



strata
community
australia®
NSW

Your Guide

to the Code of Ethics

A plain English guide to the
ethics that apply to members of
Strata Community Australia

www.nsw.stratacommunity.org.au

Strata Community Australia (NSW)
(formally the Institute of Strata Title Management)
ABN 74 001 767 997

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Preface

This publication (“Guide”) is a “plain English” guide to the ethics that apply to members of Strata Community Australia (NSW) (SCA (NSW)) under SCA (NSW)’s Code of Ethics (“Code”) in force under the SCA (NSW) constitution.

This guide is a general reference only and should be read in conjunction with the Code. Members of SCA (NSW) must comply with the Code and this Guide does not affect the interpretation of the Code.

Terms defined in the Code have the same meaning in this Guide unless expressly provided otherwise here. The rules of interpretation in the Code apply to this Guide.

Examples of conduct that does not comply with the Code— Strata Managing Agents

1.1 EXAMPLE 1

A Strata Managing Agent receives an enquiry from an Owners Corporation to quote on strata management services. During a conversation with the Chairperson of the Executive Committee, the Strata Managing Agent becomes aware that the Owners Corporation is currently managed by another Strata Managing Agent.

In accordance with clause 2 of Schedule 6 of the *Property, Stock and Business Agents Regulation 2003*, the first Strata Managing Agent must disclose to the current Strata Managing Agent their intention or offer to act as Strata Managing Agent of that Owners Corporation (unless directed not to in writing by the Owners Corporation.)

Failure to comply is also a breach of clause 2.1A of the Code.

1.2 EXAMPLE 2

An Owners Corporation wishes to re-paint its building and instructs its Strata Managing Agent to obtain quotations for the required works. The Strata Managing Agent contacts two of the Owners Corporation's preferred

painters. The Strata Managing Agent also contacts a painter of their preference.

The Strata Managing Agent receives the quotations prepared by the Owners Corporation's two preferred painters. To seek a cheaper quote, the Strata Managing Agent then discloses the specifications in those two quotes (such as terms, conditions and prices) to their preferred painter, without the consent of the two painters who provided those quotes.

This action would breach, for example, clause 2.1E of the Code.

1.3 EXAMPLE 3

A Strata Managing Agent is engaged by a prospective Owner to search the books and records of an Owners Corporation which is managed by another Strata Managing Agent.

The Strata Managing Agent undertakes the search and provides the report to the prospective owner. The agent also keeps a copy of the report, which includes contact details of the Executive Committee Members of that Owners Corporation, and the terms of the Owners Corporation's agency agreement with its current Strata Managing Agent.

Using this knowledge, with a view to becoming the Strata Managing Agent of that Owners Corporation, the first Strata Managing Agent then contacts those Executive Committee Members and forwards a quotation for management services.

This action would breach, for example, clause 2.1C of the Code.

Examples of conduct that does not comply with the Code— Suppliers

2.1 EXAMPLE 1

A Supplier is sent a quotation request by a Strata Managing Agent. The request asks the supplier to contact the Chairperson of the Executive Committee and to arrange a site inspection at the property in order to prepare a quotation for some building works.

When visiting the site and meeting with the Chairperson, the supplier learns that one of his competitors is also quoting on the works. The supplier says to the Chairperson, knowing it to be false, or without a genuine basis for believing it:

“Oh, I know (competitor name), they are very expensive and their workmanship is not up to an acceptable standard.”

This action would breach, for example, clause 1.3iii of the Code.

2.2 EXAMPLE 2

A Supplier who has just started up and is a new member of SCA (NSW) decides to attend SCA (NSW)'s upcoming convention. As the Supplier is just starting out, their advertising budget is quite limited and they do not take up sponsorship of the convention. Instead, the supplier prepares their own

unauthorised 'promotional bags' and hands them out to attendees of the convention.

This action would breach clause 2.2C of the Code.

2.3 EXAMPLE 3

A Supplier owns certain lots in a scheme, and she wishes to become appointed as an Executive Committee Member. Her brother is on the board of directors of Acme Pty Ltd, the company that was the original owner of the scheme. She attends the general meeting at which the Executive Committee Members are to be elected and is subsequently elected as an Executive Committee Member. Before the election was conducted, she did not disclose to the meeting that her brother was on the board of directors of Acme Pty Ltd.

