

**CLEAN ENVIRONMENT COMMISSION**

**CODE OF CONDUCT**

**for**

**COMMISSION MEMBERS**





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## **PART I – INTRODUCTION**

### **1.01 Preamble**

The Clean Environment Commission is an administrative body, established under the Manitoba *Environment Act*, operating at arm's-length from the government. The Commission's mandate is to enable environmental issues to be put forward for full public discussion, and to encourage wide participation in the expression of views and exchange of opinions.

To achieve this mandate, the Commission must meet the highest standards of professionalism and conduct.

In order to enhance public confidence in the integrity and fairness of its proceedings, the Manitoba Clean Environment Commission has adopted a Code of Conduct, which establishes rules governing the professional and ethical responsibilities of members, as well as all parties to Commission proceedings.

The Code establishes reasonable minimum expectations governing the conduct of all parties.

### **1.02 Core Values**

Members of the Commission act with impartiality and integrity.

Members of the Commission demonstrate respect and accountability.

### **1.03 Application of the Code**

#### **Members**

This Code applies to all members of Clean Environment Commission from the date of appointment.

The duties and responsibilities in this Code:

- apply to a member's conduct as a member of Clean Environment Commission, within the scope of the appointment; and,
- continue, with respect to issues of confidentiality, after a member ceases to be a member of the Commission.

## Employees

Employees of the Commission, engaged pursuant to *The Civil Service Act*, of Manitoba, are bound by the *Value and Ethics Guide* for Manitoba civil servants. They are also expected to abide by the spirit and intent of the Code of Conduct for Members.

## Others

Consultants or contractors engaged or retained by the Commission will abide by the spirit and intent of the Code of Conduct for Members.

### 1.04 Definitions

In this Code of Conduct,

**“Act”** means *The Environment Act*;

**“Chair”** means the person appointed as Chair of the Commission, as well as a member of the Commission appointed to chair a hearing or public meeting, as the context may allow or require;

**“Commission”** means the Clean Environment Commission;

**“Commission resources”** means the tribunal’s assets, equipment, facilities, personnel and other resources;

**“Commission Secretary”** means the individual appointed as Secretary to the Commission, who acts as the senior administrative person for the Commission;

**“Code”** means this Code of Conduct;

**“Former Member”** means a person who was a member of the Commission but is no longer a member;

**“Hearing”** means a public hearing held by the Commission, at which parties provide submissions to the panel;

**“Member”** means any person appointed as a member of the Commission, including the Chair;

**“Panel”** means the members of the Commission assigned to conduct the review as set out in the Minister’s reference;

**“Participant”** or **“Participants”** means a person or group of persons designated as such by, and on the terms set out by, the Commission;

**“Party”** means an individual or organization granted standing in a proceeding on the terms set out by the Commission and may include, but is not limited to, the panel, the proponent, the director, participants and presenters; as well as representatives, engaged to represent the party or a witness in a proceeding.

## **PART II – GUIDING PRINCIPLES**

**2.01** These principles are meant to guide the decisions and conduct of members in all circumstances:

- Members conduct themselves with integrity.
- Members uphold and act in accordance with the Commission’s mandate, as set out in *The Environment Act*.
- Members place the public interest above their own private interests.
- In both their private and public lives, members act so that public confidence in the integrity, objectivity and independence of the Commission is maintained and enhanced.
- Members observe the rules of procedural fairness and act at all times with the greatest transparency.
- Members fulfil their duties in good faith and to the best of their ability.

## **PART III – OBLIGATIONS OF MEMBERS**

In carrying out their duties on the Commission, Members agree to abide by the principles and obligations set out in this Code.

### **3.01 General**

- Members act with honesty, fairness and integrity, conducting themselves in a manner consistent with the nature of their responsibilities and the maintenance of public confidence in the Commission.
- Members refrain from making undue use of their title or status as a member of the Commission.
- Members are impartial and free from improper influence and interference.
- Members are without conflicts of interest and act in a manner that precludes any conflict of interest.

### **3.02 Professional Development**

- Members make reasonable and ongoing efforts to improve their knowledge and skills in order to fulfil their duties as members.

### **3.03 Conducting Hearings**

- Members are fully prepared to conduct the business before the panel, having reviewed and become familiar with all of the documents and background materials prior to the hearing.
- Members ensure that proceedings are conducted in an open, transparent and fair manner.
- Members act efficiently and without unreasonable delay.
- Members follow the applicable rules of procedure.
- Members ensure the hearings are reasonably accessible to the parties. Panel members foster public access to information and public participation in the proceeding.
- Members, at all times, treat all parties in public hearings with respect, courtesy and consideration.

### **3.04 Bias**

- Members do not demonstrate any intolerance or bias towards any party.
- Members approach the proceeding with a genuinely open mind regarding every issue.
- Members maintain a professional distance from the parties, their counsel or representatives, and the dispute itself. Panel members avoid all private meetings with proponents, participants or other parties.
- Members only communicate with the parties “on the record”, unless there are very exceptional circumstances.
- If a party contacts a member of the hearing panel directly, the member will refer the party to the Secretary. Correspondence to or from a party or their representative is forwarded by the hearing panel to all of the parties.

