

# **Code of Conduct**

**Chief of the Commission and Tribunals,  
Director of the Commission and  
Members of the Commission (forming the Tribunal)**

Comes into effect December 3, 2018

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## Preamble

This Code of Conduct applies to the Chief Commissioner, the Director and Tribunal Members. The Code reflects the Commission's values and provides a framework to guide ethical conduct in a way that upholds the integrity and reputation of the Commission. The Chief Commissioner, the Director and Tribunal Members recognize "the inherent dignity and the equal and inalienable rights of all persons" (*AHR Act* Preamble). They will be guided by the spirit and intent of the Code and will exercise care and diligence in the course of their work with the Commission.

Under section 13(3) of the Bylaws, Members of the Commission must possess a law degree, and experience, knowledge or training in human rights or administrative law. Those who are members of the Law Society of Alberta are also bound by the Law Society of Alberta Code of Conduct. The Chief Commissioner, the Director and/or Tribunal Members who are also Employees of the Government of Alberta must follow this Code as well as the *Code of Conduct and Ethics for the Public Service of Alberta*. Other Government of Alberta employees who work for the Commission must follow the *Code of Conduct and Ethics for the Public Service of Alberta*.

This Code outlines certain limitations that are expected of those who are appointed and constitutes an important element of the accountability framework within which the Commission operates. The Code is founded on the recognition that the Chief Commissioner, the Director and Tribunal Members must, at all times, act with fairness, integrity and independence in the performance of their duties and obligations for the Commission.

This Code is a living document, which will be amended from time to time. To demonstrate commitment to transparency and accountability, this Code is available to the public on the Commission's website ([www.albertahumanrights.ab.ca](http://www.albertahumanrights.ab.ca)) as well as on the Public Agency Secretariat website.

## Definitions

### 1. Definitions for the purpose of the Code:

- a) “**AHR Act**” means the *Alberta Human Rights Act*, RSA 2000, c. A-25.5;
- b) “**Bylaws**” means the *Commission Bylaws*;
- c) “**Code**” means this Code of Conduct for the Chief Commissioner, the Director and Tribunal Members;
- d) “**Conflicts of Interest Act**” means the *Conflicts of Interest Act*, RSA 2000, c. C-23.
- e) “**Commission**” means the Alberta Human Rights Commission;
- f) “**Chief Commissioner**” means the Chief of the Commission and Tribunals and includes an Acting Chief of the Commission and Tribunals when acting full-time for an uninterrupted period of three months or more;
- g) “**Deputy Minister**” means the Deputy Minister, Justice and Solicitor General;
  - a) “**directly associated**” is defined in section 1(5) of the *Conflicts of Interest Act* and includes a spouse, interdependent partner, a corporation where the Chief Commissioner is a director, a private corporation where the Chief Commissioner owns shares, a partnership where the Chief Commissioner is a partner, or a person or group persons acting with consent of the Chief Commissioner.
- h) “**Director**” means the Director of the Commission and includes an Acting Director;
- i) “**Employee**” means the Chief Commissioner, the Director and/or Tribunal Members who are also Government of Alberta employees;
- j) “**Members of the Commission**” includes the Chief Commissioner and Tribunal Members; the Director is not a Member of the Commission;
- k) “**TDR**” means Tribunal Dispute Resolution; and
- l) “**Tribunal Members**” means part-time and full-time members of the Commission, and includes a part-time Tribunal Member who is the Acting Chief Commissioner for periods of time under three months.

## Core Values

### 2. Overview

The Chief Commissioner, the Director and Tribunal Members must strive to enhance the reputation of the Commission. This demands ongoing professional development to maintain and enhance their professional competence, as well as integrity and sound judgment in all decisions. The Chief Commissioner, the Director and Tribunal Members must foster a collegial working environment within the Commission. They must not allow their private interests to influence the manner in which they exercise their decision-making authority. They must “conduct themselves impartially in carrying out their duties” and must not act “in self-interest in furthering their private interests by virtue of their position or through the carrying out of their duties” (*Conflicts of Interest Act*). The Chief Commissioner, the Director and Tribunal Members must recognize their obligation to uphold the principles of natural justice and procedural fairness in the Commission’s work mandated by the *AHR Act*.

