

Department of Climate Change, Energy, the Environment and Water

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Code of Conduct

Tumut River Works Program Reference Group

May 2024



Acknowledgement of Country

The Department Climate Change, Energy, the Environment and Water acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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About the Code of Conduct

1 Introduction and application of the Code

As public officials, members of committees, including reference groups, have obligations to act in the public interest. As a committee member there is a requirement to demonstrate standards of professional behaviour preserving public trust and delivering the best possible outcomes for the people of NSW.

Members of Tumut River Works Program Reference Group are required to comply with a range of NSW public sector and Department of Climate Change, Energy, the Environment and Water legislative and administrative requirements. These include the NSW Public Service Commission Code of Ethics and Conduct for NSW Government sector employees, the department's *Code of Ethics and Conduct* and *Cabinet Office M2013-06-Boards and Committees Guidelines*.

This Code of Conduct provides supplementary guidance on the standards of behaviour expected from the program's reference group members.

1.1 Values

As detailed in the *Government Sector Employment Act 2013*, the NSW Government's core values are:

- integrity
- trust
- service
- accountability.

These core values are the heart of how we work, and if applied consistently, help us to maintain the trust of the public.

1.2 Standards of conduct

This Code outlines the standards of conduct expected of committee members in exercising their functions. It is the personal responsibility of each committee member to comply with this Code.

The Code has been developed to ensure committee/reference group members:

- commit to upholding a high degree of professional service and ethical leadership
- act in a way that promotes public confidence in committee/reference group conduct
- have a clear understanding of their public duty and legal responsibilities
- act for proper purposes without exceeding their powers
- exercise due diligence in all their functions.

1.3 General conduct

A committee member must:

- act honestly and exercise a reasonable degree of care and diligence in carrying out their functions
- act for a proper purpose in carrying out their functions
- not use their membership for personal advantage
- not use their membership to the detriment of the committee/reference group
- disclose any interest, whether pecuniary (financial) or otherwise, that could conflict with the proper performance of their functions and avoid performing any function that could involve such a conflict of interest.

1.4 Work, health and safety

Ensuring people working for the department have a safe place to work is a top priority, as is public safety. Committee members are considered ‘workers’ for the purposes of the *Work Health and Safety Act 2011* and the *Work Health and Safety Regulation 2017*. The department is committed to eliminating and minimising work health and safety (WHS) risks as far as reasonably practicable. Committee members are responsible for:

- being aware of the safety systems and practices that help keep everyone safe and well
- looking for hazards, and taking action if a safety risk is identified and it is safe to do so
- reporting all WHS incidents, including near misses, to the committee Secretariat who will liaise with the department’s WHS team.

1.5 Respect and inclusion

Respect and inclusion are fundamental to a harmonious, productive and psychologically safe workplace where people feel safe to speak up about concerns. The department is committed to ensuring a safe environment in which everyone feels they can achieve their potential.

The department has zero tolerance for harassment or victimisation. Members are responsible for:

- treating people with dignity and respect, and contributing to a positive and productive space
- making sure people feel valued and are able to fully participate
- not discriminating against, harassing or victimising anyone on any grounds including:
 - sex, gender identity or sexual orientation
 - marital status
 - pregnancy
 - age
 - race or ethnicity
 - physical or intellectual disability
 - political or religious conviction.
- demonstrating inclusive behaviours and using inclusive language
- creating a workplace that is safe and offers protection from sexual, physical and psychological harassment and neglect
- preventing bullying.

1.6 Conflicts of interest

A conflict of interest exists when a reasonable person might perceive a public official's personal interest(s) could be favoured over their public duties.

There are four elements to consider when determining whether a conflict of interest exists:

- does the official have a personal interest?
- does the official have a public duty?
- is there a connection between the personal interest and the public duty?
- could a reasonable person perceive the personal interest might be favoured?

Conflicts of interest do not, in themselves, usually constitute corrupt conduct. Corrupt conduct can, however, arise when a conflict of interest is concealed, understated, mismanaged or abused.

