

Financial Services Tribunal Code of Conduct

Introduction

The Financial Services Tribunal (the “FST”) is an expert and independent adjudicative tribunal established under the *Financial Services Tribunal Act, 2017* (the “Act”). The FST is committed to upholding its professional and ethical responsibilities.

Section 7 of the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009* (the “ATAGAA”) requires every adjudicative tribunal to develop a Member accountability framework which includes a code of conduct (section 7(2)).

The FST's Code of Conduct (this “Code”) applies to all Members of the FST (“Members”).

Purpose and Application

This Code sets out the standards of conduct governing the professional and ethical responsibilities of Members. This Code applies throughout the Member term of appointment and, where indicated, after their term has expired. This Code addresses the principles of professional/personal conduct and collegial responsibility. Members are responsible for adopting an appropriate standard of conduct and acting in an ethical and professional manner.

The principles set out in this Code are founded on the professional and ethical values of public service, which aim to uphold public trust.

This Code does not replace Members’ legislated obligations regarding conflicts of interest or political activity. Those obligations are outlined in the *Public Service of Ontario Act, 2006* (the “PSOA”) and its regulations, specifically O. Reg. 381/07, Conflict of Interest Rules for Public Servants (Ministry) and Former Public Servants (Ministry). Members are obligated to declare any personal or pecuniary interest that may raise an issue under the PSOA or its conflict of interest rules to their Ethics Executive (the Chair of the FST). However, Members are encouraged to also alert an FST Vice-Chair to any issue that may be the subject of such a declaration.

This Code is not intended to conflict with any other legal or professional requirements to which Members are subject. Although Members are responsible for complying with this Code, they are also responsible for understanding and complying with all other legal and professional obligations that apply to the exercise of their duties.

In addition to this Code, Members are expected to continue to adhere to the Code of Conduct issued by the Society of Ontario Adjudicators and Regulators (<https://soar.on.ca/sites/default/files/code-of-conduct.pdf>.) If any provisions in the two documents are inconsistent, the more restrictive of the provisions shall be respected.

Principles of Conduct

A. Compliance with Laws

Members will act in accordance with applicable laws and should comply with the spirit and intent of the law.

Members will not commit or condone an unethical or illegal act or incite another to do so.

Members will be familiar with the legislation, policies and directives that apply to their work and the work of the FST and should facilitate others' compliance with such applicable standards.

B. Fairness/Courtesy

Members are obligated to comply with procedural fairness and natural justice requirements, and to act impartially in the conduct of proceedings.

Members will treat each person with dignity and respect and in a manner that builds trust.

C. Fairness/Accessibility

Members will treat those who appear before them fairly and without discrimination or favouritism.

Members will be sensitive to issues of gender, ability, race, language, culture and religion. Members should be aware and respectful of social, cultural and other differences. In the course of their duties, Members will act in a manner that promotes an appreciation of diversity.

Members will be sensitive to potential barriers to accessibility.

Members will conduct proceedings such that those who interact with the FST, to the best of their ability, understand procedures and practices and can participate to the fullest extent possible, regardless of whether they are represented.

The FST will comply with the FST's Accessibility and Accommodation Policy and the requirements set out in the *Accessibility for Ontarians with Disabilities Act, 2005*.

D. Timeliness

Members will take all reasonable steps to ensure that proceedings are concluded in a timely manner, avoiding unnecessary delays and adjournments of proceedings. Parties may expect to receive a decision as soon as possible after a proceeding and in accordance with FST service standards. Members will strive to meet the timeliness standards established by the FST.

E. Quality and Consistency

Members will be fully prepared for a proceeding and work to ensure that proceedings are orderly.

Members will prepare their decisions in accordance with best adjudicative practices.

Members will recognize the public interest through consistency and predictability in the exercise of their independent decision-making authority in accordance with best adjudicative practices.

F. Transparency

Members will conduct proceedings in a manner that is transparent and fair.

Members will act in a transparent and accountable manner regarding their personal and professional actions and should assume that their actions will bear close public scrutiny.

G. Expertise/Competence

Members will commit the time and effort required for their work at the FST.