### 3. Conduct specific to Tribunal Members

Members of the Commission must make every effort to ensure that the parties who appear before them understand the Tribunal’s decision-making process. They must approach every proceeding with an open mind and be aware of their own bias (actual and perceived). In conducting hearings and TDRs, Tribunal Members must, at all times, be respectful and courteous toward the parties, witnesses and counsel and must not permit unprofessional or contemptuous language or conduct. Tribunal Members must maintain high standards of excellence in conducting hearings and in making and writing decisions. Each person who appears before a human rights tribunal must be treated with dignity and respect.

## Obligations and duties

### 4. Duty to avoid and report real or perceived conflicts of interest

The Chief Commissioner, the Director and Tribunal Members have a duty to disclose real and apparent conflicts of interest and to immediately report potential conflicts. Tribunal Members and the Director shall disclose real and apparent conflicts to the Chief Commissioner, who is the Administrator for the purposes of this Code. The Chief Commissioner shall disclose real or apparent conflicts of interest to the Ethics Commissioner. Tribunal Members and the Director are encouraged to consult the Chief Commissioner regarding potential conflicts of interest. If a conflict or potential conflict of interest arises during the course of a tribunal hearing, the Tribunal Member may need to disclose this potential conflict to the parties. Section 11 addresses responsibilities regarding a conflict in a financial interest, appointment, business, undertaking or employment.

## **5. Confidentiality and protection of privacy**

- a) The Chief Commissioner, the Director and Tribunal Members must maintain the confidentiality of information obtained in the course of their duties for the Commission. The duty not to disclose confidential information extends beyond the term of appointment of the Chief Commissioner, the Director and Tribunal Members.
- b) The Commission is regulated by the *Freedom of Information and Protection of Privacy Act*, RSA 2000, c.F-25.

## **6. Off-duty conduct**

The Chief Commissioner, the Director and Tribunal Members represent the Commission in a public role and must be fair-minded and behave with integrity and good faith in all situations, including off-duty conduct. They must not use their position for advocacy or to further any private interest. They must exercise caution if they participate in social media. The Chief Commissioner, the Director and Tribunal Members have a special obligation to be even-handed, courteous and respectful in all communications.

## **7. Political Activity**

The Chief Commissioner, the Director and Tribunal Members may participate in election campaigns and political party leadership campaigns, if their involvement does not interfere with, diminish, or involve in any way, their employment responsibilities. If the Chief Commissioner, the Director or a Tribunal Member is going to seek an elected federal, provincial or municipal office, they must disclose their intention and resign their position.

## **8. Media Relations and public statements**

The Director and Tribunal Members must not comment publicly or to the media about the Commission, the Tribunal or its work without first consulting and getting written permission from the Chief Commissioner.

## **9. Harassment**

The Chief Commissioner, the Director and Tribunal Members are committed to creating safe and healthy work spaces that are free from discrimination, harassment and violence.

## **10. Gifts**

Other than the normal exchange of gifts between business colleagues, tokens exchanged as part of protocol, or the normal presentation of gifts for participating in public functions, the Chief Commissioner, the Director and Tribunal Members must not accept or receive gifts which are, or may appear to be, associated with the work of the Commission. Permitted gifts may not exceed \$100 from a single source within a calendar year.

