



Code of Conduct for Community Representatives

Sutherland Shire Council

Document review and approval

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TABLE OF CONTENTS

| | |
|---|---|
| 1. INTRODUCTION | 2 |
| 1.1. The purpose of the Code | 2 |
| 2. GUIDE TO ETHICAL DECISION MAKING | 2 |
| 3. BEHAVIOUR AT MEETINGS | 3 |
| 4. OTHER RESPONSIBILITIES OF REPRESENTATIVES | 3 |
| 4.1 Bribes, gifts, benefits..... | 3 |
| 5. CONFLICT OF INTEREST | 4 |
| 5.1 When is there a conflict of interest? | 4 |
| 5.2 How should a conflict of interest be dealt with? | 5 |
| 6. USE OF RESOURCES | 5 |
| 7. USE OF INFORMATION | 5 |
| 7.1 Access to Information | 6 |
| 8. WHAT ARE THE LEGITIMATE EXPECTATIONS IF THIS CODE IS OBSERVED? | 6 |
| 9. REPORTING IMPROPER CONDUCT | 6 |
| 10. BREACHES OF THIS CODE | 6 |

1. INTRODUCTION

This Code forms part of the general obligation imposed by *Sutherland Shire Council's Code of Conduct* on persons participating in the decision making process of Council, to act honestly and to exercise a reasonable degree of care and diligence in carrying out their functions. This Code of Conduct describes the minimum standard of behaviour that is to be adhered to by representatives on council sub-committees, advisory committees, working parties and the like in their dealings with Council.

The role of Council sub-committees, advisory committees, working parties and so on (hereafter called committee), is to formulate responses, and provide information and advice to matters either referred to them by council, or matters with which they were specifically set up to review. The committees are advisory only, and it is still the role of the elected councillors (as a council) to make decisions.

1.1 The purpose of the Code

To assist persons participating in the decision making process to:

- Meet their duty to act honestly and exercise a reasonable degree of care and diligence;
- Provide a means of identifying and resolving situations which involve conflict of interest or improper use of their position/role; and
- Act in a way which enhances public confidence in the representatives on SSC sub-committees.

2. GUIDE TO ETHICAL DECISION MAKING

To assist in fostering a climate of ethical awareness, conduct and decision-making in Council, representatives may find it useful to refer to or consider, either by themselves or in consultation with others such as their peers or the chairperson, the following six points:

1. Is the decision or conduct lawful?
2. Is the decision or conduct consistent with government policy and in line with the committee's objectives and code of conduct?
3. What will the outcome be for the representative; the committee; the council; and other parties?
4. Do these outcomes raise a conflict of interest or lead to private gain at public expense?
5. Can the decision or conduct be justified in terms of the public interest and would it withstand public scrutiny?
6. How would the representative feel if the decision or conduct was reported on the front page of a newspaper?

3. BEHAVIOUR AT MEETINGS

A representative should:

- Show respect at all times to staff, Councillors, and other representatives or any other members of the community who may be attending or observing the Committee meeting, function or activity;
- Provide advice based only on fact and be truthful in all involvement with the committee; and
- Not be under the influence of alcohol or drugs while attending a meeting, function or activity while acting in their capacity as a representative of the Committee.

4. OTHER RESPONSIBILITIES OF REPRESENTATIVES

Representatives must:

- Act in accordance with the law;
- Act reasonably, justly, honestly and in a non-discriminatory manner;
- Ensure that all members of the community and others participating in the activities of the committee are treated equitably and with respect.
- Deal with all issues and situations in a like manner, treating each matter on its merit;
- Take all relevant information into consideration and must not take any irrelevant information or opinion into consideration;
- Ensure that the information upon which decisions or actions are based on are factually correct and that all necessary information has been obtained;
- Refrain from any form of conduct which may cause any reasonable person unwarranted offence or embarrassment or give rise to the reasonable suspicion or appearance of improper conduct or biased performance; and
- Not act for an improper or ulterior purpose or on irrelevant grounds.

4.1 Bribes, gifts, benefits:

Representatives must never demand or request any gift or benefit, for themselves, for anyone else, or for the committee, in connection with their committee's functions.

Token or non-token gifts or benefits must not be accepted if it is considered the gift is designed to influence, or a fair observer might think the representative could be influenced to act in a partial manner in the course of their duties as a result of the gift.

Token gifts and benefits are those, which do not have a significant monetary value, are inconsequential or trivial, are not offered on a frequent basis and ideally can be shared. Gifts and benefits that are more than token are those with a significant value. For a non-token gift or benefit to be acceptable, it would be necessary to demonstrate that it would provide a clear benefit to the Committee.

If a recipient wishes to disclose a gift or benefit, the recipient should also notify the Committee Chairperson in writing stating the provider, the gift or benefit and the condition or nature surrounding the provision of the gift or benefit.

