

DRAFT

Advisory Committees Code of Conduct

Adapted from the
Model Code of
Conduct for Local
Councils in NSW
2018

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1. Introduction

The Advisory Committee Code of Conduct applies to members of Randwick City Council Advisory Committees which includes working groups, reference groups and Precinct Executive members. It is shortened and adapted from the *Model Code of Conduct for Local Councils in NSW* (“the Model Code of Conduct”), which has been prescribed under the *Local Government (General) Regulation 2005* (the “Regulation”).

Randwick Council values the contribution Advisory Committees make to the Randwick City community as part of Council’s community engagement strategy.

Having a minimum set of standards for the behaviour and activities of Advisory Committees is designed to ensure integrity, accountability and transparency. It also provides the community and Advisory Committees members with confidence in the operation of the committees.

Advisory Committees are advisory and do not have any decision-making authority.

Failure by an Advisory Committee member to comply with this document may lead to a range of disciplinary action including removal from the committee.

2. Definitions

In this code the following terms have the following meanings:

	Definition
advisory committee	committees formed by Council with no delegated functions or decision-making authority including but not limited to Precinct Committees, working groups and advisory groups
advisory committee member	an elected or appointed member of an advisory committee including Precinct Executives but not Precinct members (see separate definition)
committee	see the definition of “council committee”
council	includes county councils and joint organisations
council committee	a committee established by a council comprising of councillors, staff or other persons that the council has delegated functions to
council committee member	a person other than a councillor or member of staff of a council who is a member of a council committee other than a wholly advisory committee
council official	includes councillors, members of staff of a council, administrators, council committee members and delegates of council
councillor	any person elected or appointed to civic office, including the mayor and includes members and chairpersons of county councils and voting representatives of the boards of joint organisations and chairpersons of joint organisations
conduct	includes acts and omissions
delegate of council	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated
election campaign	includes council, state and federal election campaigns
General Manager	includes the executive officer of a joint organisation
LGA	the Local Government Act 1993
members of staff of a council	includes members of staff of county councils and joint organisation
the Office	Office of Local Government

	Definition
personal information	information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion
Precincts	Regular, structured, resident meetings operated voluntarily by local residents as part of Randwick City Council's Precinct system.
Precinct Executive	An elected office bearer of a Precinct as voted at a properly convened meeting of the Precinct where a properly constituted election took place and the results have been accepted by the Council (The Precinct Executive is typically, but not limited, to the Chairperson, Secretary and Treasurer).
Precinct member	A resident or ratepayer within a prescribed Precinct area
wholly advisory committee	a council committee that the council has not delegated any functions to

3. General Conduct Obligations

General conduct

- 3.1 You must not conduct yourself in a manner that:
- is likely to bring the Advisory Committee, council or council officials into disrepute
 - is improper or unethical
 - is an abuse of power
 - causes, comprises or involves intimidation or verbal abuse
 - involves the misuse of your position to obtain a private benefit
 - constitutes harassment or bullying behaviour under this code, or is unlawfully discriminatory.

Fairness and equity

- 3.2 You must consider issues consistently and fairly. You must deal with matters in a non-discriminatory manner.
- 3.3 You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case.
- 3.4 An act or omission in good faith, whether or not it involves error, will not constitute a breach of clauses 3.2 or 3.3.

Harassment and discrimination

- 3.5 You must not harass or unlawfully discriminate against others, or support others who harass or unlawfully discriminate against others, on the grounds of sex, pregnancy, breastfeeding, race, age, marital or domestic status, homosexuality, disability, **transgender status**, **infectious disease**, **carer's responsibilities** or political, religious or other affiliation.
- 3.6 **For the purposes of this code, "harassment" is any form of behaviour towards a person that:**
- is not wanted by the person
 - humiliates or intimidates the person, and
 - creates a hostile environment.

Bullying

- 3.7 You must not engage in bullying behaviour towards others.
- 3.8 **For the purposes of this code, "bullying behaviour" is any behaviour in which:**
- a person or a group of people repeatedly behaves unreasonably towards another person or a group of persons, and

- b) the behaviour creates a risk to health and safety.
- 3.9 Bullying behaviour may involve, but is not limited to, any of the following types of behaviour:
- a) aggressive, threatening or intimidating conduct
 - b) belittling or humiliating comments
 - c) spreading malicious rumours
 - d) **teasing, practical jokes or 'initiation ceremonies'**
 - e) displaying offensive material
 - f) pressure to behave in an inappropriate manner

(Note: bullying behaviour includes, but is not limited to, verbal and written comments (via email and/or social media etc).

4. Pecuniary Interests

It is important for the transparency and integrity of Advisory Committees that members appropriately manage interests that they or their relatives may have in matters being discussed.

Given the local nature of matters being discussed by Advisory Committees, it is likely that potential conflicts of interest may rise from time to time and it is important that Advisory Committees members manage these conflicts so the community can maintain confidence in the Advisory Committee system.

