

Core Competencies for Tribunal Members/Decision Makers

We use the word “tribunal” to mean an organization, department, board, agency, or commission that includes decision makers.

Tribunal members/decision makers need the following skills and values to do their work well.

1. Knowledge and Values

Tribunal members/decision makers should:

- 1.1 understand the legal framework, jurisdiction, procedure, and subject matter of the tribunal.
- 1.2 provide a high standard of service by being ethical, accountable, and professionally responsible.
- 1.3 be aware of and respect diversity in all its forms. Some examples include creed, gender, race, religious customs, place of origin, ancestry, age, disability, mental capacity, sexual orientation, gender identity or expression, social or economic status, marital status, family status, or family affiliation.
- 1.4 build and support a work culture that ensures all tribunal processes and proceedings are transparent, accountable, and carried out with integrity.
- 1.5 adapt processes so they are equitable and inclusive to all people.

2. Communication

Tribunal members/decision makers should:

- 2.1 communicate effectively using plain language (“language readily understood by all”) and working with interpreters, including American Sign Language (ASL) and braille, as needed.
- 2.2 always use language that is free from bias.
- 2.3 use computers, software, and online tools effectively to share documents and other information, keep clear records, and communicate promptly.
- 2.4 help all parties, representatives, and decision makers participate in tribunal processes to ensure fair treatment and fair process.

3. Conduct of Cases

Tribunal members/decision makers should:

- 3.1 establish and maintain the independence and authority of the decision maker and tribunal.
- 3.2 be impartial and independent and act with integrity.
- 3.3 be aware of unconscious bias and willing to challenge all biases.
- 3.4 be able to identify systemic biases and barriers.
- 3.5 understand the four principles of the duty to be fair and apply them when conducting cases.
- 3.6 help all parties participate fully in tribunal proceedings to ensure fair treatment and a just outcome.
- 3.7 manage the hearing in a way that allows everyone present to participate properly.
- 3.8 deal effectively and efficiently with case management issues.
- 3.9 manage the hearing to lead to a fair and timely conclusion.

4. Legislation

Tribunal members/decision makers should:

- 4.1 understand, use, and apply the governing legislation and other applicable legislation and its process.
- 4.2 interpret legislation and make decisions using the modern method of interpretation, which uses the ordinary meaning of words and considers the wider context and purpose of the legislation.
- 4.3 logically explain, in decisions and other tribunal communication, how specific legislation has been interpreted and why.

5. Evidence

Tribunal members/decision makers should:

- 5.1 be well prepared for all cases.
- 5.2 identify and understand the relevant facts and expert evidence in the case.
- 5.3 ask questions (appropriate to the style of hearing) about the issues to be decided.
- 5.4 identify and account for unconscious bias that may affect the decision maker's ability to be impartial when weighing the evidence.
- 5.5 conduct the hearing in a way that considers all relevant issues.
- 5.6 ask for more evidence as required.
- 5.7 use the relevance and reliability tests to admit evidence, weigh the evidence appropriately, and determine what is "information," evidence, and fact.
- 5.8 explain how the evidence has been weighed and the facts found to make the decision.

6. Decision-Making and Decision Writing

Tribunal members/decision makers should:

- 6.1 take an active part in deliberations and decision-making, and show good judgment.
- 6.2 use a structured decision-making process to:
 - identify issues,
 - extract legal tests from legislation,
 - sort evidence by test,
 - weigh evidence to find facts on each test,
 - decide based on facts found on each test, and
 - reach a conclusion.
- 6.3 explain the decision or conclusion using plain language.
- 6.4 identify and account for unconscious bias that may affect impartial decision-making and decision writing.
- 6.5 deliver the decision, conclusion, or submission on time.

Sources

Several sources were particularly useful in writing these core competencies: the Judicial Studies Board's *Tribunal Competencies: Qualities and Abilities in Action*, the National Association for Court Management's Core Competencies (<https://nacmnet.org/who-we-are/initiatives/core-competencies/>), and the Foundation of Administrative Justice's course manuals.