



# **Code of Conduct**

## **Strata Community**

### **Australia**

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*A code of conduct to establish the principles that govern the conduct of Members of Strata Community Australia in the context of the strata living environment.*

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SCA Code of Conduct – V1.01 April 2016

# Explanatory Note

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This Code of Conduct has been prepared by SCA following consultation with state/territory Boards and Members.

As a general rule, applying common sense, good judgment and integrity to the issues that are faced on a day-to-day basis will help ensure that Members' business decisions are consistent with the SCA State or Territory Member Body / Chapter values and this Code.

SCA and its State or Territory Member Body / Chapter are determined to protect and enhance the reputation of its collective membership. In a service business, the integrity that our brand "SCA" represents is one of SCA's most valuable assets.

Acting with integrity and the highest ethical standards is good business practice and policy. Each Member of the SCA State or Territory Member Body / Chapter should adhere to both the letter and the spirit of this Code.

Whilst this Code does not attempt to list every possible ethical issue that may arise, it does set out clear requirements for the conduct of Members.

Failure to comply with this Code means that Members may be subject to disciplinary procedures as set out in this Code and the relevant Constitution of SCA State or Territory Member Body / Chapter.

This Code is in three parts:

***Part One***

Applies to all Members

***Part Two***

Applies to specific sectors within the SCA State or Territory Member Body / Chapter, being:

- a. Strata Community Managers;
- b. Strata Services; and
- c. Strata Owners.

***Part Three***

Deals with making complaints and enforcement and disciplinary procedures of this Code.

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# Dictionary

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In this document the following words mean:

<b>“Code of Conduct ”</b> and <b>“this Code”</b>	this document as amended or modified from time to time including all its parts.
<b>“Constitution”</b>	the constitution of the SCA State or Territory Member Body / Chapter as amended, modified or replaced from time to time.
<b>“Board”</b>	the directors of the SCA State or Territory Member Body / Chapter.
<b>“ethical”</b>	in accordance with the moral standards customarily applied in a business or professional relationship.
<b>“Former Code”</b>	the “Code of Ethical Conduct” in existence under the Constitution of the SCA State or Territory Member Body / Chapter immediately before the resolution of the SCA State or Territory Member Body / Chapter to replace that “Code of Ethical Conduct” with this Code.
<b>“Guide”</b>	“Guide” as defined in clause 1.4 of this Code as it may be provided, amended, modified, replaced or revoked from time to time.
<b>“SCA”</b>	Strata Community Association Ltd

<b>“Member”</b>	“Member” or “Members” as defined in the SCA Constitution.
<b>“Owner”</b>	means an owner of a lot or lots in a Strata Community, and includes a shareholder in a Strata Community having such a structure.
<b>“Strata Committee”</b>	means the committee of a Strata Community. Interchangeable with terms used in each State/Territory [and includes the Board of Directors of a Strata Community having such a Board].
<b>“Strata Committee Member”</b>	means a member of a Strata Committee.
<b>“Strata Community”</b>	a “Group title scheme” as defined in the Constitution. Is interchangeable with the terms used in each state/territory such as Strata Company, Body Corporate or an Owners Corporation.
<b>“Strata Community Manager”</b>	a strata managing agent or employee of a strata management firm as defined in the Constitution and Membership Category for Strata Community Managers.
<b>“Strata Services”</b>	a Member of the Strata Services Membership Category of the SCA State or Territory Member Body / Chapter; being a supplier/service provider to the strata industry.

# Interpretation

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In this Code unless the contrary intention appears:

- i. a reference to a statute or other law includes regulations and other instruments under it and any consolidations, amendments, re-enactments or replacements of it;
- ii. the singular includes the plural and vice versa;
- iii. a reference to a Member, whether by use of the term “Member” or otherwise, includes a reference to a person in the employ of that Member;
- iv. where a word or phrase is given a defined meaning in this Code, any other part of speech or grammatical form in respect of such word or phrase has a corresponding meaning;
- v. a reference to an act includes an omission and a reference to doing an act;
- vi. headings are for reference only and do not affect the meaning or interpretation of this Code; and
- vii. this Code is intended to be consistent with the “Code of Conduct” for each State or Territory that is a corporate Member or Chapter of Strata Community Australia as it may be adopted, amended, modified, revoked or replaced from time to time. In the event of any inconsistency with that “Code of Conduct”, this Code is to be read as if consistent with that “Code of Conduct” to the extent of that inconsistency.

