



Code of Conduct and Ethics

Committee Members of

NSW Regional Development Australia Committees

Contents

Introduction	2
Principles	2
Personal and Professional Behaviour	3
Fairness and Equity	3
Use of Information.....	4
Conditions of RDA Committee Membership and Employment.....	4
Conflicts of Interest	5
Gifts and Benefits.....	6
Public Comment	7
Corrupt and Unethical Conduct.....	7
Breaches of the Code	8
Allegations of Impropriety	8

Introduction

Regional Development Australia (RDA) is an Australian Government initiative to bring together all levels of government to enhance the growth and development of regional Australia.

RDA committees provide a strategic framework for growth in each region. The committees will develop local leadership, ensure input is provided to the Commonwealth, State and Local Governments on regional development issues and priorities, and assist regions in securing sustainable long term jobs, investment and regional prosperity. The committees will also play a vital role in raising awareness of programs and services available to regional communities.

Committee members are required to be people of good character who reflect accepted standards of behaviour. They need to be open, honest and accountable, and to act in good faith. Being a committee member carries responsibilities, as set out in this paper.

Committee members should make themselves aware of their responsibilities and the consequences.

Principles

RDA committee members are expected always to act in the best interests of the community in their dealings with other agencies of government, private sector and foreign business entities by:

- being honest and exercising all due care and diligence in the performance of their duties and functions;
- maintaining the confidentiality of information made available in the course of their duties and of RDA committee decisions;
- never making improper use of their position, or the information gained through that position, to the advantage of themselves or any other person;
- never taking any course of action that would bring into disrepute or otherwise disadvantage the RDA committee, the Department of Infrastructure, Transport, Regional Development and Local Government, the Parliamentary Secretary responsible for regional development or the Australian Government, the NSW Department of State and Regional Development, the Minister responsible for regional development or the NSW Government;

- disclose any material or personal interest in RDA committee or regional economic development matters, and subsequently abstain from any discussion or vote on those issues;
- being bound by, and committed to, decisions legitimately taken by the RDA committee, whether or not they agree with the decision;
- demonstrate loyalty to the public interest and to the RDA committee Charter and principles; and
- provide authorised persons, fellow members and auditors when asked with complete, accurate and correct information, which is not misleading in any respect.

Personal and Professional Behaviour

Duties must be performed diligently, impartially and conscientiously to the best of each member's ability. Members must abide by the New South Wales *Anti-Discrimination Act 1977 (NSW)* and the Commonwealth *Racial Discrimination Act 1975*.

Fairness and Equity

It is important that the principles of fairness and equity are both complied with and are seen to be complied with. These principles are:

- taking all relevant information into consideration and not taking any irrelevant information or opinion into consideration;
- dealing with like situations in a consistent and fair manner, but treating each matter on its merits;
- acting in a reasonable, just and non-discriminatory manner;
- taking all reasonable steps to ensure that the information upon which decisions or actions are based is factually correct and that all relevant information has been obtained and considered; and
- only acting for proper and relevant purposes, and on proper and relevant grounds.

Use of Information

Much of the information provided to an RDA committee is with the understanding that the information will be treated as confidential, commercial-in-confidence and/or sensitive. It is important to ensure the integrity and security of official documents for which committee members are responsible and to respect the rights of the providers of information. All information obtained by a person in their role as a committee member should be considered to be confidential, unless indicated otherwise. Confidential information must not be released unless:

- required by law;
- the provider has consented to the release;
- freedom of Information legislation requires the release; and
- permission has been granted by either the NSW or Australian Governments.

Conditions of RDA Committee Membership

Appointees to RDA committees are expected to represent the broad interests of the region, rather than those of any particular organisation(s) or business, and must be available to participate in committee meetings and activities. Committee members must:

- as a matter of principle, be excluded from tendering for consultancy or contract work for or on behalf of the Committee;
- abide by *the Associations Incorporation Act 1984 (NSW)* and its Regulations, and the conditions stipulated by the NSW Department of State and Regional Development and the Department of Infrastructure, Transport, Regional Development and Local Government in contracts with the RDA Committee regarding the allocation of administration and/or project funds; and
- be people of good character who reflect accepted standards of community behaviour. This includes, but is not limited to, not having a civil or criminal conviction punishable by a period of imprisonment and not being an undischarged bankrupt.

Conflicts of Interest

In the interests of sound administration and fair dealing, it is important that all conflicts of interest, whether real, perceived or potential, are declared by committee members and are dealt with in the appropriate manner. This will ensure the protection of the committee members.

In considering whether or not there is a possible conflict of interest, it is always important to think about how others would view the situation. A conflict of interest would exist where:

- a committee member has a personal interest that could lead to the member being improperly influenced in the way that he or she carries out committee work, including making decisions;
- a committee member has a personal interest that could lead a reasonable person to think that the Committee member could be improperly influenced in the way that he or she carries out Committee work;
- a spouse, a family member, relative, friend, associate or anybody else close to the committee member has an interest that could lead to the member being improperly influenced, or a reasonable person to think that the member could be improperly influenced, in the way he or she carries out his or her Committee work; or
- a committee member, or a member of his/her immediate family, an employee, or a member of an employee's immediate family, obtains a consultancy or contractual arrangement or employment arising from knowledge obtained from the Committee member's position on the Committee.

