



CLIMATE
CHANGE
AUTHORITY

AUTHORITY CHARTER

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Australian Government
Climate Change Authority

Contents

Context	3
Members' obligations	3
Authority decisions	4
Out of session decisions	4
Meeting minutes	5
Confidentiality	5
Outside employment	5
Disclosure of interests.....	5
Activity-specific declarations.....	6
Conflicts of interest.....	7
Managing an interest disclosed out of session	7
Managing an interest disclosed at an Authority meeting.....	8
Media and engagement	9
Consultation with stakeholders.....	9
Periodic reviews	10

Context

The Climate Change Authority's purpose is to provide expert, independent and evidence-based advice on the response to climate change. The Authority does this by conducting regular and specifically commissioned reviews and by undertaking research on climate change matters in accordance with the principles set out in section 12 of the *Climate Change Authority Act 2011* (CCA Act).

The Authority consists of a Chair, the Chief Scientist (ex officio member) and up to 7 other members (CCA Act, s.17). At a meeting of the Authority, 5 Authority members constitute a quorum (CCA Act, s.35). The Chief Executive Officer (CEO) is the accountable authority of the Authority (CCA Act, s.10 (2)(a)) and has responsibility for the day-to-day administration of the Authority (CCA Act, s.42 (1)).

This Charter is a statement of how the Authority will conduct itself in accordance with statutory obligations and good governance practice in meetings, when taking decisions, and when engaging with individuals and organisations outside the Authority, including media representatives. The Charter is also intended as a reference point for addressing conflicts of interest and any differences of view that may arise among members.¹

The Chair and members will abide by the Charter.

Members' obligations

Authority members are classified as officials for purposes of *the Public Governance, Performance and Accountability Act 2013* (PGPA Act), and so are required to exercise their powers and perform their functions in accordance with their: duty of care and diligence; duty to act honestly, in good faith and for a proper purpose; duty in relation to use of position; duty in relation to use of information; and duty to disclose material personal interests.

The *Public Service Act 1999* and the Australian Public Service (APS) code of conduct also apply to Authority members, to the extent that they are assisted by deal with APS officers.

The Authority may engage with persons having suitable qualifications and experience as consultants to the Authority.

Authority meetings

The Chair convenes Authority meetings and presides over the meetings at which he or she is present. If the Chair is not present at a meeting, members present will appoint one of their number to preside (s.34, CCA Act).

Members agree to regulate proceedings (s.38, CCA Act) as follows:

- The Chair will aim to ensure that Authority meetings are held at least once every six weeks (except for January when the Authority does not meet), unless otherwise agreed

¹ The Charter implements governance frameworks in the *Climate Change Authority Act 2011*, *Public Governance, Performance and Accountability Act 2013*, and *Public Governance, Performance and Accountability Rule 2014*.

by the Authority.

- At the start of a new calendar year, a schedule of meeting dates will be agreed for the following 12 month period.
- If the Chair decides that it is not possible for the meeting to be held when scheduled, the secretariat will provide as much notice as possible, and find an alternative date and time for the meeting when most members can attend.
- Attendance at Authority meetings may be in person or remotely. The preferred mode of attendance will be determined by the Chair in advance of the meeting date. Members may still attend remotely if they are unable to attend in person.
- The Chair may ask the secretariat to arrange additional face to face meetings or teleconferences on an ad hoc basis. If this occurs, the secretariat will find a date and time when most members can attend.
- If the Chair is delayed for more than 15 minutes at the start of a meeting or absents him/herself from part of a meeting, members will appoint another member to preside over the meeting while the Chair is absent.
- The secretariat will aim to circulate meeting papers four working days before the Authority meeting takes place.
 - The secretariat will take into account any previously disclosed personal interests and associated conflicts handling determinations when issuing papers to members.
- Members will endeavour to raise significant concerns or views on any policy matter being considered by the Authority, at an early stage of the Authority's examination of the issue, so that options to address these differences of view can be explored.
- At Authority meetings, participants will treat each other with respect.

Authority decisions

- Members will make every effort to reach consensus on issues before the Authority, and voting on decisions will occur only after it is clear that efforts to reach consensus have not succeeded.
- Where there is no consensus, decisions are to be resolved by a majority of votes of members present and voting (CCA Act, s.37). If the votes are evenly split, the presiding member has a casting vote.
- A member's dissenting view may be recorded in the minutes.

Out of session decisions

- Where appropriate, the members may consider matters by the circulation of papers to all members by electronic or other means. In these cases, proposed decisions approved in writing by a majority of members, with the Chair having a casting vote in the event of a tied vote, are taken to be a decision of the Authority.

- Any decisions made 'out of session' are to be noted and included in the minutes of the next meeting.

