



*Alternative Dispute Resolution (ADR)  
Centre*

**CODE  
OF  
ETHICS**

## **Preamble**

It is the purpose of this Code of Conduct to provide basic guidance to IST-ADR Third Party Neutrals (TPN) regarding ethical issues that may arise during or related to the ADR process.

Alternative Dispute Resolution (ADR) is by its nature a fluid and flexible process; IST-ADR TPNs are not expected to adhere to any one process or approach. They are encouraged to rely on their creativity and experience to tailor each ADR process as much as appropriate to the needs of the Parties. This does not preclude Party to question the TPN's impartiality.

## **Guidelines**

1. A TPN should ensure that all parties are informed about The TPN's role and nature of the ADR process, and that all Parties understand the terms of settlement.
2. A TPN should protect the voluntary participation of each Party. The right of the parties to reach a voluntary agreement is central to the ADR process. Consequently, a TPN should act and conduct the process in ways that maximize its voluntariness.
3. A TPN should be competent in the particular matter. A TPN should have sufficient knowledge of procedural and substantive issues to be effective, and should withdraw from the ADR Process if the TPN becomes physically or mentally unable to meet the reasonable expectations of the parties.
4. ATPN should maintain the confidentiality of the process, TPN's should explain to all parties:
  - Any applicable laws, rules or agreements prohibiting disclosure in subsequent legal proceedings of offers and statements made and documents produced during the session.
  - The TPN's role in maintaining confidence within the ADR Process and as to third parties.
5. A TPN should conduct the process impartially. A TPN should endeavour to provide a procedurally fair process in which each party is given an adequate opportunity to participate. A TPN should disclose any information that reasonably could lead a the TPN from serving in another dispute resolution capacity with a party, insurer or counsel involved in prior mediation/conciliation
6. A TPN should refrain from providing legal advice. A TPN should particularly be sensitive to role difference if any party is unrepresented by counsel at the ADR Process.
7. A TPN should withdraw under certain circumstances for instance if the ADR Process is used to further illegal conduct, lack of informed consent, conflict of interest that has not or cannot be waived, a TPN's inability to remain impartial or if procedural or substantive unfairness appears to have undermined the integrity of the ADR Process.

## PRINCIPLES OF ADR ETHICS

### ***Conflict of Interest***

TPN's must avoid serving in cases where they have a direct, Professional or financial interest in the outcome of the dispute  
In situations of indirect interest, TPN's should make full and proper disclosure.

### ***Competence***

TPN's have a duty to know the limits of their ability; to avoid taking on assignments they are not equipped to handle; and to communicate candidly with the parties about their background and experience.

### ***Impartiality***

During the ADR process(from beginning to end), the TPN's words Manners, body language and process management must reflect an even-handed approach.

### ***Voluntariness***

Even in court-ordered ADR process, then parties settlement Agreement must be a product of the Parties freewill i.e. parties duty is to participate and negotiate in good faith and if possible, to reach an agreement.

### ***Confidentiality***

TPN's must safeguard the privacy and confidentiality of the ADR process vis-à-vis third parties (ie those outside the ADR process)  
TPNs must also maintain the confidentiality of anything said during caucusing.

### ***Do no harm***

TPN must avoid conducting the process in a manner that harms the participants or worsens the dispute.

### ***Self-determination***

Party autonomy is a guiding principle in ADR process; TPN should prevent one party from dominating the other parties in the ADR process in a manner that prevents them from being able to make their own decisions.

### ***informed Consent***

A voluntary, self determined resolution of a dispute will serve the Parties interest only if it is an informed choice. TPN's should make sure that parties have enough date to assess their options for settlement and their alternatives to settlement.

### ***Duties to third Parties***

TPN's in some cases have a duty to ask parties for information about the impact of the settlement on others and encourage them to bring the interests of one or more third parties to bear on the discussion in the ADR process.

### ***Honesty***

TPN's have a duty of honesty for full and fair disclosure of:

- a) their qualifications and prior experience
- b) any fees that the parties will be charged for the ADR process.
- c) Any other aspect of the ADR process which may affect their willingness to participate in the process.