



NCAT Policy 5 (April 2016)

Member Participation in External Engagements Relating to the Tribunal or its Work

Purpose and Scope

1. This policy sets out the obligations, limitations and procedures which are applicable when a Member of the Tribunal is requested to participate, or participates, in an external engagement relating to the Tribunal or the work of the Tribunal.
2. For the purpose of this policy, an External Engagement includes, but is not limited to:
 - (a) being a speaker or presenter at a seminar, conference, continuing legal education workshop or function or other similar event;
 - (b) being a speaker or presenter in a recording (whether a sound recording, video recording or internet based recording);
 - (c) delivering or publishing a speech, paper or other written work,relating to the Tribunal or the work of the Tribunal.

The Value of Member Participation in External Engagements

3. The functioning of the Tribunal and its ability to fulfil its statutory objectives can be enhanced if the legal profession, other relevant professions and representative bodies, litigants before the Tribunal and the public have a properly informed understanding of the jurisdiction, work and practice and procedure of the Tribunal. Members' participation in External Engagements can contribute significantly to developing such an understanding. When Members do participate in such External Engagements, however, it is essential to ensure that their participation is appropriate and consistent with Members' obligations and responsibilities.

Obligations on Members Participating in External Engagements

4. When participating in an External Engagement Members must:
 - (a) comply with all legislative restrictions on disclosure of information contained in the *Civil and Administrative Tribunal Act 2013* (NSW) (the Act) and enabling legislation, such as ss 65 and 70 of the Act and s 101 of the *Guardianship Act 1987* (NSW);
 - (b) comply with all orders made by the Tribunal, or any Court, restricting disclosure of information concerning proceedings in the Tribunal including, for example, orders made under s 64 of the Act.

5. Members participating in External Engagements must also conform with the Tribunal's [Member Code of Conduct \[PDF 61kB\]](#) issued by the President pursuant to s 20(1)(d)(i) of the Act. The essential elements of the Code relevant to such External Engagements include:
- (a) Members have a general responsibility to uphold the law and to uphold the highest standards of integrity, truthfulness and honesty;
 - (b) Members should ensure that their activities outside their conduct as Members do not conflict with or undermine the discharge of their responsibilities as a Member and Members should refrain from engaging in partisan political activity which is directly related to the work of the Tribunal or which may impinge upon the perception of impartiality of the Member;
 - (c) Members should not allow themselves to be put in a position where their independence may be compromised or perceived to be compromised;
 - (d) Members must not:
 - (i) knowingly take advantage of or benefit from information, not publicly available, obtained in the course of performing their Tribunal functions; or
 - (ii) use their position as a Member improperly to gain or seek to gain any advantage or benefit for themselves or any other person; and
 - (e) If a gift is proffered to a Member, in his or her capacity as a Member, in circumstances where it cannot be or it is inappropriate for it to be declined, it should be handed to the Principal Registrar for inclusion in the Tribunal's gift register and appropriate disposition, such as for a charitable purpose or for public display in the Tribunal's premises.

Prior Approval from the President is Required

6. A Member proposing to participate in an External Engagement must obtain the approval of the President or the President's delegate before participating.
7. Although each case must be considered on its merits, the types of External Engagements in which it would generally be appropriate for Members to participate, subject to the following paragraph 8, include:
- (a) Presenting a paper or speaking at an event organised by a Government body, professional, trade or business association or an advocacy or representative service that is a participant in the Tribunal's Liaison Group or one of the Divisional Consultative Forums (for example, the Legal Aid Commission, the Anti-discrimination Board, the Australian Health Practitioner Regulation Agency, the Law Society, the Bar Association, the Real Estate Institute, the Tenants' Union, the Retirement Villages Residents' Association or the NSW Council for Intellectual Disability);

- (b) Presenting a paper or speaking at a seminar, conference or similar event organised by a body in the business of providing continuing legal education (for example, the College of Law, a university or a corporate provider of legal seminars or education).
8. Whether participation in the types of External Engagements referred to in the preceding paragraph 7 would be appropriate in any particular case will depend on circumstances such as whether:
- (a) the presentation is without payment;
 - (b) the presentation is publicly disclosed (for example, at a Liaison Group or Consultative Forum meeting or in the Tribunal's Annual Report); and
 - (c) a copy of the paper or other record of the presentation is made publicly available (for example on the Tribunal's website) or is able to be made publicly available, at no cost, if requested by any person.

Wright J
President
April 2016