## 11. Conflict in a financial interest, appointment, business, undertaking, or employment

- a) A Tribunal Member and Director must disclose any conflict of interest in an outside appointment, business opportunity, volunteer position, employment or financial interest (an “outside undertaking”), to the Chief Commissioner in writing as soon as the conflict becomes apparent, and thereafter must report an ongoing conflict, such as an investment, annually. Prior to accepting any outside undertaking a full-time Tribunal Member and the Director must notify the Chief Commissioner in writing about the nature of the outside undertaking.
- b) The Chief Commissioner bears a higher burden in avoiding real and perceived conflicts of interests in financial matters. Subject to section 23.926 of the *Conflicts of Interest Act*, the Chief Commissioner shall not engage in an outside appointment, business, undertaking or employment, including self-employment, other than the appointment or employment that is subject to the *Conflicts of Interest Act*, unless they first receive written approval from the Ethics Commissioner to do so and comply with any conditions that the Ethics Commissioner has included in the approval.
- c) As set out in section 23.93 of the *Conflicts of Interest Act*, the Chief Commissioner must not own or hold a beneficial interest in publicly-traded securities unless: held in a blind trust or investment arrangement approved by the Ethics Commissioner; or, the Ethics Commissioner grants prior approval of the retention of the ownership or beneficial interest. Approvals must be granted in writing by the Ethics Commissioner.

Publicly-traded securities must be managed within: 60 days of a person becoming the Chief Commissioner; section 23.93 becoming applicable to the Chief Commissioner; or, the acquisition of publicly-traded securities by gift or inheritance. The Ethics Commissioner may set out a longer period.

- d) The restrictions under this section will apply to a new Chief Commissioner immediately.

## 12. Compliance with the law

- a) Tribunal Members and the Director must not engage in criminal activity and must immediately report, to the Chief Commissioner, if they are charged or convicted under the *Criminal Code*, RSC 1985 c C-46.
- b) The Chief Commissioner must be immediately report to the Ethics Commissioner any charge or conviction under the *Criminal Code*.
- c) Tribunal Members, the Director and the Chief Commissioner must comply with all applicable laws.

### 13. Prohibition from furthering private interests

- a) The Chief Commissioner, Director and Tribunal Members must act impartially and must not act in self-interest or to further their private interests while carrying out their duties.
- b) The Chief Commissioner shall also comply with section 23.925 of the *Conflicts of Interest Act*. For additional clarity, the Chief Commissioner is bound by the following restrictions on their office and powers:
  - i. The Chief Commissioner must not take part in a decision in the course of carrying out their office or powers knowing that the decision might further a private interest of the Chief Commissioner, a person directly associated with the Chief Commissioner, or the Chief Commissioner's minor or adult child;
  - ii. The Chief Commissioner must not use their office or powers of influence or seek to influence a decision made by or on behalf of the Crown or a public agency to further a private interest of the Chief Commissioner, a person directly associated with the Chief Commissioner, or to improperly further any other person's private interests;
  - iii. The Chief Commissioner must not use or communicate information not available to the general public that was gained by the Chief Commissioner in the course of carrying out their office or powers to further or seek to further a private interest of the Chief Commissioner or any other person's private interests; and

### 14. Post-Service Conduct

- a) Following the termination or end of the Director or a Tribunal Member's term of appointment, for any reason, a former Director or Tribunal Member shall:
  - i. not appear before a human rights tribunal as an agent, legal representative, expert witness or consultant, for a period of 12 months, when that appearance would or may appear to compromise the ability of the Tribunal to fulfill its obligation to provide services and perform statutory functions in an impartial, lawful, unbiased or just manner; and
  - ii. continue to observe their obligations of confidentiality and shall not release or disclose confidential information acquired while appointed to the Commission, unless compelled by law or with prior written permission of the Chief Commissioner.
- b) As required by section 23.937 of the *Conflicts of Interests Act*, for 12 months after the last day they hold their position as Chief Commissioner, the Chief Commissioner:

- i. Must not lobby any public office holder, as defined in the *Lobbyists Act*;
- ii. Must not act on a commercial basis or make representations on behalf of any party in connection with any ongoing matter in connection with which the Chief Commissioner directly acted for or advised a department or public agency;
- iii. Must not make representation with respect to or solicit or accept on their own behalf a contract or benefit from a department or public agency with which the Chief Commissioner had a direct and significant official dealing; and
- iv. Must not accept employment with an individual, organization, board of directors, or equivalent body or organization with which the Chief Commissioner had direct and significant official dealing.
- v. The Chief Commissioner may apply to the Ethics Commissioner for a waiver or reduction of the time period applicable to these restrictions.

These restrictions will apply to new Chief Commissioners immediately.