Meeting minutes

- The secretariat will prepare and circulate meeting minutes to Authority members before the next meeting.
- A standing item at Authority meetings will allow members to discuss the minutes of the previous meeting.
- Members' views will not be directly attributed to them in the minutes, unless explicitly requested by the member.
- Members will agree any revisions with a view to accepting them as a correct record of the previous meeting.
- Minutes will not be made public unless disclosure is required or permitted by law (e.g., where release is required under the *Freedom of Information Act 1982*, or in response to a court order or a parliamentary question or demand).
- The secretariat will publish a high-level summary of each meeting on the Authority's website. The secretariat will circulate a draft to members for comment before publication.

Confidentiality

- Discussions that take place in Authority meetings are to be treated as confidential and will not be discussed with individuals outside the Authority.
- Authority meeting papers and draft reports are also confidential and will not be passed on to individuals or organisations outside the Authority.
- Members have a duty not to misuse their position or the information they acquire in the course of their work with the Commonwealth for their own personal benefit, for the benefit of others, or to the detriment of the Commonwealth or another person. Unauthorised disclosure with this consequence can be a basis for criminal charges.

Outside employment

Part-time Authority members must not engage in paid employment that conflicts or may conflict with the proper performance of their duties (CCA Act, s.28). This includes being unavailable to undertake duties as well as conflicts of interest.

Disclosure of interests

If an Authority member has a material personal interest (pecuniary or otherwise) that relates to the affairs of the Authority, that member is under a general duty to disclose the details of that interest in accordance with the relevant rules made under the PGPA Act (PGPA Act, s.29). The PGPA Rule also requires members to comply with any additional instructions made by the CEO

in relation to disclosure of material personal interests (PGPA Rule, s.16).

To be 'material' a personal interest needs to be of a type that can give rise to a real or apparent conflict of interest that could affect the proper discharge of a member's official duties. There needs to be a real or sensible possibility of conflict and not simply a remote or theoretical possibility. If no reasonable person could draw a connection between the member's personal interest and their official duties, then the interest is not a material personal interest.

In order to ensure the proper disclosure of all material personal interests in accordance with members' obligations (under s.29 of the PGPA Act, ss.16, 16A and 16B of the PGPA Rule, read in conjunction with s.26 of the CCA Act) members agree to adhere to the following procedures:

- Each member must complete a Personal Interest Declaration prior to being appointed to the Authority.
- Each member must disclose to the Authority any personal interest that relates to the affairs of the Authority, particularly in relation to matters being considered or about to be considered by the Authority. Disclosure must occur as soon as practicable after the relevant facts have come to the member's knowledge.
- Each member must notify the Chair and the CEO whenever there is a material change in the matters disclosed, or any new matter requiring disclosure arises. In other words, this is a continuing obligation.
- The Chair will notify the Minister (on behalf of the member) of disclosed material personal interests within a reasonable time after they are made known by the member.
- The Authority will maintain a standing register of members' disclosed material personal interests, which will be updated for each Authority meeting. This will be provided to members for each meeting to assist with conduct of the meeting and ongoing handling of conflicts issues.
 - General information about members' outside roles and interests will also be published on the Authority's website as an additional transparency measure. Members are to advise the secretariat of any updates.
- Disclosures of interests and the making of determinations in relation to disclosed interests (see below), will be a standing agenda item at meetings of the Authority.
- While a disclosure can be made to the Chair or the CEO in advance of an Authority meeting, the interest, including its nature and extent, must also be disclosed at an Authority meeting.
 - When disclosing an interest, a member must provide sufficient detail to enable an adequately informed decision to be made in relation to the identification of any conflict of interest and appropriate conflict management.
- The details of any interests disclosed to the Authority must be recorded in the meeting minutes.

Activity-specific declarations

Members may also be required to sign activity-specific declarations and acknowledgements

relating to interests in circumstances where the CEO has determined that additional probity controls are necessary (PGPA Rule, s.16).

- This may occur, for example, where the Authority is dealing with a review or information in relation to which it is desirable to obtain a declaration specifically about that subject matter as a condition of access or involvement.

The CEO will consult the Chair in relation to implementing any additional controls of this kind.

Conflicts of interest

Once a member has declared a material personal interest, the Authority will decide what action needs to be taken in relation to it. This will involve deciding whether there is a conflict of interest that requires some action to be taken.

A conflict of interest exists where there is a conflict between an Authority member's outside interests or roles, and their ability to perform their duties and functions as a member impartially, fairly and independently.

Appropriate handling of conflicts of interest supports the Authority in providing the best possible independent and bias-free advice to the Government, ensures adherence to legislative requirements, guidance and expectations of Commonwealth public officials, and helps safeguard the Authority's reputation, integrity and credibility as a public sector institution. These factors will be borne in mind by members in making decisions about the handling of interests.