### **3.05 Discussion and Debate with Other Members**

- When considering a decision, members are free to disagree with one another, in private, and to discuss and debate the merits of the case with candour.
- When expressing disagreement or dissent, members do so in a respectful and professional manner with a view to facilitating a productive discussion of the issues.
- Members do not coerce, belittle or intimidate other members.
- Members do not comment publicly on the decision of another member or on the conduct of a member during a hearing.



## **PART IV – RESPECTFUL ENVIRONMENT**

### **4.01 Scope**

Members treat other members, Commission staff, the parties to a proceeding, witnesses and members of the public with courtesy and respect.

### **4.02 Respectful Work Environment**

The Commission recognizes its responsibility to promote and maintain a diverse, respectful workplace, where all members, staff and parties enjoy an environment in which the dignity and self-respect of every person is valued and which is free of offensive remarks, material or behaviour.

Every party to a Commission proceeding can expect to be treated respectfully.

Members and staff refrain from participating in behaviour that is, or could be perceived to be, disrespectful.

In particular:

#### **Discrimination**

Members are sensitive to issues of gender, disability, race, sexual orientation, language, culture and religion that may affect the conduct of the hearing.

Members and staff do not discriminate against any party to a proceeding because of that person's race, colour, place of origin, ancestry, gender, age, marital status, religious beliefs (including native spirituality), mental and physical ability, source of income, family status, sexual orientation, or any other category covered under the Manitoba Human Rights Code.

#### **Harassment**

Members and staff do not engage in, and do not tolerate, any acts of objectionable conduct or comments, directed towards a specific person or group, that creates an intimidating, humiliating, hostile or offensive work environment.

#### **Sexual Harassment**

All parties have a right to a working environment that is free from sexual harassment. Sexual harassment is illegal and will not be tolerated. Members and staff refrain from participating in, and do not tolerate, behaviour that is, or could be perceived to be, sexual harassment.

Members comply with the Manitoba Civil Service Commission's policies on Respectful Workplace and Sexual Harassment.

In the course of Commission proceedings, persons subjected to inappropriate behaviour, or who are aware of such behaviour, are encouraged to report the incident to the Commission Chair or to the Commission Secretary.

Complaints regarding inappropriate conduct are considered serious and will be investigated according to established guidelines of Civil Service policy. Necessary action will be imposed on persons found to violate the respectful workplace policy.

## **PART V – CONFIDENTIALITY**

With rare exceptions, the proceedings of the Clean Environment Commission are completely open, with all information pertaining to the proceedings available to the public through registries and websites.

There may be occasions where members receive information which is not to be divulged to any other person without the prior, written authorization of the Commission. An example of this would be proprietary information presented by the proponent and accepted as such by the Commission, or information that is protected under the terms of the Freedom of Information and Protection of Personal Privacy Act.

### **5.01 General**

- Members respect the confidentiality of information received in the performance of duties.
- Members do not divulge the nature of deliberations by the panel during the decision-making stage.
- Members ensure the security of confidential information entrusted to them at all times. At the appropriate time, such documentation must be destroyed in a confidential manner. Members may return such documentation to the Commission Secretary for destruction.
- Panel members maintain the confidentiality of the commission's report until such time as it is made public.
- Members refrain from making public their position on any project that is being examined by the Commission or that may be examined by it in the foreseeable future.
- The requirement not to divulge confidential information continues after a person ceases to be a member of the Commission.

### **5.02 Communication with Media**

Members do not communicate with the media regarding:

- a matter that is currently before the Commission; or,
- a matter that may end up before the Commission in the future.

Inquiries from the media or the public regarding any matter, including a matter that has already been decided, are referred to the Commission Secretary or to the Chair.

## **PART VI – CONFLICTS OF INTEREST**

A member appointed to the Clean Environment Commission holds a position of trust. As such, members have an obligation to avoid situations of conflict of interest.

### **6.01 Definition of Conflict of Interest**

A conflict of interest arises when a member's personal and/or business, occupational, or professional interests compete with or supersede the member's dedication to the interest of the Commission. This could arise from an actual or perceived conflict of interest.

#### **Actual conflict of interest**

An actual conflict of interest exists when a member exercises an official power or performs an official duty or function as a member of the Commission, knowing that in doing so, there is the opportunity to further his or her private interest.

#### **Perceived conflict of interest:**

A perceived conflict of interest is any situation, circumstance, activity, association or relationship that would cause a reasonable and fully-informed member of the public to believe that a member has a conflict of interest with respect to a particular matter.

### **6.02 Duty to Avoid Conflicts of Interest**

- Members take every reasonable step to avoid actual and perceived conflicts of interest.
- Members do not hear or decide any matter which creates a conflict of interest for that member.
- Members do not act on behalf of, or deal with, the Commission, in any matter where a real or apparent conflict may exist.
- Members do not use the relationship with the Commission to confer an advantage on themselves or on a close friend, any related person, business associate, or a corporation or partnership in which the member holds a significant interest.