What is a pecuniary interest?

- 4.1 A pecuniary interest is an interest that you have in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to you or a person referred to in clause 4.3.
- 4.2 You will not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence you, or if the interest is of a kind specified in clause 4.6.
- 4.3 For the purposes of this Part, you will have a pecuniary interest in a matter if the pecuniary interest is:
- a) your interest, or
 - b) the interest of your spouse or de facto partner, your relative, or your partner or employer, or
 - c) a company or other body of which you, or your nominee, partner or employer, is a shareholder or member.
- 4.4 For the purposes of clause 4.3:
- a) **Your "relative" is any of the following:**
 - i) your parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
 - ii) **your spouse's or de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child**
 - iii) the spouse or de facto partner of a person referred to in paragraphs (i) and (ii).
 - b) **"de facto partner" has the same meaning as defined in section 21C of the Interpretation Act 1987.**
- 4.5 You will not have a pecuniary interest in relation to a person referred to in subclauses 4.3(b) or (c):
- a) if you are unaware of the relevant pecuniary interest of your spouse, de facto partner, relative, partner, employer or company or other body, or
 - b) just because the person is a member of, or is employed by, a council or a statutory body, or is employed by the Crown, or
 - c) just because the person is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.

Disclosure of pecuniary interests at meetings

- 4.8 An Advisory Committees Member who has a pecuniary interest in any matter with which the Advisory Committee is concerned, and who is present at a meeting when the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.
- 4.9 The Advisory Committees member must not be present at, or in sight of, the meeting at any time during which the matter is being considered or discussed by the Advisory Committee, or at any time during which the Advisory Committee is voting on any question in relation to the matter.
- 4.13 A disclosure made at an Advisory Committee meeting must be recorded in the minutes of the meeting. The minutes should also record that the person with the pecuniary interest was not present during consideration of the matter.

5. Non-Pecuniary Conflict of Interest

What is a non-pecuniary conflict of interest?

- 5.1 Non-pecuniary interests are private or personal interests an Advisory Committee member has that do not amount to a pecuniary interest as defined in clause 4.1 of this code. These commonly arise out of family or personal relationships, or out of involvement in sporting, social, religious or other cultural groups.
- 5.2 A non-pecuniary conflict of interest exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your functions in relation to a matter.
- 5.3 The personal or political views of an Advisory Committee member do not constitute a private interest for the purposes of clause 5.2.

Managing non-pecuniary conflicts of interest

- 5.4 How you manage a non-pecuniary conflict of interest will depend on whether or not it is significant.
- 5.5 As a general rule, a non-pecuniary conflict of interest will be significant where it does not involve a pecuniary interest, but it involves:
 - a) a relationship between an Advisory Committee member and another person who is affected by a matter under consideration that is particularly close, such as a current or former spouse or de facto partner, or another person from the Advisory Committee **member's** extended family that the Advisory Committee member has a close personal relationship with
 - b) other relationships with persons who are affected by a matter under consideration that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship
 - c) an affiliation between the Advisory Committee member and an organisation (such as a sporting body, club, religious, cultural or charitable organisation, corporation or association) that is affected by a matter under consideration that is particularly strong.

Disclosure of non-pecuniary interests at meetings

- 5.8 An Advisory Committee member who has a significant non-pecuniary interest in any matter with which the Advisory Committee is concerned, and who is present at a meeting when the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.
- 5.7 The Advisory Committee member must not be present at, or in sight of, the meeting at any time during which the matter is being considered or discussed by the Advisory Committee, or at any time during which the Advisory Committee is voting on any question in relation to the matter.

- 5.8 A disclosure made at an Advisory Committee meeting must be recorded in the minutes of the meeting. The minutes should also record that the person with the pecuniary interest was not present during consideration of the matter.
- 5.8 If an Advisory Committee member determines they have a non-pecuniary conflict of interest in a matter that is not significant, it should be declared at the meeting as soon as practicable and recorded in the minutes.
- 5.8 An Advisory Committee member with a non-pecuniary, non-significant interest in a matter can participate in debate and voting on that matter.

Personal dealings with council

- 5.8 You may have reason to deal with your council in your personal capacity (for example, as a ratepayer, recipient of a council service or applicant for a development consent granted by council). You must not expect or request preferential treatment in relation to any matter in which you have a private interest because of your position. You must avoid any action that could lead members of the public to believe that you are seeking preferential treatment.
- 5.9 You must undertake any personal dealings you have with the council in a manner that is consistent with the way other members of the community deal with the council. You must also ensure that you disclose and appropriately manage any conflict of interest you may have in any matter in accordance with the requirements of this code.