# Part One – All Members

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*This part of **this Code** applies to all **Members***

## **1.1 DATE OF COMMENCEMENT OF THIS CODE**

This Code commences to apply to the acts and omissions of all Members on and from the date the SCA State or Territory Member Body / Chapter resolves to replace the Former Code with this Code.

The Former Code applies to the acts and omissions of Members occurring prior to the date of the resolution referred to above.

## **1.2 DUTY**

All Members have a duty to look after the best interests of their principal. In particular:

- i. A Strata Community Manager owes that duty to Strata Communities they manage. They manage for and on behalf of the Owners in that Strata Community and the relationship is fiduciary in nature.
- ii. A Strata Service provider owes that duty to the Strata Community for whom they are working.
- iii. In accordance with law, a strata Owner owes that duty to all Owners in that Strata Community, and a Strata Committee owes that duty to their Strata Community.

## 1.3 DUTIES OF ALL MEMBERS

All Members must at all times:

- i. Act ethically.
- ii. Act honestly, be straightforward and sincere.
- iii. Not provide false, misleading or deceptive information to anyone.
- iv. Be objective, fair and not allow prejudice or bias to override that objectivity.
- v. Be and appear to be free of any interest, which might be regarded as being incompatible with integrity and objectivity.
- vi. Use professional courtesy and deal with all Members, Strata Community Managers, Strata Committee Members, Owners and any other persons in a respectful manner at all times.
- vii. Act in a lawful manner, and comply with the law as may apply from time to time.
- viii. Act at minimum in accordance with the generally accepted standards of their industry, and carry out their work in accordance with the technical and professional standards relevant to that work.
- ix. Perform their duties diligently and with competence, maintain their level of competence, and only undertake work which they reasonably expect to be able to complete competently and in a timely manner.
- x. Disclose and deal with conflict of interest issues in an open and fair manner, and not pay or accept secret commissions, either directly or indirectly.
- xi. Not engage in any conduct that wrongfully brings disrepute to the SCA State or Territory Member Body / Chapter, its Members or the consumers of their services.
- xii. Abide by the mission statement and vision statement as promulgated by the SCA State or Territory Member Body / Chapter from time to time.
- xiii. Comply with the rules regarding display of the SCA State or Territory Member Body / Chapter's logo as promulgated by the Board from time to time.

- xiv. Not advertise in a way that is false, misleading or deceptive. Not advertise in a way which a) creates false or unjustified expectations of favourable results; or b) consists of self-laudatory or misleading statements that are not based on verifiable facts; c) contains unidentified testimonials.
- xv. not induce or attempt to induce a breach of contract between a Client and its Strata Managing Agent
- xvi. not denigrate another Member, nor any individual, company or profession in general.
- xvii. observe the Constitution of SCA and any other guideline or standard formally approved and adopted by SCA State or Territory Member Body / Chapter.
- xviii. Conduct their Strata Community business in accordance with the state / territory governing legislation.
- xix. And are expected to promote the aims and objectives of SCA and strive for the highest degree of professionalism in the practice of Strata Community management.
- xx. And are expected to be active in SCA and willingly share with fellow Members the lessons of their experience.
- xxi. And shall be responsible for actions of their employees in their business relations with fellow Members and clients.
- xxii. Conform to any CPD training as may be required by the Board's national and/or state from time to time to retain membership of SCA or the appropriate category. Members must conform to any additional CPD training as may be required by their professional or trade SCA State or Territory Member Body / Chapter.

## 1.4 GUIDE

The SCA may provide a Guide to Members for the purpose of assisting Members in relation to this Code ("Guide"). The Guide may be provided by making the Guide available to Members on the SCA's web site.

SCA may amend, modify or replace the Guide from time to time in the same manner as it may provide the Guide. SCA may revoke the Guide by publishing a note to that effect on the SCA web site.

