



Australian Government

Migration Review Tribunal · Refugee Review Tribunal

MEMBER CODE OF CONDUCT

(Date of effect: 1 January 2006)

1. Introduction

This document establishes a Code of Conduct (the Code) to be observed by all Members of the Migration Review Tribunal and the Refugee Review Tribunal in performing their functions and duties. This Code applies with effect from 1 January 2006, and replaces previous Member Codes of Conduct.

In this document, ‘the Tribunal’ means the Migration Review Tribunal or the Refugee Review Tribunal or both.

Members are appointed by the Governor-General under the *Migration Act 1958*, and constitute the Tribunal for the purpose of conducting reviews. The remuneration of Members is determined by the Remuneration Tribunal and the terms and conditions of appointment are set out in a Ministerial determination. The determination provides that:

6. Members must:
 - (a) sign the Tribunal’s Performance Agreement at the time of appointment and must observe the Members’ Code of Conduct, as described in Ministerial Directions made pursuant to section 499 *Migration Act 1958*; and
 - (b) participate in the Tribunal’s performance appraisal process.

The purpose of the Code is to inform and advise Members of expectations and requirements in relation to performance, standards of behaviour and general conduct. The Code presupposes that Members will act according to law in the performance of their duties and is designed to ensure that the independence of Members in relation to decision-making functions is not compromised in any way.

Usually once each year, as determined by the Principal Member, the performance of each Member will be the subject of written assessment by the Principal Member, the Deputy Principal Member or a Senior Member. The assessment process will include an interview. Assessment will be in terms of the Code of Conduct and the evaluation criteria listed in an appraisal form approved by the Principal Member. Members will be entitled to a copy of the assessment and an opportunity to provide written comments on the assessment.

Assessments will form part of a Member’s personnel file, which will be available to the Principal Member for general management purposes. The assessments will also be taken into account by the Principal Member in the event a Member seeks re-appointment at the expiry of his or her term.

If an assessment is performed by the Deputy Principal Member or a Senior Member, and the subject Member is aggrieved by the result, he or she will be entitled to have the assessment reviewed by the Principal Member whose decision will be final.

2. Corporate responsibilities

Members are expected to contribute to the effective administration of the Tribunal by participating in committees and working parties and by assisting to implement and promote corporate and strategic goals and objectives.

2.1 – Responsibilities to the Principal Member

Members are required to:

- a) be familiar with this Code of Conduct;
- b) maintain effective links with the Principal Member, through the Deputy Principal Member and Senior Members as appropriate;
- c) comply with all lawful directions of the Principal Member;
- d) advise the Principal Member of all affiliations with persons or organisations which have the potential for causing conflict of interest or adversely affecting the reputation of the Tribunal and to accept and act upon advice given by the Principal Member in relation to the continuation of such affiliations; and
- e) provide the Principal Member with their private addresses and telephone numbers for necessary after hours contact (the Principal Member may make such information available to senior management personnel where necessary).

2.2 – Propriety

Members are required to:

- a) behave with integrity in the course of performing functions or duties or exercising powers as a Member;
- b) behave with propriety and discretion especially in public places where a Member is identifiable as a Member;
- c) not accept or solicit gifts of any kind where the offer is related to or could reasonably be perceived as being related to the office of Member;
- d) where a gift is received, to seek advice from the Principal Member, the Deputy Principal Member or a Senior Member, the Registrar, the Deputy Registrar or a District Registrar as to how the gift should be dealt with;
- e) except with the specific and prior consent of the Principal Member, not engage in public debate or make public statements on matters related to immigration or refugee policy or on matters related to the affairs of the Tribunal;
- f) be aware of and comply with the conflict of interest provisions of the *Migration Act 1958*;
- g) be aware of and sensitive to language and cultural backgrounds and the special needs of others (e.g. gender, physical or intellectual disability, age, sexual preference etc);
- h) ensure the confidentiality of all sensitive information which comes to the attention of the Member as a result of membership of the Tribunal;
- i) be aware of and take all reasonable measures to ensure compliance with the confidentiality provisions of the *Migration Act 1958*, the *Freedom of Information Act 1982* and the *Privacy Act 1988*;
- j) behave appropriately and avoid possible perceptions of bias if communicating or meeting privately with migration agents, interpreters or departmental officers; and
- k) dress at all times in the workplace in business attire that reflects the professionalism of the Tribunal and respect for clients, colleagues and staff.

2.3 – Performance

Members are expected to:

- a) monitor their work performance against standards set out in Principal Member directions; and
- b) contribute to caseload and corporate planning processes.

2.4 – Relationships

Members are expected to:

- a) treat other Members, members of staff, applicants, interpreters, authorised recipients, representatives, witnesses and any other persons having business with the Tribunal with courtesy, respect and dignity; and
- b) participate in the collegiate life of the Tribunal by attending and contributing to training sessions, conferences and informal discussion groups.