6. Personal Benefit

Gifts and benefits

- 6.1 A gift or a benefit is something offered to or received by an Advisory Committee member or someone personally associated with them for their personal use and enjoyment.
- 6.3 You must avoid situations that would give rise to the appearance that a person or body is attempting to secure favourable treatment from you or from the council, through the provision of gifts, benefits or hospitality of any kind to you or someone personally associated with you. An example of this may be a local retailer offering you free drinks or meals because they know you are an Advisory Committee member. If the gift or benefit is being offered because of your status, it is likely to be inappropriate to accept.
- 6.4 A gift or benefit is deemed to have been accepted by you where it is received by you or someone personally associated with you.

How are offers of gifts and benefits to be dealt with?

- 6.5 You must not:
 - a) seek or accept a bribe or other improper inducement
 - b) seek or accept gifts or benefits of any kind in relation
 - c) accept any gift or benefit, regardless of the value, that may create a sense of obligation on your part, or that of the Advisory Committee, or may be perceived to be intended or likely to influence you in carrying out your role.
 - d) accept an offer of cash or a cash like gift (such as a gift voucher, lottery ticket, membership with benefits, debit card with credit on it), regardless of the amount
- 6.6 Where you receive a gift or benefit regardless of the value you must disclose this promptly to the general manager in writing. The recipient must ensure that, at a minimum, the following details are recorded in **the council's gift register**:
 - a) the nature of the gift or benefit
 - b) the estimated monetary value of the gift or benefit

- c) the name of the person who provided the gift or benefit, and
- d) the date on which the gift or benefit was received and returned.

Where you receive a gift or benefit whether of token value or of more than token value that cannot reasonably be refused or returned, the gift or benefit must be surrendered to the council, unless the nature of the gift or benefit makes this impractical, in which case it will be donated to a local charity if it is unable to be returned.

Improper and undue influence

- 6.8 You must not use your position to influence council officials in the performance of their official functions to obtain a private benefit for yourself or for somebody else.
- 6.9 You must not take advantage (or seek to take advantage) of your status or position with council, or of functions you perform, in order to obtain a private benefit for yourself or for any other person or body.

7. Use of Council Resources and Social Media

Use of council resources

- 7.1 You must use council resources ethically, effectively, efficiently and carefully in exercising your role.
- 7.2 You must avoid any action or situation that could create the appearance that council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.
- 7.3 You must not use the council letterhead, council crests, council email or social media or other information that could give the appearance it is official council material.

Internet access and use of social media

- 7.4 You must not use social media to post or share comments, photos, videos, electronic recordings or other information that:
 - a) is offensive, humiliating, threatening or intimidating;
 - b) divulges confidential council information; or
 - c) breaches the privacy of council officials or those that deal with council.

8. Breaches and complaints

- 8.1 Complaints about alleged breaches of the Advisory Committees Code of Conduct must be made in writing and addressed to the general manager.
- 8.2 The general manager is responsible for the management of complaints about Advisory Committees and for determining the outcome of such complaints.
- 8.3 The review of complaints about breaches of the Advisory Committees Code of Conduct will be conducted inline with the *Procedures for the Administrations of the Model Code of Conduct for Local Councils in NSW* (the Procedures). Where there is discrepancy between the Advisory Committees Code of Conduct and the Procedures, the Procedures document takes precedence.
- 8.4 The general manager must refer code of conduct complaints alleging a breach of the pecuniary interest provisions to the Office of Local Government.

- 8.5 The general manager may decide to take no action in relation to a code of conduct complaint other than one requiring referral to the Office of Local Government where they consider that no action is warranted in relation to the complaint.
- 8.6 Where the general manager decides to take no action in relation to a code of conduct complaint, the general manager must give the complainant reasons in writing for their decision and this shall finalise the consideration of the matter under these procedures.
- 8.7 Where the general manager considers it to be practicable and appropriate to do so, the general manager may seek to resolve complaints by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour.
- 8.8 The resolution of a complaint under this clause is not to be taken as a determination that there has been a breach of the Advisory Committees Code of Conduct.
- 8.9 Where the general manager resolves a code of conduct complaint, the general manager must notify the complainant in writing of the steps taken to resolve the complaint and this shall finalise the consideration of the matter under these procedures.
- 8.10 Sanctions for breaches of the Advisory Committees Code of Conduct depend on the severity, scale and importance of the breach and may include one or more of the following:
- a. censure
 - b. requiring the person to apologise to any person or organisation adversely affected by the breach in such a time and form specified by the general manager
 - c. prosecution for any breach of the law
 - d. removing or **restricting the person's** delegation
 - e. removing the person from the Advisory Committee
- 8.11 Prior to imposing a sanction against an Advisory Committee member, the general manager or any person making enquiries on behalf of the general manager must comply with the requirements of procedural fairness. In particular:
- a. the substance of the allegation (including the relevant provision/s of the Advisory Committees Code of Conduct that the alleged conduct is in breach of) must be put to the person who is the subject of the allegation, and
 - b. the person must be given an opportunity to respond to the allegation, and
 - c. **the general manager must consider the person's response in deciding whether to impose a sanction.**

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