



Swan Yacht Club - Conflict of Interest Policy and Procedure

CATEGORY: Procedures and Guidelines THIS POLICY APPLIES TO: All SYC Management Committee, Contractors, Employees and Volunteers - Policy date October 2018

1 Purpose

The purpose of the Conflict of Interest Policy and Procedure is to provide clear guidelines for the management of any conflict of interest that may arise between a Swan Yacht Club Management Committee member (MC), employee, or any other individual or organisation and Swan Yacht Club (SYC).

2 Introduction

SYC is committed to the highest standards of moral and ethical behaviour and to ensuring that the conduct of all MC members, employees, volunteers, contractors and representatives (shall be referred to as “employees”) is exemplary, at all times. This includes the management of Conflict of Interest situations, which if not appropriately managed have the potential to impact adversely on SYC's reputation, its Members, its obligations under the law, and its ethical standards.

In order to achieve compliance with ethical and regulatory requirements on conflicts of interest, as well as to avoid the risk potentially attaching to such conflicts, it is the policy of SYC that employees must manage conflicts consistent with the rules and related procedures set out in this document.

The starting point for management of conflicts of interest is **identification** and **disclosure** and, in some instances, this is all that may be needed to manage the conflict. In other instances, further action may need to be taken to manage the conflict, while in others it may be that a potential or actual conflict of interest is sufficiently prejudicial that we will be forced to avoid the conflict by removing ourselves from the situation, or structuring our activities to avoid the impact of such actual or potential conflicts.

This Policy document outlines the policies and procedures implemented by SYC and provides guidance to reflect the way we will supervise, monitor, review, and audit compliance with our obligations to avoid, disclose and control conflicts of interest.

SYC and its employees must observe the rules set out in this document, including any amendments as notified from time to time, as well as the applicable regulatory requirements or legislation. SYC employees are responsible for identifying and escalating possible conflicts to an appropriate level of management.

The Management Committee is ultimately responsible for ensuring that where there is a conflict, such conflict is appropriately managed. The Management Committee of SYC will oversee the implementation of this Policy on behalf of SYC and any questions in respect of the Policy are to be directed to the Management Committee. The policy will be reviewed regularly to ensure compliance.

Failure to observe the relevant procedures will be treated seriously and may result in disciplinary action, including termination of employment, suspension or expulsion.

3 Policy

3.1 Conflict of Interest

This Policy relates to any conflicts of interest situations that may arise within SYC and includes all activities undertaken by its employees in connection with SYC's activities. This Policy also extends, but is not limited to, the personal, financial or other interests of family members (such as spouses, children, parents, siblings, relations by marriage, grandparents, grandchildren and any other dependents) of employees of SYC, where such interests could, or could be perceived to, conflict with the relevant employee's duties and obligations to SYC. When assessing whether a conflict of interest exists, employees should consider their personal interests as well as the interests of their family members.

SYC has implemented this Policy in respect to conflicts of interest because:

- a) Identifying, addressing and resolving conflicts of interest is a necessary precursor to the maintenance of SYC's ethics; and
- b) It is good corporate governance practice that SYC has arrangements for the management of conflicts of interest that may arise in the course of its business.

What is a conflict of interest?

A 'conflict of interest' is a circumstance where some or all of SYCs employees' interests are inconsistent with or divergent from some or all of SYC's interests. This includes actual, perceived or potential conflicts of interest.

Some situations (but not limited to these examples), that may give rise to a conflict of interest for SYC include:

- a) SYC or an employee or Management Committee Member of SYC being offered incentives to enter into transactions;
- b) SYC and/or related parties may receive fees and other benefits by virtue of an external position or role, or the provision of other services;
- c) an employee or Management Committee Member of SYC acting in more than one capacity in respect of the same transaction;
- d) assets being transferred between SYC and an employee or related party;
- e) the personal interests of Management Committee members and employees may be in conflict with the interests of SYC and/or its Members;
- f) provision of services and engagement as a consultant to other organisations; and
- g) membership on other committees.

Conflicts of interest may also include issues which are prohibited by law and must always be avoided.

3.2 Conflict of Interest Principles

SYC has adopted the following principles in relation to conflicts of interest:

- a) to act efficiently, fairly and honestly towards SYC's Members;
- b) as part of the SYC On-boarding process, Management Committee members and employees should be made aware of the Conflict of Interest policy and be asked to report any conflicts to the Management Committee or the General Manager, at their earliest opportunity
- c) where a conflict of interest exists and SYC forms the view that the situation can be managed to prevent adverse consequences, SYC will put in place arrangements to manage that conflict, and where appropriate SYC will make suitable disclosure to stakeholders of that conflict;
- d) to avoid conflict of interest situations that cannot be managed and that may have materially detrimental consequences for SYC or its stakeholders;
- e) to operate its business impartially;
- f) to not undertake activities where it is not in SYC's best interests; and
- g) to actively promote a culture in which there is widespread awareness of conflicts of interest and the need for effective management of any such conflicts.

