

SOUTHERN REGION WASTE RESOURCE AUTHORITY (SRWRA)

(P0-32) CODE OF CONDUCT FOR BOARD MEMBERS

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1. Introduction

This Code of Conduct is to be observed by all Board members. Board members must comply with the provisions of this code carrying out their functions as public officials. It is the personal responsibility of the Board members to ensure they are familiar with, and comply with the standards of the Code at all times.

2. Part 1 – PRINCIPLES

Higher Principles – Overarching Statement

This part does not constitute separate enforceable standards of conduct

Board members have a commitment to serve the best interests of the constituent councils and their respective communities and to discharge their duties conscientiously, to the best of their ability, and for public, not private, benefit at all times.

Board members will work together constructively and will uphold the values of honesty, integrity, accountability and transparency, and in turn, foster community confidence and trust in Local Government.

As representatives of open, responsive and accountable government, Board members are committed to considering all relevant information and opinions, giving each due weight, in line with the SRWRA's obligations.

In the performance of their role, Board members will take account of the diverse current and future needs of the constituent councils in decisions making, provide leadership and promote the interests of the SRWRA.

Board members will make every endeavor to ensure that they have current knowledge of both statutory requirements and best practice relevant to their position. The SRWRA is expected to provide training and education opportunities that will assist

members to meet their responsibilities under the *Local Government Act 1999*.

Board members will comply with all legislative requirements of their role and abide by this Code of Conduct.

3. Part 2 – BEHAVIOURAL CODE

Behavioural Code

In line with “Part 1 – Higher Principles of this Code”, the following behaviour is considered essential to upholding the principles of good governance in Council Subsidiaries.

This Part is for the management of the conduct of Board members that does not meet the reasonable community expectations of the conduct of Board members. It deals with conduct that does not, and is not likely to, constitute a breach of Part 3 – Misconduct or criminal matters such as those contained in the Appendix to this document.

Robust debate within Board meetings that is conducted in a respectful manner is not a breach of this Part.

3.1 Role of a Board Member

Board members must:

General Behaviour

- Show commitment and discharge duties conscientiously
- Act in a way that generates constituent council and community trust and confidence in the SRWRA
- Act in a reasonable, just, respectful and non-discriminatory way when dealing with people
- Show respect for others if making comments publicly
- Ensure that personal comments to the media or other public comments, on Board decisions and other matters, clearly indicate it is a private view, and not that of the Board

Responsibilities as a member of the Board

- Comply with all SRWRA policies, codes and resolutions
- Deal with information received in their capacity as Board members in a responsible manner
- Endeavour to provide accurate information to the SRWRA and to the public at all times

3.2 Relationships

- Endeavour to establish and maintain a respectful relationship with all Board members, regardless of differences of views and opinions
- Not bully or harass other Board members
- Not bully or harass the SRWRA staff
- Direct all requests for information from the SRWRA administration to the Executive Officer or nominated delegate/s
- Direct all requests for work or actions by the SRWRA staff to the SRWRA Executive Officer or nominated delegate/s
- Refrain from directing or influencing SRWRA staff with respect to the way in which these employees perform their duties

4. Requirements to report breach of Part 3

A Board member who is of the opinion that a breach of Part 3 of this Code (Misconduct) has occurred, or is currently occurring, must report the breach to the Chairperson, the Executive Officer, the Ombudsman or the Office for Public Integrity.

A failure to report an alleged or suspected breach of Part 3 of this code is in itself a breach under this part (Behavioural Code).

5. Complaints

- Any person may make a complaint about a Board member under the Behavioural Code
- Complaints about behaviour alleged to have breached the Behavioural Code should be brought to the attention of the Chair or Executive Officer or nominated delegate/s
- A complaint may be investigated and resolved in any manner which the Board deems appropriate in its process for handling alleged breaches of this part. This can include, but is not limited to: a mediator or conciliator, the Local Government Governance Panel, a regional governance panel or an independent investigator
- A complaint may be considered within this process to be trivial, vexatious or frivolous, and accordingly not investigated
- A failure of a board member to cooperate with the Board's process for handling alleged breaches of this Part may be referred for investigation under Part 3
- A failure of a Board member to comply with a finding of an investigation under this Part, adopted by the Board, may be referred for investigation under Part 3
- Repeated or sustained breaches of this Part by the same Board member may be

referred, by resolution of the Board, to the relevant authority as a breach of Part 3