2.5 – Attendance and absences (full-time Members)

Full-time Members are required to:

- a) attend Tribunal premises for duty during normal business hours unless elsewhere with the specific prior consent of the Principal Member, the Deputy Principal Member or a Senior Member, except where on approved leave or necessarily absent as a result of unforeseen circumstances (in this context, Tribunal premises includes circuit venues, authorised seminar premises and the like);
- b) where specific written consent has been given for an alternative work place, advise relevant staff on each occasion and provide a contact telephone number;
- c) seek approval for leave as far in advance as possible in order to minimise interruption to the work of the Tribunal and to enable personnel to process entitlements (in any event, to seek approval of planned absences at least two weeks prior to the date of the absence);
- d) to provide contact details for any period of leave; and
- e) in the case of illness or other unforeseen absence, notify the Principal Member, the Deputy Principal Member or a Senior Member of the absence at the earliest opportunity and, upon return to work, submit a leave application.

2.6 – Attendance and absences (part-time Members)

Part-time Members are required to:

- a) attend the Tribunal during normal business hours on previously agreed days, unless alternative arrangements have been agreed with the Principal Member, the Deputy Principal Member or a Senior Member;
- b) discuss with the Principal Member, the Deputy Principal Member or a Senior Member any proposed change to the usual days of attendance as far in advance as possible to minimise disruption to the work of the Tribunal;
- c) advise of planned absences at least two weeks prior to the date of the absence in order to minimise disruption to the work of the Tribunal; and
- d) in the case of illness or other unforeseen absence, notify the Principal Member, the Deputy Principal Member or a Senior Member of the absence at the earliest opportunity.

2.7 – Professional development

Members are expected to:

- a) maintain effective links with the Principal Member, the Deputy Principal Member, Senior Members, fellow Members, senior management and staff generally;
- b) deliver high standard oral presentations as required to both internal and external audiences and to participate in the community relations activities with the Principal Member's, the Deputy Principal Member's or a Senior Member's prior agreement;
- c) as directed, attend, at Tribunal expense, selected external conferences, seminars and training sessions dealing with issues of relevance to Members' duties;
- d) contribute to continuous improvement processes;
- e) contribute to the design, implementation and maintenance of initiatives and projects;
- f) display and foster a sound understanding of the Tribunal and its role; and
- g) upon the request of the Principal Member, the Deputy Principal Member or a Senior Member, act as a mentor to other Members.

3. Administrative staff

The objectives of the Tribunal are corporate in nature and their successful attainment is dependent upon teamwork and co-operation. Administrative staff are appointed under the *Migration Act 1958* and employed under the *Public Service Act 1999*. Many staff are directly involved in providing support to and facilitating the work of Members. However, staff take their instructions from and are accountable to their registry supervisors and through them to the Registrar and, ultimately, the Principal Member as chief executive officer.

3.1 – Administrative staff

Members are expected to:

- a) be courteous and helpful;
- b) refrain from giving directions to staff which are contrary to accepted registry practice or which conflict with directions given by managers or supervisors;
- c) if informal discussions do not resolve issues or concerns, take the matter up with the relevant District Registrar or Director, a Senior Member, the Registrar or the Deputy Registrar, or the Principal Member or the Deputy Principal Member;
- d) refrain from unlawful and inappropriate practices including, for example, harassment and creating risks to health and safety; and
- e) where difficulties arise, be prepared to participate in a conflict resolution process.

4. The review process

4.1 – Productivity, quality and consistency

Members are required to produce the target number of decisions for each financial year as set by the Principal Member. Such decisions must be consistent with other Tribunal decisions of a like nature and of a quality acceptable to the Principal Member.

4.2 – Timelines and work practices

Members are required to deal with their caseloads in accordance with directions concerning timelines for the various stages of the review process and specified work practices.

4.3 – Priorities

Members are required to deal with their caseload in accordance with directions concerning the levels of priority to be accorded to particular kinds of cases.

4.4 – Efficient work practices

Members are required to manage caseloads in an orderly and efficient manner, adopting efficient work practices to produce the optimum number of decisions consistent with standards of quality and consistency.

4.5 – Communication with applicants, authorised recipients and representatives

All case specific communications with applicants, authorised recipients and representatives must be:

- a) in writing with the original or a copy retained as a case record; or
- b) made during a recorded hearing; or
- c) made in the presence of a staff member and recorded as a case note; or
- d) made by a staff member and recorded as a case note.

4.6 – Hearings

Members are required to:

- a) conduct hearings in accordance with the Tribunal's non-adversarial procedures and in accordance with the legislation;
- b) avoid bias or the appearance of bias;
- c) comply with procedural fairness requirements;
- d) be available for circuit hearings as required;
- e) be available to conduct hearings by telephone or video conference as required;
- f) avoid unnecessary delays and cancellations of hearings;
- g) commence hearings at the time advised to applicants;
- h) use accepted and appropriate interviewing techniques and avoid unnecessarily intrusive questions;
- i) use interpreters as required;
- j) use interpreters effectively and in accordance with accepted techniques;
- k) conduct hearings expeditiously and effectively; and
- l) deal sensitively with applicants' needs, culture and background.

4.7 – Decisions

Members are expected to:

- a) make lawful decisions which accord with the Migration legislation and relevant caselaw, and with other legal requirements;
 - b) write good quality decisions which are concise, easy to understand, and contain a minimum of 'legalese';
 - c) finalise decisions as soon as practicable; and
 - d) not include gratuitous or unnecessary criticism of others.
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