SYC is committed to giving effect to these principles by:

- a) adopting internal controls and appropriate disclosure mechanisms;
- b) adopting the policy and procedures as described in this Policy;
- c) identifying the Management Committee as the primary position (Conflict Manager) responsible for assisting the General Manager with the day to day management of conflicts of interest arising within SYC;
- d) delegating responsibility to the General Manager to maintain a conflict of interest register for Management Committee members, contractors and employees; and
- e) reviewing, at least annually, this Policy.

3.3 Legal and Regulatory Framework

This Policy does not change the obligations that SYC or its representatives have under any laws or under any documents governing its relationships with stakeholders (e.g. constitution, By Laws or any other internal policies and procedures). Those obligations remain in place and this Policy is additional to those obligations and is something that should be considered at all times by representatives. However, where these obligations are inconsistent with this Policy, then the matter should immediately be referred to the General Manager or the Management Committee.

Where conflicts of interest are not managed appropriately, decisions may be made and transactions may be entered into which are not in the best interests of SYC or its stakeholders. The consequences include damage to SYC's reputation and/or its representatives being liable to compensate parties adversely affected by the conflict and, in extreme cases, fines and/or imprisonment.

SYC may also take disciplinary action against any representative involved in a contravention of this Policy, which action may lead to a termination of employment, suspension and or expulsion.

3.4 Representatives

Prior to appointment, SYC requires employees, Management Committee members and representatives to disclose any conflicts of interest.

It is the responsibility of each employee, Management Committee member and representative to:

- a) comply with and give effect to this Policy and Conflict of Interest Procedure; and
- b) be alert to, identify and disclose any conflicts of interest (whether perceived, actual or potential) when engaging in any activity, and comply with the procedures set out below.

4 Procedure

4.1 Managing Conflict of Interest

The Management Committee has delegated responsibility as "Conflict Manager" for assisting the General Manager to manage all conflict related matters within SYC, and they are responsible for achieving the conflict of interest policy objectives, and for the day-to-day management of conflicts of interest arising within SYC. They will:

- a) evaluate identified conflicts of interest having regard to:
 - the consequences that could follow from that conflict;
 - the probability of the occurrence of each of those consequences; and
 - the materiality of the conflict;
- b) determine whether actual, potential or perceived conflicts of interest should be categorised as a manageable conflict or an unmanageable conflict;
- c) determine any action that needs to be taken to manage a conflict of interest situation, and advise the General Manager accordingly;
- d) regularly monitor the actions agreed to manage a conflict situation, to ensure compliance;
- e) monitor any conflict which has been determined to be a manageable conflict and any adverse consequences that have or are likely to occur in respect of that conflict;
- f) maintain the Conflicts Register ensuring that it contains a written record of:
 - 1) each material conflict situation brought to the attention of the Conflict Manager via a Conflict of Interest Form;

- 2) reasons for the categorisation of a conflict of interest as being manageable or unmanageable; and

- g) any action to be taken in dealing with a conflict of interest situation; and
- h) provide a compliance report to the Management Committee of SYC in accordance with this Policy.

Where the procedures in relation to conflicts of interest identify any instances of non-compliance, then the Management Committee must ensure SYC takes appropriate rectification action, in conjunction with the General Manager to prevent a recurrence, including:

- a) recording the non-compliance in a register;
- b) carrying out an analysis of how the instances of non-compliance have occurred;
- c) initiating appropriate and relevant training for the personnel of SYC responsible for or working in the area within which the instances of non-compliance have occurred;
- d) notifying the Management Committee of the instances of non-compliance and the nature of the training initiated to prevent a recurrence;

Where the non-compliance is serious and cannot be rectified by the above steps, such breach may result in termination of employment, suspension and or expulsion from SYC. A serious breach includes repeated failure by employees to communicate conflicts of interest to the Management Committee or refusal to avoid a conflict of interest which may reasonably be likely to adversely affect the reputation of SYC.

4.2 Conflicts of Interest

4.2.1 Identifying conflicts of interest

To identify possible conflicts of interest, SYC's Management committee, employees and representatives must perform, on an ongoing basis and in respect to any business activities, an assessment of actual, perceived and potential conflicts that will include:

- a) the nature of the conflicts of interest;
- b) the materiality of the conflict (as perceived by SYC);
- c) whether a stakeholder could perceive the conflict as material; and
- d) whether the conflict could be detrimental to SYC or its stakeholders in any way.