## Part Two – Specific Members

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### 2.1 STRATA COMMUNITY MANAGERS

*This part of this Code is specific to Strata Community Managers*

- A. Each SCA State or Territory Member Body or Chapter must comply with provisions of the legislation with which they are governed.
- B. Strata Community Managers frequently become aware of their competitors' pricing models through inspection of the books and records of their competitor's Strata Community. All Strata Community Managers must take steps to ensure that any use or contemplated use of such information is both ethical and legal.
- C. A Strata Community Manager must comply with governing legislation regarding disclosure of rebates, discounts or commissions.
- D. Strata Community Managers must not charge fees or disbursements that are not permitted under the signed agency agreement /contract of appointment or any variation of it without the consent of the Strata Community.
- E. A Strata Community Manager must not use information obtained from their position on a Strata Committee or as a proxy for an owner to seek to change or transfer of the management of that Strata Community to that first Strata Community Manager.
- F. A Strata Community Manager must not refuse or delay to convene a meeting, where one of the motions to be considered is the termination of its appointment or the appointment of another Strata Community Manager.
- G. A Strata Community Manager must promptly provide any records of a Strata Community that it manages upon receiving a lawful request for such records.

A Strata Community Manager must not unlawfully or unreasonably refuse or delay to provide any of the records of a Strata Community that it manages which would be in breach of its agency agreement/contract of appointment or the law. *Refer Schedule A – Item 5 for legislation specific to your State or Territory.*

- H. Strata Community Managers must:
- a. comply with their duties in relation to record keeping in accordance with the generally accepted standards of their industry and as required by law; and
  - b. take due care of records in their possession or under their control and do so in accordance with this Code and any applicable law.
- I. Strata Community Managers must implement and maintain adequate systems and procedures to ensure accountability and transparency in all financial transactions. This includes appropriate financial records, reports and measures to minimise fraud and ensure all monies held on trust or otherwise under their control are used properly and in accordance with the law.

## 2.2 STRATA SERVICES

*This part of this Code is specific to Strata Service providers*

- A. Many Strata Services providers also belong to their own industry association or institute and this Code requires that they act ethically when observing not only their own industry association or institute's code of ethics or conduct but also this Code.
- B. Strata Service providers must not distribute unauthorised marketing material at the events of SCA or SCA State or Territory Member Body / Chapters.
- C. Strata Service providers must comply with any disclosure requirements under law, including, if applicable, any law specific to that State or Territory.

## 2.3 STRATA OWNERS

*This part of this Code is specific to Strata Owners & Strata Communities*

- A. Strata Committee Members have enormous trust placed upon them by their fellow Owners, both in general and when those Owners elect those Strata Committee Members to the Strata Committee.

Therefore, this Code seeks that Strata Committee Members discharge their duties ethically.

- B. A Strata Committee Member must not gain a benefit over and above other Owners or a majority of those Owners unless that Strata Committee Member discloses such a benefit at any meeting of the Strata Committee where a motion relevant to such a benefit is considered, and makes that disclosure prior to the consideration of that motion.
- C. A Strata Committee Member who stands to gain a benefit over and above other Owners or a majority of those Owners must not offer or provide misleading or inaccurate information to attempt to gain support for any motion relevant to such a benefit.
- D. A Strata Committee Member, or a person who seeks to be elected as a Strata Committee Member, must comply with any disclosure requirements under law, including, if applicable any law specific to that State or Territory. .

## Part Three – Enforcement

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### **3.1 ENFORCEMENT ACTION**

All Members are advised, when they apply to become Members, that they will be bound by this Code, or such other “Code of Practice and / or Ethics” as may have been adopted, have been replaced by, or replace this Code from time to time.

A Member who breaches this Code may be subject to enforcement and disciplinary procedures as set out in the SCA Constitution and as determined by SCA’s National Disciplinary Committee.

### **3.2 WHO MAY LODGE COMPLAINTS UNDER THIS CODE?**

Any person may make a complaint regarding breach of this Code.

### **3.3 HOW ARE COMPLAINTS MADE?**

Complaints may be made in writing, and are to be accompanied by all materials reasonably necessary to support what is alleged in that complaint.

The Guide contains information and provides procedures and forms in relation to the making of complaints.

### **3.4 WHO CONSIDERS THE COMPLAINT?**

SCA's National Disciplinary Committee must consider the complaint as soon as practicable, and deal with the complaint in accordance with the Constitution and guidelines determined by the SCA National Board.

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# Approval

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In accordance with its Constitution and/or By-Laws, the SCA State or Territory Member Body / Chapter replaced the Former Code with this Code.