To ensure transparency, and to protect representatives, the committee will record all notifications of non-token and token gifts in the committee minutes. Responsibility for the notification rests with the representative.

In summary, a representative must:

- Not seek or accept any inducement in the performance of the committee functions;
- Not take advantage of his or her position to improperly influence others; and
- Not by virtue of his or her position acquire a personal benefit or advantage.

5. CONFLICT OF INTEREST

Conflicts of interest exist when it is likely that a person could be influenced or could be perceived to be influenced by a personal interest in carrying out their public duty. Conflicts of interest that lead to biased decision making may constitute corrupt conduct.

It is essential that members of the public when dealing with Council can be confident that when making decisions staff, Councillors, Representatives on Sub-Committees, and those persons participating in the decision making process are free of any conflicts of interests.

If any conflict exists between personal interests and those of the representative it must always be resolved to the satisfaction of the Council.

The representative must avoid and appropriately resolve any conflict or incompatibility between his or her private or personal interest and the impartial performance of his or her function.

5.1 When is there a conflict of interest?

Conflicts of interests can be of two types:

A. Pecuniary Interest

This is an interest where there is a possibility of a reasonable financial gain or loss to the representative, or to another person with whom the representative is associated. This would include spouse, de facto partner or a relative.

B. Non-Pecuniary

This is a private or personal interest, which may exist and does not relate to financial interests. Examples include a friendship, neighbours, family relationship, political, business and other relationships.

Perceptions of conflicts of interest may be as important as actual conflicts of interest. Therefore even if the person does not consider that a conflict exists it is important to consider how a reasonable person would view the situation. In many cases only the representative will be aware of the potential for conflict. Therefore the onus is on the representative to notify the chairperson of any possible conflict of interest.

5.2 How should a conflict of interest be dealt with?

If the interest is pecuniary the representative may participate in discussions but may NOT vote on the matter.

If the interest is non-pecuniary the representative may participate in discussions and may vote, depending on the nature of the non-pecuniary interest.

Where there is a conflict of interest or where a reasonable person could perceive a conflict of interest, it should be noted in the minutes of the committee meeting with a statement regarding whether that person or persons took part in the discussion and/or in the voting.

Note:

- The onus is on the individual to determine if a conflict exists not the Chairperson or any other person.
- Persons must declare their interest orally at the meeting and such should be recorded in the minutes eg "Mr declared a pecuniary interest in this item and did not vote on the matter."

6. USE OF RESOURCES

A representative must:

- Use resources effectively and economically and **only** for the business of the committee as defined in the specific charter; and.
- Not use resources, under any circumstances, in relation to a second job, other business, for personal financial gain, or lent to others.

7. USE OF INFORMATION

A representative must:

- Conduct themselves in a manner which allows all members of the community involved with the committee to be fully and accurately informed on issues involving the committee;
- Not disclose official information or documents acquired as a consequence of membership of the committee, other than is required by law or when the member has been given proper authority to do so;
- Not use any information, which has been specifically supplied under the heading of 'confidential' that might be acquired by the representative, to pursue a vested interest or gain a personal benefit;
- Not divulge or communicate any personal information, or information which has been specifically supplied under the heading of 'confidential', to anyone other than another member, prior to the matter being made 'non-confidential' at a Council meeting.

7.1 Access to information

Representatives have the same general right of access to Council information as any member of the public under the *Local Government Act (1993)*, *Government Information (Public Access) Act, 2009 (GIPA Act)*, *Privacy and Personal Information Protection Act (1999)* and *Environmental Planning and Assessment Act (1979)*.

Representatives have a right to information that is necessary for exercising committee functions. Representatives seeking information on policy issues or operational matters, directly relating to a matter under consideration by the Committee, and in the exercise of their role as a committee member, should contact the relevant chairperson of the committee.

Subject to the nature of the request, the representative may be requested to complete an application for information.

In interacting with officers, representatives must restrict their dealings with officers to normal working hours, must not use overbearing or threatening behaviour, and respect that officers may not be able to provide all information requested. Provision of information will be considered in accordance *with Council's Customer Response Policies* and relevant legislation.

8. WHAT ARE THE LEGITIMATE EXPECTATIONS IF THIS CODE IS OBSERVED?

Any representative that honestly and faithfully observes all the requirements of this Code is entitled to expect the support of the Council.

9. REPORTING IMPROPER CONDUCT

Any member of a committee who knows or has good reason to suspect improper or unfair conduct by any representative should immediately report such conduct to the chairperson, the General Manager or the Internal Ombudsman.

10. BREACHES OF THIS CODE

Sanctions may be applied if this Code is breached. Depending on the nature of the breach sanctions may include:

- The Representative explain particular actions in writing;
- Formal counselling by the chairperson of the committee to the representative, as determined by the General Manager; and/or
- Removal of the representative from the council committee.