



ADJUDICATOR – APPOINTMENT CRITERIA AND POSITION DESCRIPTION

INTRODUCTION

The LSBC Tribunal is an independent adjudicative tribunal within the Law Society of British Columbia. As regulator of the legal professions, the Law Society of British Columbia governs British Columbia lawyers in the public interest. Members of the Tribunal hear and make independent decisions about British Columbia lawyers. They apply legislation, policies, jurisprudence and rules and act in accordance with the mission and core values of the Tribunal.

Members work under the leadership of the Tribunal Chair. They are expected to uphold and embody the Tribunal's core values of fairness, quality, transparency and timeliness. Members may be assigned by the Chair to carry out their adjudicative responsibilities as a single adjudicator or as a member of a hearing panel or review board or motions adjudicator.

Only public members are currently remunerated on a per diem basis. Reasonable expenses for all panel and review board members are reimbursed.

APPOINTMENT AND REAPPOINTMENT

Members are appointed to the Tribunal by the Executive Committee on recommendation of the Tribunal Chair. Elected and appointed benchers are currently eligible to be appointed by virtue of their position. Appointee adjudicators are appointed following a competitive process. Adjudicators are normally appointed for a four year term.

Reappointment by the Executive committee of all members for one subsequent four year term is based on the recommendation of the Tribunal Chair following a formal performance evaluation, based on the competencies and duties set out in this position description.

APPOINTMENT CRITERIA

Each panel is chosen by the Tribunal Chair, with an eye to such factors as representation, areas of expertise, and experience. Panels can comprise one, three or, for reviews, five adjudicators. When there are multiple adjudicators on a panel, one of the adjudicators is assigned to lead the panel as chair.

These are the basic criteria that we recommend for panel and review board members:

- o **For lawyers:** Outstanding legal career, including: excellence in chosen area(s) of law; teaching experience - law school, CLE, contributions to the profession. The lawyer must be a practising member of the Law Society;
- o **For Non- Lawyers:** Career leadership / professional or management experience or leadership role in community service;
- o **For all adjudicators:**
 - Board or regulatory experience;
 - A variety of practice or professional backgrounds, with value placed on specialization in: Administrative law, Regulatory law, Criminal law; Civil Litigation; Accounting; Securities; Real estate and Immigration;
 - Adjudication skills: Sound judgment, independence and objectivity, Patience and Decisiveness;
 - Communication skills: Ability to communicate effectively in hearings and meetings; Ability to write clearly and effectively in a timely fashion
 - Diversity: Gender, Geography, Minority representation, Experience with cultural and ethnic diversity;
 - Willingness to devote 10-20 days per year to Tribunal matters.

KEY COMPETENCIES AND DUTIES

1. Fairness and Collegiality:

- o Acts with impartiality and balance, maintaining an open mind at all times;
- o Acts with dedication, professionalism and collegiality;
- o Values diversity and upholds the right to equal treatment without discrimination under the *Charter* and *Human Rights Code* throughout the adjudicative process;
- o Acts in accordance with the principles of procedural fairness;
- o Maintains decorum and professional conduct at all times, inside and outside the hearing room;
- o Engages in respectful and courteous interactions with hearing participants, staff, and other Tribunal members;
- o Employs active listening techniques, seeking clarification, reflecting understanding of others' views, and valuing diverse perspectives.

2. Quality and Continuous Improvement:

- o Understands and applies administrative law principles; the *Legal Profession Act*; the Law Society Rules; the *Administrative Tribunals Act*, the rules under the *BC Code of Professional Conduct for British Columbia*; and other relevant law, rules, practice directions and jurisprudence;
- o Attends and actively participates in all required adjudicator training and education programs;
- o Participates actively in self-evaluation and performance development with commitment to continuous development of adjudicative skills;
- o Reflects on experiences and is open to feedback, striving for continuous improvement;
- o Works to promote quality and consistency in the Tribunal's jurisprudence.

3. Transparency:

- o Complies with all policies and guidelines of the LSBC Tribunal;
- o Adheres to the LSBC Tribunal's Adjudicator Code of Conduct, and manages issues of reasonable apprehension of bias or conflict of interest, identifying potential conflicts at the earliest opportunity;
- o Respects and promotes the independence of the LSBC Tribunal;
- o Determines transparency issues involving access to a hearing, non-public treatment of materials and publication bans with an understanding of the relevant principles and rules;
- o Acts in a manner that bears the closest scrutiny.

4. Timeliness:

- o Collaborates with Tribunal staff to promote effective administration of Tribunal processes;
- o Is regularly available for hearings throughout the calendar year and holds the time committed, absent exceptional circumstances;
- o Balances the need to be prompt and decisive with consideration of the views and positions of others;
- o Prepares for proceedings by reviewing all materials sent in advance;
- o Prioritizes the scheduling of continuation dates.

5. As a panel member in a hearing or member of a review board:

- o Reaches procedural rulings, findings of fact, and decisions that are balanced, reflect a solid grasp of the issues, evidence and submissions advanced; and interpret the relevant law, rule or jurisprudence;
- o Participates actively in panel deliberations, works collegially with other panel members to share views, knowledge and expertise, and considers and is open to the feedback of others;
- o Listens actively and takes detailed notes of the hearing;
- o Asks questions where appropriate, respecting the principles of procedural fairness;
- o Aims for consensus among panel members where possible, while respecting the value of dissenting or concurring reasons where panel members have differing views.

6. When assigned as a panel or review board chair:

- o Promotes the effective use of hearing time through skillful and fair management of the hearing process, the application of the Law Society Rules, Practice Directions and principles of evidence;
- o Balances control of the hearing with openness to the parties' positions and concerns;
- o Consults with other panel or review board members and concisely and clearly conveys the panel's procedural rulings;
- o Ensures that hearings start at the time set and all scheduled hearing time is used until the matter is concluded, absent extenuating circumstances;
- o Promotes prompt continuation dates and the accurate estimate of further hearing time;
- o Ensures that all panel and review board members' views are heard and valued in deliberations and promotes consensus where possible;
- o Ensures that written reasons are prepared as appropriate;
- o Ensures that the Tribunal's core values of fairness, quality, transparency and timelines are demonstrated throughout the process

7. When authoring reasons:

- o Prepares reasons that are clear, concise, well organized and fully justify the decision;
- o Prepares reasons using the Tribunal reasons template, minimizing typographical and grammatical errors in drafts;
- o Prepares reasons within the established timeline, absent extenuating circumstances;

- o Considers and incorporates the comments and views of other members of the panel or review board;

8. When assigned to conduct pre-hearing conferences or comprehensive pre-hearing conferences:

- o In comprehensive pre-hearing conferences, assists the parties in reaching joint submissions and/or agreed statements of facts, offers opinions on the merits of a case, the applicable law, rules and jurisprudence;
- o Actively case manages the matter to ensure issues are defined early, timelines are set to deal with pre-hearing issues, and the matter is ready for a hearing in a timely manner;
- o Promotes consistency of procedural approaches within the Tribunal;
- o Where appropriate, monitors cases to ensure preliminary issues are resolved or determined without delay and the hearing can proceed on the dates set.