Examples of when conflicts of interest can arise include when a member has one or more of the following relating to the subject matter of their work with the reference group/committee:

- other directorships or employment
- professional and business interests and associations
- investment interests or the investment interests of friends or relatives
- family relationships
- participation in party political activities
- personal beliefs or attitudes that affect impartiality.

The above list is indicative only and there may be other situations that can lead to a real or perceived conflict of interest.

A member has a duty to declare any private interest that may impinge on a committee decision. When an issue arises, the committee/reference group member must as soon as practicable disclose full and accurate details of the interest or issue to the Chair of the committee. A member must disclose interests to the committee/reference group (which include positions and pecuniary interests) in corporations, partnerships or other businesses or organisations that may be relevant to the activities of the committee/reference group. A member's interests include those of an associate or close relative.

General disclosures must be made at the beginning of a member's term. Members must make specific disclosures as soon as possible after the relevant facts come to the member's knowledge, and they must be recorded by the committee/reference group in the minutes of the meeting.

A register of such interests must be maintained by the committee/reference group.

1.7 Gifts, benefits and hospitality

Members should be aware it is illegal to seek, offer or receive money or gifts to obtain a benefit or favour. Members must not accept gifts or benefits placing them under an actual or perceived financial or moral obligation to another organisation or individual.

Offers of gifts, benefits or hospitality (other than light refreshments) should be politely refused. Members are required to report all offers of gifts, benefits or hospitality that are offered to them in their role as committee members. A committee/reference group may establish a Register of Gifts to provide a high degree of transparency.

2 Departmental resources

2.1 Appropriate use of resources

Departmental resources should only be used for departmental purposes. Human resources, equipment, furniture and other resources may be provided to a committee/reference group to perform its functions and should be used only in relation to those functions.

2.2 Public expenditure

Members must ensure the efficient and responsible expenditure of public monies in accordance with legislation and government policies and guidelines including the following:

- *Government Sector Finance Act 2018*
- *Government Sector Audit Act 1983*
- *Public Works and Procurement Act 1912* and the associated Board Directions.

Members of committees must comply with government financial, asset management and procurement requirements.

2.3 Intellectual property and copyright

All intellectual property created by members during their role as members of a committee is the intellectual property of the department. Members cannot sell or give away intellectual property created during or in connection with their appointment to a committee/reference group.

Members should provide the department with complete copies of any reports, documents or other materials created during their appointment as a committee/reference group member.

Intellectual property includes rights relating to scientific discoveries, industrial designs, trademarks, service marks, commercial names and designations, inventions and activity in the industrial, scientific, literary or artistic fields.

The department respects the rights of Aboriginal and Torres Strait Islander people to maintain, control, protect and develop cultural heritage, traditional knowledge and traditional cultural expressions. This commitment is formalised through the principles of the department's Indigenous Cultural and Intellectual Property Protocol.

2.4 Confidential and private information

During the course of their duties, members may have access to sensitive, personal and/or commercially confidential information. This information could relate to members of the community, the NSW Government or government employees. Such information is varied in form, including written information, stored information, e-documents and verbal information.

Such information may only be used for the purposes of the work of the committee/reference group. Members are expected to protect the integrity and security of information and documents for which they are responsible and to adhere to the principles of the *Privacy and Personal Information Protection Act 1998* and the department's *Privacy Management Plan*.

Members have an ongoing duty to protect confidential and private information even after they have retired from the committee/reference group.

Examples of misuse of official information or documents include:

- speculating on shares, commodities or property on the basis of confidential information about the affairs of a business or of proposed government actions
- seeking to take advantage of another person, for personal reasons, on the basis of information held in official records
- disclosing sensitive information to members of the public, political parties, clients, lobby groups, other public officials, other government organisations or members of Parliament, without proper authority
- providing or trading confidential information for use by private investigators, banks and credit agencies.

