

Code of Conduct For Members

Independent. Impartial. Transparent.

Overriding Principles

1. The Code of Conduct (“the Code”) is based on the Tribunal’s dedication to the following core values: independence; impartiality; transparency; effectiveness; efficiency; fairness; excellence; and accessibility.
2. The standards of conduct set out in the Code are based on two key principles:
 - public confidence and trust in the independence, impartiality, and transparency of the Tribunal must be maintained; and
 - decision making independent of all parties and other stakeholders is paramount.

Purpose of the Code

3. The purpose of the Code is to:
 - establish expectations of conduct that govern the professionalism and ethical responsibilities of Tribunal Members (“Members”); and
 - promote public confidence in the integrity and competency of the Tribunal, and the independence and credibility of the Tribunal and its Members.
4. The reputation of the Tribunal depends on the conduct of its Members and the decisions they make. The Tribunal therefore expects the highest standards of conduct from its Members.
5. Members are expected to ensure that they are familiar with the contents of the Code and by their actions comply with its provisions.

The Seven Principles of Public Life

6. Members are required to act in accordance with the seven principles of public life, namely:
 - Selflessness - Members should act and take decisions solely in the public interest. They must not exploit their position as a Member of the Tribunal and must not do anything to gain financial or other material benefit for themselves or their families or friends.

- Integrity - Members must put the obligations of their role as a Member of the Tribunal above their personal interests. Members must not place themselves under any financial or other obligation to individuals or organisations that might reasonably be thought to influence them in the performance of their duties.
- Objectivity - Members must act and take decisions impartially, fairly and on merit after a rigorous analysis of the evidence without discrimination or bias.
- Accountability - Members are accountable to the public for their decisions and actions. Members have a responsibility to engage in periodic appraisal and training to ensure that they are carrying out their role as effectively as possible.
- Openness - Members should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing. Members should not use tools such as the internet, social media to obtain information about the cases on which they sit from the time they are allocated the case until signing off Judgments/Memoranda.
- Honesty - Members must be truthful and open. Members must declare any private interests relating to their role as Members and take steps to resolve any conflicts arising in a way that protects the public interest and the reputation of the Tribunal.
- Leadership - Members should exhibit these principles in their own behaviour. Members should actively promote and robustly support the principles and be willing to challenge poor behaviour whenever it occurs, including when that behaviour is exhibited by their Member colleagues during the course of work for the Tribunal, including sittings.

Specific Requirements and Guidance

7. Members should foster a collegial working environment and conduct themselves in a manner that reflects the professionalism of the Tribunal. This applies to their interactions with each other and with the Tribunal staff.
8. Members must promote and support high standards of conduct when serving as a Member of the Tribunal and must commit sufficient time and energy to carry out their role effectively. Whilst at the Tribunal Members must devote their time to Tribunal matters and should attend to non-Tribunal matters before or after the day's hearings or during the lunch break.

9. Members must strive to ensure that their conduct, both at and outside of the Tribunal, maintains and enhances the confidence of the public and the legal profession (including the parties to the proceedings before the Tribunal) in the impartiality of the Members and the Tribunal.
10. Members are expected to approach each case with an open mind and must at all times be seen to be objective and impartial. Proceedings must be conducted in a way that is transparent, fair, and seen to be fair “without fear or favour, affection or ill will” (Oaths Act 1868).
11. Members must not communicate directly or indirectly with anybody involved in proceedings before them except in the presence of all parties (and their representatives if instructed).
12. Members must make themselves available to attend training days and to participate as required in the development of Tribunal policies, procedures and guidance.
13. Members are accountable for the quality of their work and must take personal responsibility for maintaining and improving their knowledge and skills.
14. Members who identify that they require more knowledge or training must take all reasonable steps to address this issue, with guidance from the Head of HR and Administration and/or the Clerk as required.
15. Members must take care that their conduct, official or private, does not undermine their independence or the public perception of independence.
16. Members must put aside private interests and preferences and be alert to attempts to influence decisions or curry favour.
17. Members in their personal relations with members of the legal profession who practise regularly before the Tribunal must avoid situations which might give rise to the suspicion or appearance of favouritism or partiality.
18. In considering whether or not to sit on a case where there is the possibility of actual or perceived bias, Members must have regard to the Tribunal’s Guidance Note on Recusal. If in any doubt they must raise the issue with the Clerk.
19. Members must not be influenced by the effects of publicity, both favourable and unfavourable.
20. Members must not act in a way that brings the Tribunal into disrepute and must not publicly criticise the decisions, procedure, structures, or other Members of the Tribunal, including when speaking as a private citizen.