Conflicts that may arise for members include:

- **Actual conflict:** involves a conflict between the public duty and the private interests of a member, in which the member has private interests, or other duties, which could improperly influence the performance of their official duties and responsibilities.
- **Apparent/perceived conflict:** arises when it appears that the member has private interests which could improperly influence the performance of their official duties and responsibilities.

If a member discloses a material personal interest, the other members will determine whether the interest involves a conflict, and if so, whether it is appropriate for the disclosing member to participate in discussions and decisions in relation to the matter, and any other required action. The procedures set out below will be applied in making this determination. Once the relevant information about the interest has been provided, the member who disclosed the interest must not participate further in this process (PGPA Rule, s.16B).

Managing an interest disclosed out of session

An Authority member (the disclosing member) may disclose an interest to the Chair or the CEO before a formal meeting of the Authority in relation to a matter to be considered by the Authority at the next meeting. The disclosing member may declare that the interest involves a conflict. If the disclosing member does not declare a conflict, the Chair may decide to:

- Schedule consideration of the potential conflict of interest at the next Authority meeting.

- Facilitate consideration of the potential conflict of interest out-of-session via email. In this instance, the disclosing member must provide a description of the interest but must not be included or otherwise participate in the email correspondence concerning whether a conflict exists and how any or perceived conflict will be dealt with.
- Facilitate a teleconference to consider the potential conflict of interest prior to the next scheduled Authority meeting. The disclosing member must provide a description of the potential conflict for this meeting but must not participate in the Authority's deliberations or decision on whether a conflict exists and how any actual or apparent/perceived conflict will be dealt with.

The disclosing member must not take part in making any determination as to whether or not they can be present when the matter comes before the Authority meeting. The disclosing member must comply with the decision of the other members on the conflict and how it will be managed. The nature of the interest and the determination of the Authority must also be noted in the minutes at the next meeting of the Authority.

Managing an interest disclosed at an Authority meeting

If, at an Authority meeting, an Authority member (the disclosing member) discloses an interest in a matter being considered or about to be considered by the Authority:

- The disclosure must be recorded in the minutes of the meeting.
- The disclosing member must explain the interest in sufficient detail.
- After explaining the nature and extent of the interest, the disclosing member must absent him/herself from the meeting.
- The Authority must then determine whether a conflict exists and how to deal with any actual or apparent/perceived conflict including whether the disclosing member can be present for the actual discussion and/or decision on the matter in question.

The Authority's options for dealing with an identified actual or apparent/perceived conflict are as follows:

- A determination that there is no actual conflict of interest and that the disclosing member may participate in both the discussion of the matter and take part in making a decision on the matter.
- A determination that there is a conflict of interest but that it is appropriate for the disclosing member to participate in the discussion of the matter and not to take part in making a decision on the matter.
- A determination that there is a conflict of interest and that the disclosing member may not participate in the discussion of the matter or take part in making a decision on the matter.

Any such determination made by the Authority must be recorded in the minutes of the meeting.

If the disclosing member is the Chair, the Chair will leave the meeting. The members will appoint a member to preside over the meeting from the members present during any deliberation or decision with respect to that matter.

Should the Authority determine the Chair has a conflict of interest with respect to an agenda item, the presiding member will chair the meeting for the Authority's consideration of the relevant agenda item. Following the Authority's consideration of the relevant agenda item, the Chair will re-enter the meeting and resume presiding.

Media and engagement

The Chair and the CEO are the Authority's spokespersons and will engage with representatives of the media and others on behalf of the Authority. Members can provide comment on behalf of the Authority with prior approval from the Chair or the CEO.

The Chair and CEO will work with the Authority's media advisor in response to any media request. The secretariat and media advisor can assist members who are speaking on behalf of the Authority.

If members are invited to events in their capacity as a member of the Authority, they should advise the Chair or the CEO, who will provide guidance to the member in relation to the invitation.

Members may comment in the media or at other external fora such as conferences on matters that fall within their professional capacity but should avoid commenting directly on matters that are under active consideration by the Authority (for example policy issues that are being considered as part of a legislative review or research project in progress). Members must make clear they are not commenting on behalf of the Authority and identify in which capacity they are commenting.

Consultation with stakeholders

The secretariat will advise members when formal consultation with stakeholders on Authority reports or related research is planned with a view to members participating in such consultations if they wish.

The secretariat will inform members of the outcomes of consultation or other engagement with stakeholders.

Members should report to the subsequent Authority meeting the outcomes of any substantive discussions they have with stakeholders on matters relevant to the Authority to other members or the secretariat.

Periodic reviews

Members will undertake a review of their collective performance and this Charter every 12 months, at the last Authority meeting of each calendar year. The performance review will be conducted on a self-assessment basis. Appropriate input will be sought from the Chair, members and the CEO. The discussion and any agreed actions will be documented in the meeting minutes.