Members will maintain a high level of professional competence and knowledge, as is required to discharge their obligations and duties.

Members will remain current in their field by participating in FST discussions and ongoing professional development.

Members should contribute their unique skills, experience and knowledge to the FST.

H. Optimum Cost

Where appropriate, Members will provide parties with encouragement to explore the resolution of issues before them without a formal proceeding.

Members will streamline proceedings to the extent possible without sacrificing fairness.

Members will respect the use and treatment of public funds.

I. Integrity

Members will act with honesty, integrity and high ethical standards. Members will not engage in conduct that exploits their position as a Member of the FST, including advertising in any personal or professional capacity the fact that they are Members, except inclusion of their Membership in their resume or as otherwise permitted by the FST Chair.

Members will conduct themselves personally and professionally in a manner consistent with the nature of their responsibilities and the maintenance of public confidence in the administration of justice.

Members will not communicate directly or indirectly with any party, witness or representative in respect of matters relating to a proceeding, except in the presence of, or by communication with, all parties or their representatives.

Members will not comment publicly on any aspect of a matter before the FST prior to public release of the FST decision. In addition, Members will not discuss in private, outside the FST, any aspect of a matter before the FST prior to public release of the FST's decision.

Other than in the context of proceeding decisions, Members will not publicly criticize or comment on the procedures or structures of the FST, without express authority from the Chair.

Members will not, other than in discharging their duties within the FST, provide any legal or other advice to anyone in respect of a matter that is or may come before the FST.

Members will not adjudicate any proceeding involving a party or representative with whom they have a significant personal or professional relationship, unless the relationship is disclosed to the parties and no reasonable objection is made.

J. Restrictions on Appearances

For the first two years of their appointment, Members will not hear or determine any matter involving any firm or business at which they were employed, or any individual with whom they worked immediately before their appointment, subject to conflicts clearance from the Chair and the consent of all parties to the proceeding following full disclosure.

In order to avoid the appearance of favouritism, Members will not appear before the FST as a party's representative or expert or technical witness during the term of their appointment. In addition, Members will not appear as a party's representative or expert or technical witness before the FST within 12 months of ceasing to be a Member.

Members may commence or respond to an application, appeal or matter before the FST, provided they immediately notify the Chair of the proceeding having been commenced.

K. Collegiality

Members will foster a collegial working environment and conduct themselves in a manner that reinforces the integrity and professionalism of the FST among Members and with staff.

Members will conduct themselves in a manner that demonstrates respect for the views and opinions of colleagues.

Members will share their knowledge and expertise with other Members as requested and appropriate.

L. Objectivity/Impartiality

Members will approach every proceeding and every issue arising in a proceeding with an open mind and avoid doing or saying anything that could cause any person to think otherwise.

Members will be independent in their decision-making. In the conduct of the FST's proceedings, Members' decisions should be based on an application of the relevant law to the evidence and/or information presented in each case in accordance with best adjudicative practices.

M. Confidentiality

Members will consider the privacy interests of individuals in the conduct of proceedings and decisions, and act in accordance with applicable laws.

Members will not use or disclose information that the FST considers to be confidential.

Members will not use or disclose confidential information obtained through their official duties for any purpose, whether to obtain a personal benefit or otherwise, except to discharge their duties.

Members will follow the FST's protocols for media relations and may not communicate with the media regarding a decision or proceeding unless authorised to do so by the Chair.

Acknowledgement

Members will adhere to this Code and commit to adhering to any additional standards set out in applicable legislation, policies or guidelines.

Subsequent to its adoption, Members will review and reaffirm their commitment to, and compliance with, this Code upon their initial appointment and on an annual basis thereafter.

I acknowledge that I have read and understand, and will conduct myself in accordance with, this Code.

Signature of Member

Signature of Witness

Date

Date

Alternative Formats/Contact Information

If you require this Code of Conduct in an accessible format, please contact the FST Registrar at contact@fstontario.ca.

Adoption

This Code of Conduct will be reviewed every three years along with the other documentation required by the ATAGAA.

This Code of Conduct was adopted by the Members on August 3, 2021.