- c) Former Directors and Tribunal Members may apply to the Chief Commissioner for a waiver or relaxation of the rules on post-service conduct. The Chief Commissioner may apply to the Ethics Commissioner for a waiver or relaxation of the rules concerning post-employment restrictions.

## **15. Use of Commission Property**

The Chief Commissioner, the Director and Tribunal Members may have limited use of the premises and equipment of the Commission for authorized incidental purposes, provided that such use involves minimal expense, does not interfere with the mission of the Commission and does not support a private business.

## **Administration of the Code**

### **16. Administrator**

The Chief Commissioner is the Administrator for the Code and responsible for reviewing and making a determination on whether there is a breach involving the Director and Tribunal Members. The Ethics Commissioner is responsible for reviewing and making a determination on whether there is a breach of this Code involving the Chief Commissioner. The Chief Commissioner may consult the Ethics Commissioner for advice and guidance on any matter related to the Code.

## 17. Disclosure and reporting

- b) Where a Tribunal Member or the Director has notified the Chief Commissioner of a real or apparent conflict of interest, or asked for the Chief Commissioner to review an outside undertaking for a conflict of interest, the Chief Commissioner shall review the matter and make a decision in writing, with reasons. If there is no real or apparent conflict of interest, the Chief Commissioner may approve the outside undertaking. If there is a real or apparent conflict of interest, the Chief Commissioner may deny the outside undertaking, or allow the outside undertaking and put procedures in place to manage the real or apparent conflict of interest. Where a conflict or potential conflict of interest is present, the affected party shall advise the Chief Commissioner, in writing, how the conflict can be rectified and when appropriate action will be taken. The timeline for these events will depend on the urgency as shown by the particular circumstances of the conflict of interest. The Chief Commissioner may outline timelines for the Tribunal Member or Director to follow in this reporting. All reporting from the Tribunal Member or the Director, and all decisions by the Chief Commissioner, must be in writing.
- c) Where a Tribunal Member or the Director has breached this Code of Conduct they must disclose the breach to the Chief Commissioner in writing as soon as the breach becomes apparent.
- e) As set out in section 23.931 of the *Conflicts of Interest Act*, within 60 days of becoming the Chief Commissioner or of section 23.931 becoming applicable to the Chief Commissioner, and in each subsequent year at a time specified by the Ethics Commissioner, the Chief Commissioner must provide to the Ethics Commissioner, in a manner and form specified by the Ethics Commissioner, a full financial disclosure of the Chief Commissioner's assets, liabilities, investments, holdings, and other interests.
- f) As set out in section 23.932 of the *Conflicts of Interest Act*, the Chief Commissioner must also provide a return to the Ethics Commissioner for any person directly associated with the Chief Commissioner. This return must be provided within 60 days of becoming the Chief Commissioner or of section 23.932 becoming applicable to the Chief Commissioner.
- g) Within 30 days of any material changes to a previous disclosure, including a disclosure regarding a person who is directly associated to the Chief Commissioner, an updated disclosure must be filed with the Ethics Commissioner. The Chief Commissioner must also file an updated return for anyone directly associated to them within 30 days of ceasing to be the Chief Commissioner.

- h) Where the Chief Commissioner has breached this Code of Conduct the Chief Commissioner must disclose the breach to the Ethics Commissioner as soon as the breach becomes apparent.
- i) This section applies to a new Chief Commissioner immediately.

## **18. Reporting a potential breach by a third party**

- a) The Director and Tribunal Members are encouraged to report, in writing, to the Chief Commissioner a breach or potential breach of the Code by a third party. Those reporting a breach or potential breach by a third party must do so in good faith and with reasonable grounds. The third party will be notified and given an opportunity to respond to the allegation.
- b) In the event a third party reports a perceived conflict or breach involving the Chief Commissioner, this perceived conflict or breach must be reported to the Deputy Minister or the Ethics Commissioner to conduct an investigation and provide a ruling.