21. Members must not disclose confidential Tribunal information. Members must ensure that they comply with the requirements of the Data Protection Act 1998 at all times. In order to avoid any possible perception that the Member is speaking on behalf of the SDT, rather than in a personal capacity, Members must never speak about any matter related to the Tribunal or its work in a public setting or to the media unless requested to do so by the President or the Clerk.
22. For the same reason, Members who blog (or who post comments on other people's blogs) tweet or comment on other forms of social media must not identify themselves as Members of the Tribunal. This does not preclude Members referring to their Membership of the SDT on their own website or on their firm's website.
23. Members must follow best practice on equality and diversity issues.
24. Members must not accept gifts or hospitality related to their role at the Tribunal other than gifts or hospitality of nominal value received in return for a Member speaking at a lecture or event.
25. A Member who is subject to regulatory, disciplinary or criminal process or proceedings which call into question their character and suitability must inform the President of the Tribunal or the Chief Executive Officer, one of whom will notify the Master of the Rolls. During the currency of such process or proceedings the Member shall not sit. At the conclusion of the process or proceedings, including any appellate process, if the Member is found guilty, or is subject to adverse findings, the Master of the Rolls will consider whether the Member's appointment shall be terminated. As the Tribunal is, by s46(4)(3)(a) of the 1974 Act, required to consist of practising solicitors of not less than ten years' standing, if a Solicitor Member ceases to be in practice, for whatever reason, during the period of appointment, unless it is a temporary period of cessation, their appointment shall terminate.
26. A Member who becomes aware that a Firm of which they are a partner/member or another body in which they are interested becomes the subject of a referral to the Tribunal, must inform the President of the Tribunal or the Chief Executive Officer. During the currency of such process or proceedings the Member shall not sit.
27. Whilst Members and staff are encouraged to foster a collegial working environment close familiarity between Members and individual members of the Tribunal's staff can hinder the relationship of mutual respect between Members and staff and can impact on the perception of professionalism in the advice and assistance given to Members by Tribunal staff. Members should therefore refrain from developing close personal friendships with staff and should not offer staff hospitality or socialise with staff except at official Tribunal occasions.

Conduct of Hearings

28. Members must be fully prepared for hearings and must review and become familiar with the case papers prior to the hearing. If a Member is unable properly to prepare for a hearing for any reason s/he should notify the Tribunal's administrative office and withdraw from the panel as far in advance of the hearing as possible.
29. Members must be present and ready to proceed prior to the scheduled time of the Court (ideally arriving 30 minutes prior to the scheduled start time); remain in attendance throughout; be available for the decision-making process, and consider the draft Judgment in a timely manner in compliance with the Tribunal's Performance Measurements.
30. In Court, Members must be courteous, patient, tolerant, and punctual, and to respect the dignity of all. Members must not display bias or prejudice. Members must respect the rights and worth of every person and treat everyone equally whilst ensuring that the proceedings are fair, orderly, and efficient.
31. Members must be aware of and responsive to cultural and other sensitivities in relation to forms of address, conduct, and dress informed by the contents of the most recent edition of the Equal Treatment Bench Book, both to the Tribunal's staff and the parties appearing in Court.
32. Members must communicate in a clear, plain manner so as to be understood by the parties, including those who are representing themselves.
33. Whilst in Court, Members are reminded that all parties have the right to be heard and to put their case. Members should keep an open mind and not say or do anything that suggests that they have prejudged the case until after all the evidence and submissions of the parties have been heard.
34. Members should avoid questioning that could be perceived as aggressive, irrelevant to the issues in the proceedings, or repetitive. Questions should be focussed on understanding the position of the party and the facts of the case. The Chair must be vigilant to exert control over questioning from colleagues to prevent repetitive or non-relevant questions whilst at the same time permitting relevant clarifying questions.
35. In the course of deliberation and decision-making, Members must:
 - be guided by the requirements of the law;
 - have regard to the relevant advice provided by the clerk to the case;

- listen to the views of colleagues before reaching any final decision or conclusion;
- demonstrate the same respect and courtesy to colleagues during deliberations as has been shown to the parties in the course of the hearing;
- ensure they are not influenced by irrelevant considerations or outside influences. Decisions should be made solely on the facts and information presented to the Member;
- carefully consider colleagues' reasons when there is a difference in proposed determinations. Members should not abandon strongly held views on an issue of substance either for the sake of unanimity or in exchange for agreement on any other point; and
- when a Member accepts but does not agree with the majority decision of colleagues, but does not formally dissent from that majority decision duly implemented as the Tribunal's decision, all Members must recognise the decision without saying or doing anything to undermine the same;
- whilst unanimity is preferred, Members have the right to dissent. If a Member decides to dissent, the dissenting Member must produce reasons to the clerk to be included as a separate section of the Judgment. The content of the section will be subject to approval by the other Members in terms of legal form and content.

Continuing Obligations Following Completion of Term of Office

36. This Code governs the conduct of Members from the time that they are appointed. The Member must not take improper advantage of their role as a Member after ceasing to be a Member.
37. It is expected that a former Member:
- will continue to behave in a way that upholds the integrity and good reputation of the Tribunal;
 - will not appear before the Tribunal as a representative; and
 - will not use or take advantage of confidential information obtained in the course of their duties as a Member.

Breaches of the Code

38. Any allegation that a Member has failed to comply with this Code will be dealt with in accordance with the Tribunal's "Procedure for dealing with alleged breaches of the Members Code of Conduct" which is set out in a separate document.
39. The Code of Conduct does not stand alone but forms part of the accountability framework within which both the Tribunal and Members operate. It is complementary to the Tribunal's External Complaints Procedure and will be reviewed from time to time as required.

A handwritten signature in black ink, appearing to read "Edward Nally". The signature is written in a cursive style with a large, stylized initial "N".

Edward Nally
President for and on behalf of the Policy Committee