### **6.03 Duty not to use Confidential Information**

Members do not use confidential information obtained in the course of their duties for their own private purposes.

#### **6.04 Notice to Chair of a Conflict of Interest**

When a member becomes aware of an actual or perceived conflict of interest, before or during a hearing, the member immediately notifies the Chair.

Where it is determined that a conflict does exist, the member will not be allowed to participate on the panel.

#### **6.05 Clarification**

If a member is in doubt as to whether or not a conflict exists, the member must seek the advice of the Chair; and must follow the advice given.

#### **6.06 Conflicts of Interest Affecting the Chair**

Where an actual or perceived conflict of interest involves the Chair of the Commission, the matter is to be referred to the Clerk of Executive Council for Manitoba for resolution.

If the Chair is in doubt as to whether or not a conflict exists, he or she must seek the advice of the Clerk of Executive Council; and must follow the advice given.

## **PART VII – OTHER**

### **7.01 Political Activities**

Members may engage in political activities to the same extent as employees in the civil service or persons employed by any agency of the government as set out in *The Civil Service Act*, but only to the extent their activities do not give rise to a reasonable apprehension of bias.

### **7.02 Post-Separation Duties**

Former members do not disclose any confidential information they obtained or became aware of in the course of their duties or use such information for their own private purposes.

Former members do not take improper advantage of their former positions after ceasing to be members of the Commission.

Former members do not appear before the Commission as representatives, expert witnesses or consultants until twelve months after ceasing to be a member.

### **7.03 Commission Property**

Members are good stewards of Commission resources.

Members do not use, directly or indirectly, any facilities, property or services of the Commission, nor allow them to be used, for purposes other than for carrying out their duties as members.

### **7.04 Rules about Gifts**

Members must not directly or indirectly ask for or accept a gift, favour, service, or promise of future benefit from any individual or organization appearing before the Commission.

Gifts and entertainment should only be accepted or offered by a member in the course of performing board responsibilities where the gift has no more than token value and is the normal exchange of hospitality or gesture of courtesy between persons doing business together. The exchange must be lawful and in accordance with local ethical practices and standards, and it must not be construed as creating a sense of obligation on the part of the member.

Inappropriate gifts received by a member are returned to the donor.

## **PART VIII – ADMINISTRATION OF CODE**

### **8.01 Code Administrator**

- The Code Administrator for members, staff and consultants/contractors is the Commission Chair.
- The Code Administrator for the Chair is the Clerk of the Executive Council.
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### **8.02 Disclosure**

Where a member becomes aware of any circumstance that contravenes, or may reasonably be perceived to contravene, this Code, the member brings that circumstance to the attention of:

- the Chair; or,
- if the circumstance relates to the conduct of the Chair, the Commission Secretary, who will refer the matter to the Clerk of Executive Council.

### **8.03 Declaration**

Members are required, upon appointment, to sign a declaration identifying any areas of potential conflict.

### **8.04 Duty to Report**

A member who becomes aware of a potential breach of this Code by another member has a duty to report that, in confidence, to the appropriate Code Administrator.

### **8.05 Discipline**

Members who violate any provision of this Code may be subject to discipline, up to and including dismissal from office.

## **APPENDIX I – CODE OF CONDUCT FOR COMMISSION EMPLOYEES**

Employees of the Clean Environment Commission are engaged pursuant to *The Civil Service Act*, of Manitoba

As such, they are bound by the *Value and Ethics Guide* for Manitoba civil servants.

They also agree to abide by the spirit and intent of the Code of Conduct for Commission Members.

The Commission may engage or retain consultants or contractors as considered necessary to carry out the work of the Commission. All consultants or contractors engaged or retained by the Commission are bound by, and must agree to be bound by, the Code of Conduct for Commission Members.



**DECLARATION**

The purpose of this declaration is to identify, in advance, any possible areas where a member's private affairs might come into conflict with the business of the Commission. It is to be completed and signed by each member on appointment and will be maintained in confidence by the Commission Secretary.

**Declaration:** Please indicate which of the following applies to you:

- \_\_\_\_\_ 1. To the best of my knowledge, there are no situations in which my personal interests would come into conflict with my duties as a member of the CEC.
  
- \_\_\_\_\_ 2. I do have personal interests which fall within the realm of the CEC. These are listed on the attached.

I understand my responsibilities to avoid situations in which these interests conflict with my duties as a member of the CEC and that, by following these guidelines, I will be able to avoid such conflicts.

If, during my tenure as a Commission member, any situation arises in which my private affairs would come into conflict with my duties as a member of the Commission, I will immediately inform the Commission Chair.

\_\_\_\_\_  
Signature

**STATEMENT OF UNDERSTANDING**

(To be completed by all members of the Commission.)

I have read and understand the Code of Conduct for Members of the CEC and agree to abide by its terms and spirit.

I have completed the declaration.

\_\_\_\_\_  
Signature