This action would breach clause 2.2D of the Code.

Examples of conduct that does not comply with the Code— Owners and Executive Committee Members

3.1 EXAMPLE 1

An Owner has recently purchased a townhouse in a 1980's strata scheme, and at the annual general meeting is elected to the Executive Committee. The Owner notices that there are plenty of spare funds in the sinking fund, and proposes various works to improve the landscaping and footpaths that only service the Owner's townhouse. The works will increase the market value of the Owner's property.

A resolution is put before a meeting of the Executive Committee to authorize the works. In discussions before the meeting, the Owner has said to some other Executive Committee Members that the Owner's property will increase in value. However, at the meeting, the Owner does not disclose that benefit. The motion is resolved.

This action would breach, for example, clause 2.3B of the Code.

3.2 EXAMPLE 2

An Owner, who is also an Executive Committee Member, wishes to replace the awning over the balcony in the Owner's lot. The Owner is aware that the awning is part of the lot. However, not wanting to pay for the replacement, the Owner places a motion on the notice for the next Executive Committee meeting for the Owners Corporation to undertake the works. To gain support for that motion, the Owner advises the Executive Committee that the awning is common property and that the Owners Corporation should replace it.

This action would breach, for example, clause 2.3C of the Code.

3.3 EXAMPLE 3

An Executive Committee Member who is also a Strata Managing Agent wishes to be appointed as the Strata Managing Agent of that Owners Corporation. The Executive Committee Member uses their position on the Executive Committee to obtain a copy of the current agency agreement, and correspondence regarding negotiations between the current Strata Managing Agent and the Owners Corporation.

On the basis of that knowledge the Executive Committee Member prepares and submits a proposal to the Owners Corporation to become the Strata Managing Agent which is designed to appear more favourable to the Owners Corporation than the current agreement.

This action would breach, for example, clause 2.1G of the Code.

How to lodge a complaint under the Code

Allegations of breach of the Code may be made in writing using the prescribed form found in this Guide, addressed to the attention of the Executive Officer, SCA (NSW) Limited, by any of the following means:

Post – PO Box 347 North Sydney NSW 2059

Facsimile – 02 8904 0490

Email – ethics.nsw@stratacommunity.org.au

Who may lodge a complaint under the Code?

Under clause 3.2 of the Code and SCA (NSW) Constitution, any person may make a complaint under the Code.

What should be provided when a complaint is made?

The following materials should be provided with a complaint to enable the matter to be considered by SCA (NSW):

Where the lodging party is an Owners Corporation, or its Executive Committee:

- a. Name of the Strata Managing Agent, Supplier or other Member that the complaint is against.
- b. Copy of the agenda and minutes of the meeting at which the Executive Committee or Owners Corporation resolved to submit the complaint.
- c. Completed copy of the prescribed complaint form.
- d. Details of the clause or clauses of the Code that the Member is alleged to have breached together with a brief description of the alleged breach or breaches.
- e. Copy of any correspondence or other material reasonably required to allow the matters alleged in the complaint to be considered.

Where the lodging party is any other Member or person:

- a. Name of the Strata Managing Agent, Supplier or other Member that the complaint is against.
- b. Completed copy of the prescribed complaint form.
- c. Details of the clause or clauses of the Code that the Member is alleged to have breached together with a brief description of the alleged breach or breaches.

- d. Copy of any correspondence or other material reasonably required to allow the matters alleged in the complaint to be considered.

Please note that it is important to detail clearly the clause or clauses of the Code which are alleged to have been breached by the Member. Complaints, for example, in relation to competition which do not relate to breaches of the Code may not be considered by SCA (NSW).

Who considers the complaint?

Clause 3.4 of the Code sets out who must consider the complaint.

In SCA (NSW)'s experience many matters raised do not relate to breaches of the Code, but instead relate to perceived performance issues regarding the terms and conditions of commercial contracts. These are not matters for SCA (NSW) to consider.

More information about the Code

To download a PDF version of the Code or this Guide, please go to www.nsw.stratacommunity.org.au

Any inquiries can be directed to:

Executive Officer
SCA (NSW) Ltd
PO Box 347 North Sydney NSW 2059

Facsimile – 02 8904 0490

Email – ethics.nsw@stratacommunity.org.au

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