- A breach of the Behavioural Code must be the subject of a report to a public meeting of the SRWRA Board

Findings

If, following investigation under the Board member complaint handling process, a breach of the Behavioural Code by a Board member is found, the Board may, by resolution:

- Take no action;
- Pass a censure motion in regard to the Board member;
- Request a public apology, whether written or verbal;
- Request the Board member to attend training on the specific topic found to have been breached;
- Resolve to remove or suspend the Board member from a position within the Board (not including the Board member's position on the SRWRA Board)
- Request the member to repay monies to the SRWRA.

6. PART 3 – MISCONDUCT

Failure by a Board member to comply with this part constitutes misconduct. The provisions within this Part may refer to statutory matters under the *Local Government Act 1999*. Any breach of these provisions will be investigated under that legislation.

Any person may report an alleged breach of this Part to the SRWRA, the Ombudsman, the Electoral Commissioner (for alleged breaches of code 3.8) or the Office for Public Integrity. Alleged breaches of this Part made to the SRWRA or to the Office for Public Integrity may be referred to the Ombudsman for investigation under section 263 of the *Local Government Act 1999*, by the Executive Officer or by the Independent Commissioner Against Corruption, where he or she so determines.

A report from the Ombudsman that finds a Board member has breached the Part (Misconduct) of the Code of Conduct must be provided to a meeting of the Board. The Board must pass resolutions that give effect to any recommendations received from the Ombudsman, within two ordinary meetings of the Board following the receipt of these recommendations.

An investigation under Part 3 of this Code does not preclude an investigation being launched as a potential breach of the criminal matters listed in the Appendix to this document.

Member duties

Board members must:

- Act honestly at all times in the performance and discharge of their official

functions and duties

- Perform and discharge their official functions and duties with reasonable care and diligence at all times
- Not release or divulge information that the Board has ordered be kept confidential, or that the Board member should reasonably know is information that is confidential, including information that is considered by Board in confidence
- Not exercise or perform, or purport to exercise or perform, a power, duty or function that he or she is not authorized to exercise or perform
- Not attempt to improperly direct a member of the SRWRA staff to act in their capacity as a Local Government employee for an unauthorised purpose
- Ensure that relationships with external parties cannot amount to interference by improper influence, affecting judgement, decisions and/or actions.

Gifts and benefits

Board members must not:

- Seek gifts or benefits of any kind
- Accept any gift or benefit that may create a sense of obligation on their part or may be perceived to be intended or likely to influence them in carrying out their public duty
- Accept any gift or benefit from any person who is in, or who seeks to be in, any contractual relationship with the SRWRA.

Notwithstanding the above relating to gifts and benefits, Board members may accept hospitality provided in the context of performing their duties, including free or subsidized meals, beverages or refreshments of reasonable value provided in conjunction with Board training, workshops and conferences, Board functions and other social functions or events organized by the constituent councils.

Where Board members receive a gift or benefit of more than a value published in the Government Gazette by the Minister from time to time, details of each gift must be recorded within a Gifts and Benefits Register maintained and updated quarterly by the Executive Officer. This register must be made available for inspection at the principal office of the SRWRA and on the SRWRA's website.

Register of Interests

- The Chairperson must lodge with the SRWRA a complete and accurate primary return of their interests, and subsequent ordinary returns, as required by the Charter.

Conflict of Interest

- Board members must be committed to making decisions without bias and in the best interests of the constituent councils and comply with the relevant conflict of interest provisions of the *Local Government Act 1999*.

Misuse of the SRWRA resources

- Board members using the SRWRA resources must do so effectively and prudently
- Board members must not use SRWRA resources, including services of SRWRA staff, for private purposes, unless legally or properly authorized to do so, and payments are made where appropriate
- Board members must not use public funds or resources in a manner that is irregular or unauthorized.