Members must:

- not use information for any unofficial purpose outside the committee/reference group
- use confidential or official information only in relation to their committee/reference group role and consistent with their obligation to act impartially
- be cautious and use sound judgement when discussing sensitive information with others
- not use information gained in their capacity as a committee/reference group member for personal gain
- not improperly collect, use or disclose the personal information of individuals including community and staff members
- not use information gained in the course of their committee/reference group role to cause harm or detriment to government or any person or organisation

- safely and securely store any committee/reference group records, including emails and electronic information
- not remove official information from government premises unless needed for committee/reference group purposes
- treat email and electronic records as carefully as hard copy information.

2.5 Release of information

The Government Information (Public Access) Act 2009 (GIPA Act) applies to public sector agencies including the committees that meet the definition of public sector agency in the GIPA Act.

Where a committee has delegated its obligations under the GIPA Act to the department, or it is considered a subsidiary agency under Schedule 3 of the GIPA Regulation, requests for information from the Information Access and Privacy Unit should be responded to promptly. All documents should be provided, and any sensitivities clearly articulated to the Information Access Officer handling the case.

2.6 Communicating with the media and third parties

Views publicly expressed by committee/reference group members may be perceived or construed by the broader community as views of the committee/reference group or the department.

Only authorised employees may comment publicly on the activities of the department.

Any request from the media to the committee/reference group must be referred to the department's media team immediately, by emailing media@environment.nsw.gov.au

All responses to media enquiries should be reviewed by the relevant business unit(s) and approved by the relevant Communications and Media Director. The relevant Communications and Media Director should escalate approvals for major contentious issues as needed.

Members should ensure any public comments made in a private capacity are not attributed as official comments by the committee/reference group. In this respect, members should not use official stationery for private correspondence or for purposes not related to their official duties.

Members must not:

- initiate contact with the media on matters or issues that have been subject to discussion by the committee/reference group
- make public comment on behalf of the committee/reference group or the department

- make public comment on (including to the media or on social media) any matter or issue that has been subject to discussion by the committee/reference group
- share any committee records with the media or on social media.

2.7 Speaking up and reporting matters

The department can only resolve problems and put improvements in place if people speak up and make the department aware of the situation.

The department will support people who speak up by listening and providing feedback on the actions they have taken and the reasons for these actions. Speaking up is more likely to be effective if it takes place early and in a constructive, courteous way.

2.8 Reporting allegations of impropriety and corrupt conduct

It is important that the conduct of committee members reflects the principles and ethical requirements set out in this Code at all times.

Corrupt conduct is the dishonest or partial exercise of official functions by a public official including the improper use of power or position as a committee member for personal gain or the advantage of others.

Maladministration is conduct that involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motives. It is more serious than a technical breach of policy or procedures.

Fraud is dishonestly obtaining a benefit, or causing a loss, by deception or other means including the unlawful use of information obtained as a committee member or equipment provided by the department for personal use.

The *Public Interest Disclosures Act 2022* provides a framework for public officials to report serious wrongdoing in the public sector, and to be protected when they do so. Members can make reports to the Chair or to the principal officer of the relevant public authority (usually the Secretary, Chief Executive Officer or General Manager) in accordance with the agency's internal reporting guidelines. Members can also report directly to the following investigative bodies:

- Disclosures concerning corrupt conduct should be made to [ICAC](#).
- Disclosures concerning maladministration should be made to the [NSW Ombudsman](#).

- Disclosures concerning serious and substantial waste of public money should be made to the NSW Audit Office.

2.9 Breach of the Code

It is important to remember that members are representatives of the NSW Government and are conducting work on behalf of the NSW Government. If a member does not comply with the Code, the Chair may direct the member to take a specified action to rectify their conduct or determine that further work is not allocated to the member until the breach is rectified. If the Chair is in breach of the Code, members of the committee may take similar relevant actions.

If members of the committee do not adhere to the Code of Conduct or are seen to display inappropriate ethical standards of behaviour, the department may take appropriate action. Where suspected breaches are related to the conduct of a member or the entire committee, the committee must consult with the department.

In the case of a serious breach, the Chair may need to refer to the department and consider appropriate action. Any action taken will consider the seriousness of the breach, whether there is a pattern of such conduct, the intent of the member concerned and the effect it is having on the work of the committee.