## **19. Consequence of a breach**

- a) The Chief Commissioner will work with the Tribunal Members and the Director to minimize or remove conflicts and may:
  - i. remove or reassign a Tribunal Member from the hearing, TDR or matter in which the actual or perceived conflict has arisen; or
  - ii. explore available options for the person to dispose of financial or business interests or place those interests in a blind trust; or
  - iii. in rare circumstances, request the Tribunal Member or Director resign from the Commission or recommend that their appointment be terminated or rescinded.
- b) The Chief Commissioner may be liable for an administrative penalty or fine for a breach of the *Conflicts of Interest Act*.

## **20. Review of a decision of the Chief Commissioner**

The Ethics Commissioner may be asked to review a decision that has been made by the Chief Commissioner regarding a conflict of interest under this Code.

## **21. Coming into force**

This Code shall be made public on September 4, 2018 and shall come into force 90 calendar days after that date.

## Oath of Office

### Members of the Alberta Human Rights Commission

I, \_\_\_\_\_, a Member of the Commission of the Alberta Human Rights Commission appointed pursuant to section 15 of the *Alberta Human Rights Act* in the City of \_\_\_\_\_ in the Province of Alberta MAKE OATH AND SAY THAT:

Pursuant to the *Alberta Human Rights Act* and the duties of a Member of the Commission provided in the Act and Bylaws, I will exercise all my powers, duties and functions honourably, faithfully and conscientiously to the best of my ability.

I have read and agree to the *Code of Conduct: Chief of the Commission and Tribunals, Director of the Commission and Members of the Commission (forming the Tribunal)*.

I will exercise my duties in an impartial manner and without bias, on the basis of the facts, and in accordance with procedural fairness and the rules of natural justice.

I will exercise my duties in an independent manner and will not be subject to any restrictions, improper influences, inducements or pressure, direct or indirect, in any capacity and from any source.

Where I find myself to be in a real or apparent conflict of interest for any reason, I will so advise the Chief of the Commission and Tribunals. Where the conflict of interest arises out of a Tribunal hearing I will withdraw from the Tribunal or where the conflict arises out of discussion at a meeting of the Members of the Commission, I will abstain from voting on the issue.

Where any influence or pressure is brought to bear on me, I shall so inform the Lieutenant Governor in Council who has appointed me as a Member of the Commission.

Sworn (or affirmed) before me )  
at \_\_\_\_\_ )  
Province of Alberta, )  
this \_\_ day of \_\_\_\_\_ 20\_\_ )

\_\_\_\_\_  
A Commissioner for Oaths  
in and for Alberta

\_\_\_\_\_  
Tribunal Member Name

**Oath of Office**

**Director of the Alberta Human Rights Commission**

I, \_\_\_\_\_, Director of the Alberta Human Rights Commission appointed pursuant to section 18 of the *Alberta Human Rights Act* in the City of \_\_\_\_\_ in the Province of Alberta MAKE OATH AND SAY THAT:

Pursuant to the *Alberta Human Rights Act* and the duties of the Director of the Commission provided in the Act and Bylaws, I will exercise all my powers, duties and functions honourably, faithfully and conscientiously to the best of my ability.

I have read and agree to the *Code of Conduct: Chief of the Commission and Tribunals, Director of the Commission and Members of the Commission (forming the Tribunal)*.

I will exercise my duties in an impartial manner and without bias, on the basis of the facts, and in accordance with procedural fairness and the rules of natural justice.

I will exercise my duties in an independent manner and will not be subject to any restrictions, improper influences, inducements or pressure, direct or indirect, in any capacity and from any source.

Where I find myself to be in a real or apparent conflict of interest for any reason, I will so advise the Chief of the Commission and Tribunals. Where any influence or pressure is brought to bear on me, I shall so inform the Lieutenant Governor in Council who has appointed me as Director of the Commission.

Sworn (or affirmed) before me    )  
at \_\_\_\_\_                                    )  
Province of Alberta,                                    )  
this \_\_ day of \_\_\_\_\_ 20\_\_                                    )

\_\_\_\_\_  
A Commissioner for Oaths  
in and for Alberta

\_\_\_\_\_  
Director's Name