Personal interests may include pecuniary and non pecuniary interests.

There are other situations that could give rise to conflicts of interest, or the perception of conflicts. Situations which may involve conflicts of interest include past and future employment relationships which could result in an advantage to the committee member, and the interests of an organisation in which the committee member has a position.

In many cases, only the committee member will be aware of the potential for conflict of interest. Therefore, the onus is on the committee member to declare their conflict of interest to the Chair or Executive Officer of the RDA committee, and to remove themselves from discussions where conflict of interest has been declared. In such cases, the RDA Chair and Executive Officer will ensure that the papers pertinent to the potential conflict are not provided to the committee member. Where there are doubts about the existence of a conflict of interest, the matter must be resolved in favour of the committee, that is in the same manner as an established conflict of interest.

If a committee member believes that he or she has a conflict of interest then the member must notify the Chair of the committee or the committee members present at the meeting of that conflict of interest. Where possible, the notification should be in writing and must be noted in the minutes. A register of such information is to be kept by the committee and updated annually.

Once the disclosure is made, the meeting may resolve that the committee member may stay in the room, and if it is so resolved, whether he or she may participate in discussions. If a conflict of interest is present, the committee member must not take part in any discussion or decision of the committee with respect to the matter.

In exceptional circumstances, with the minuted consent of the meeting, the person may be requested to provide information pertaining to the conflict of interest by the committee. More information on “conflicts of interest” may be gained by visiting the Independent Commission against Corruption (ICAC) at www.icac.nsw.gov.au.

Gifts and Benefits

A committee member must never demand or request any gift or benefit for the member or anyone else in connection with his or her committee work. A member should not accept any gift or benefit if he or she, or a reasonable person, thinks that the person offering the gift is likely to expect the member to be influenced in the way that he or she does his or her committee work as a result of the gift.

Generally, non-token gifts should be accepted only in exceptional circumstances. Where non-token gifts are accepted, it would be appropriate to inform the Chair of the Committee or the next meeting of the committee. If the member is in any doubt about whether or not a gift is token, he or she should notify the Chair.

Public Comment

With respect to activities funded by the New South Wales or Australian Governments, the committee should not make any statements or give undertaking that could be interpreted as committing the State Minister, Australian Government Minister, the NSW Government or the Australian Government to a particular action or expenditure. This position should be made clear in any negotiations which the committee, its members, employees or representatives undertake with any company, firm or other body, or member of the public.

Whilst it is recognised that committee members as members of the community have the right to make public comment and enter into public debate on political and social issues, care must be taken not to convey the impression that such comment is an official comment made in their capacity as a committee member. If it is not possible for the committee member to make it clear that he or she is speaking personally, it may be appropriate not to make any public comment.

While constructive criticism of the operations of RDA and the departments is welcome, it is inappropriate for such criticism to be reflected in press releases, public documents or statements. The Chair has the role of channelling matters of this nature to the State and Commonwealth Ministers and/or senior staff of their departments.

Corrupt and Unethical Conduct

If a committee member is aware of any possible corrupt or unethical conduct by any committee member(s), it must be reported to the Chair of the Committee. The member does not need to have proof that corruption or unethical conduct is occurring. He or she needs merely to suspect it on reasonable grounds.

Corrupt and unethical conduct can also be reported to the General Manager, Regional Policy and Engagement Branch, Local Government and Regional Development, Department of Infrastructure, Transport, Regional Development and Local Government, or the Executive Director, Regional Development, Department of State and Regional Development of the Independent Commission Against Corruption.

People who report possible corrupt or unethical conduct will not be penalised for reporting possible misconduct.

Breaches of the Code

Breaches of this Code of Conduct and Ethics (Code) are likely to result in disciplinary action. Sanctions, including termination of a committee member's appointment by the Ministers, will be considered in the event of a serious breach of the Code of Conduct.

Allegations of Impropriety

It is important that the conduct of Committee members is at all times perceived in the community to reflect the principles and ethical requirements set out in this Code. If allegations concerning the conduct of a member are made or aired in the public domain that, if true, would constitute a breach of the Code, the member concerned must stand down from the committee upon request by the Minister or his or her delegate.

Allegations made in the public domain include being:

- referred to in sworn evidence (either oral or written) in any court or tribunal proceeding;
- the subject of or named as a person of interest in any investigation by the Independent Commission Against Corruption;
- the subject of or named as a person of interest in any investigation by the NSW Ombudsman or Commonwealth Ombudsman; or
- the subject of or named as a person of interest in any investigation or proceedings by any other governmental or quasi-governmental body in any jurisdiction.

The member may resume his or her membership of the Committee when the relevant court, tribunal or other body makes a finding of fact that the allegations are unfounded, or otherwise when the Minister or his or her delegate so determines.

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