Repeated or sustained breaches of Part 2

- At the discretion of the Board, repeated or sustained inappropriate behaviour, as listed in Part 2, may be escalated to an allegation of misconduct under this Part
- A failure to comply with a finding of inappropriate behaviour (by the SRWRA, independent investigator or Ombudsman, under Part 2 is also grounds for a complaint under this Part.

7. Statement of Adoption and Review

This Code of Conduct was adopted on 22nd September 2014. This Code is a substantial revision of the original code (adopted 3rd August 2009) and will be reviewed annually.

The SRWRA may at any time alter this Code of Conduct, or substitute a new Code of Conduct.

8. Other Relevant Policies/Procedures

Board Member Complaint Handling Policy

Copies of SRWRA's policies are available on its website www.srwra.com.au or by contacting SRWRA on 8326 7044 and or info@srwra.com.au.

9. Commitment of Board Members

We the Board members of the SRWRA commit to observe this Code of Conduct.

Mark Booth
Kirk Richardson
Steve Mathewson
Ian Crossland
Vincent Mifsud
Ian Walker
Lynda Yates
Heidi Greaves
Nick Kerry
John Smedley

Further Information

Members of the public may inspect this Code of Conduct for Board Members on SRWRA's website (www.srwra.com.au) and at the principal office of the SRWRA at 282 Main South Road, Morphett Vale.

On payment of a fee, a copy of this Code of Conduct may be obtained from the SRWRA, otherwise may be downloaded for free from SRWRA's website.

Any queries in relation to this Code of Conduct should be directed to the Executive Officer, Mark Hindmarsh, on 8326 7044 and/or email address mark.hindmarsh@srwra.com.au

APPENDIX-CRIMINAL MATTERS

The matters within this Appendix are matters for which a criminal penalty attaches. As separate legislation operates to cover such conduct, this part does not form part of the Code of Conduct for Board members.

Allegations of conduct breaching these matters will be investigated in accordance with the legislation governing that conduct and they are included within this document only in order to provide a complete overview of the standards of conduct and behaviour expected of Board members.

Alleged breaches of matters outlined in this Appendix should be reported to the Office for Public Integrity in the first instance.

Breaches of the Local Government Act 1999

Member duties

A member of the Board must not, whether within or outside the State, make improper use of information acquired by virtue of his or her position as a member of the SRWRA to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the SRWRA (section 62(3)).

A member of the SRWRA must not, whether within or outside the State, make improper use of his or her position as a member of the SRWRA to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the SRWRA (section 62(4)).

Provision of false information

A member of the SRWRA who submits a return under Chapter 5 Part 4 (Register of interest) and Schedule 3 of the *Local Government Act 1999* that is to the knowledge of the member, false or misleading in a material particular (whether by reason of information included in or omitted from the return) is guilty of an offence (section 69).

Restrictions on publication of information from Register of Interests

A Board member must not publish information, or authorise publication of information, derived from a Register unless the information constitutes a fair and accurate summary of the information contained in the Register, and is published in the public interest, or comment on the facts set forth in a Register, unless the comment is fair and published in the public interest and without malice (section 71).

Breaches of other Acts

Acting in his or her capacity as a public officer, a Board member shall not engage in conduct, whether within or outside the state, that constitutes corruption in public administration as defined by section 5 of the *Independent Commissioner Against Corruption Act 2012* including:

An offence against Part 7 Division 4 (Offences relating to public officers) of the *Criminal Law Consolidation Act 1935*, which includes the following offences:

- Bribery or corruption of public officers
- Threats or reprisals against public officers
- Abuse of public office
- Demanding or requiring benefit on basis of public office
- Offences relating to appointment to public office.

Any other offence, including an offence against Part 5 (Offences of dishonesty) of the *Criminal Law Consolidation Act 1935*, committed by a public officer while acting in his or her capacity as a public officer, or by a former public officer and related to his or her former capacity as a public officer, or by a person before becoming a public officer and related to his or her capacity as a public officer, or to an attempt to commit such an offence.

Any of the following in relation to an offence referred to in a preceding paragraph:

- Aiding, abetting, counselling or procuring the commission of the offence
- Inducing, whether by threats or promises or otherwise, the commission of the offence;

Code of Conduct for Board Members - Reviewed 22nd September 2014

Code of Conduct for Board Members – Reviewed 2nd February 2015.