information obtained through official duties to obtain personal benefit.

OICs should follow Tribunal protocols for communicating with the media regarding a proceeding or decision.

Reasonable Apprehension of Bias and Post Appointment Obligations

New Vice-Chairs

1. A Vice-Chair should not normally conduct a hearing, consultation or mediation involving a party with whom he or she was formerly in a significant professional relationship¹ until **at least one year** has elapsed from the end of that relationship.
2. There may be unusual situations where this time limit may be varied. These situations should be discussed with the Chair and/or the solicitors.

Departing Vice-Chairs

1. Vice-Chairs should use every reasonable effort to complete all hearings and issue all outstanding decisions prior to leaving the Tribunal.
2. Vice-Chairs should not discuss or negotiate employment with a potential employer while dealing with a matter in which that potential employer is involved.
3. Vice-Chairs cannot appear as counsel before the Tribunal until the later of:
 - a. three months after their departure from the Tribunal, or
 - b. all proceedings for which they are responsible have been completed (or transferred) and all outstanding decisions have been written.
4. Unusual situations may be discussed with the Chair of the Tribunal, if appropriate, or may be brought before a Vice-Chair seized with a matter.
5. A Vice-Chair who resigns before the expiry of their term is expected to provide the Tribunal with at least four weeks' written notice.

¹ Professional relationships include, but are not limited to, employment, solicitor/client and partnership/association relationships.