If and when a conflict is identified, the relevant person must immediately communicate the fact to the General Manager and complete and provide a Conflict of Interest Form (see Annexure A) to the General Manager. This Form should be completed even if the representative is unsure whether the conflict is important or likely to have any adverse consequences.

All new Management Committee, employees and representatives must be sent the Conflict of Interest Form as part of their induction process. If the form is returned with a possible conflict of interest disclosed, the form is to be sent to Management Committee for review.

The Management Committee must then:

- enter details of the conflict in the conflicts register (See Annexure B) which is then available for inspection by all decision makers;
- evaluate the conflict and the appropriate actions that should be taken; and
- monitor, manage and disclose the conflict.

4.2.2 Evaluating and dealing with conflict

Once a conflict of interest has been identified, the Management Committee will evaluate the conflict and determine whether the consequences of the conflict are potentially material. For all material conflicts, the Management Committee will determine what arrangements (if any) need to be put in place to mitigate the risk of adverse consequences resulting from that conflict.

The Management Committee will evaluate the situation and prescribe a response to that situation which may include:

- a) establishing the actions that must be completed before SYC can proceed; for example, such tasks might include that the conflict be disclosed to Members; or
- b) SYC avoiding the conflict by not proceeding in situation

4.2.3 Monitoring, managing and disclosure of conflict

The material details contained in a Conflict of Interest Form will be entered into SYC's Conflict Register (see Annexure B) by the Management Committee or their delegate. The Executive Manager Corporate Support Services will then be responsible for ensuring that actions to be performed in relation to the management of a material conflict are undertaken.

If the conflict is not a single transaction or situation then it is the Management Committee's responsibility (in conjunction with the General Manager, as required) to continue to monitor and manage the conflict until it no longer exists.

Where a conflict of interest has been identified in relation to a particular transaction, consideration must be given to what disclosure is required to be made to parties to that transaction and to other potential stakeholders. In making this determination, regard should be given to information that the other parties to and stakeholders affected by the transaction would consider material, and what has already been disclosed to them.

4.2.4 Management Committee Members

Each Management Committee member must disclose:

- a) details of any Board memberships and executive positions;
- b) any other involvement in any other organisation which creates, or which may create, a conflict or a perceived conflict;
- c) details of any contract between SYC and another party in which the Management Committee member has an interest.

The management Committee (Conflict Manager) must maintain a register containing details of these matters.

Where a Management Committee Member has an interest in a matter that relates to the affairs of SYC and which is, or could create, a conflict of interest, then the following procedures apply:

- a) the Management Committee member must disclose details of the nature and extent of the interest that gives rise to the conflict of interest with respect to their duties as a Management Committee member, including the relationship of the interest to the affairs of SYC, and must do so in writing as soon as practicable after the Management Committee member becomes aware of their interest in the matter;
- b) if a Management Committee member is in doubt about whether they are in a position of conflict of interest, or in doubt as to what should be disclosed, the Management Committee member must seek guidance from the Executive members of the Management Committee;
- c) where a Management Committee member has a conflict or a perceived conflict, it may be inappropriate for the Management Committee member to receive Management Committee papers, or other information, relevant to the conflict;
- d) unless a majority of the other Management Committee members, upon receiving appropriate advice and who do not have an interest in the matter, agree that the interest disclosed should not disqualify the Management Committee member from being present and voting on the matter, a Management Committee member must not be present at a meeting of the Management committee while the matter is being considered/discussed (noting that the Management Committee member may participate in the execution of any relevant document by or on behalf of SYC regardless as to whether the Management Committee member is present at the meeting);
- e) In the context of this policy, a conflict of interest arises where a Management Committee member's personal interests may be affected by a Management Committee's decision on the matter. Personal interests are not limited to financial or pecuniary interests and can be an indirect or direct interest.

A Management Committee member must assume that they have a conflict wherever there is a real, perceived or potential conflict between their duty to SYC and their duty to another organisation and/or the Management Committee member's interests.

As a minimum, the Management Committee Conflict Register is updated annually, generally at the first Management Committee meeting following the AGM, and kept on file by General Manager.

5 Adequacy of Procedures

SYC will continuously monitor the adequacy of this Policy by:

- a) regularly reviewing arrangements that have been put in place to manage a conflict, to ensure that they are being complied with and that they are adequate;
- b) periodically reviewing business operations for potential conflict situations or existing conflict situations which are not being reported;
- c) annually reviewing the Conflict of Interest Policy and Procedures, including through consulting with employees to ensure they are aware of them and are complying with them.