



Department of Primary Industries

Guidelines for Exhibited Animals Advisory Committee Members

August 2014

BN14/547

Title: Guidelines for Exhibited Animals Advisory Committee Members.

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For updates to this publication, check: www.dpi.nsw.gov.au/agriculture/livestock/animal-welfare/exhibit

Published by Department of Trade and Investment, Rural Infrastructure and Services

First published August 2014

Acknowledgements

The members of the Exhibited Animals Advisory Committee are acknowledged for their valuable input into this document. The members are Matthew Crane, Linda Crawley, Andrew Kelly, Paul Metcalfe, Suzanne Robinson and Rick Webb.

Disclaimer

The information contained in this publication is based on knowledge and understanding at the time of writing (August 2014). However, because of advances in knowledge, users are reminded of the need to ensure that information on which they rely is up to date and to check the currency of the information with the appropriate officer of Department of Trade and Investment, Rural Infrastructure and Services or the user's independent advisor.

Foreword

The Exhibited Animals Advisory Committee (the Committee) is a statutory Committee under the *Exhibited Animals Protection Act 1986* (EAPA) that was established in 1987 to provide expert advice to the Director-General on matters relating to the exhibited animals industry in New South Wales.

The Committee is conscious of the increasing importance to society of the welfare of animals and the obligation of humans to appropriately care for animals under their care. There is recognition of the positive economic, educational and conservational value of the exhibition of animals in New South Wales.

The membership of the Committee represents a range of agencies, organisations and interest groups, which ensures that its decisions take into account a range of opinions, community attitudes and scientific evidence in any advice provided. As with any Committee, the final decisions on matters affecting animal welfare rest with the NSW Government.

The aim of these guidelines is to clearly identify the responsibilities of the Committee members and the operation of the Committee in order to ensure that it runs effectively in its different functions.

Further information about the Committee can be requested from the Exhibited Animals Advisory Committee Executive Officer, Locked Bag 21, Orange NSW 2800.

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1. Definitions

Act - The *Exhibited Animals Protection Act 1986*.

Animal - An animal, as defined, under the Act.

Animal Welfare - All animals have intrinsic value. The Australian approach to animal welfare requires that animals under human care or influence are healthy, properly fed and comfortable and that efforts are made to improve their well-being and living conditions. In addition, there is a responsibility to ensure that animals which require veterinary treatment receive it and that if animals are to be destroyed, it is done humanely.

Committee – Exhibited Animals Advisory Committee.

Department - means the NSW Government department responsible for administering the *Exhibited Animals Protection Act 1986*.

Director-General – means the Director-General of the Department.

Minister - means the NSW Government Minister who is responsible for administering the *Exhibited Animals Protection Act 1986*.

Member - means a member of the advisory Committee (appointed by the Minister).

2. Functions of the Committee

2.1. The specific functions of the Committee (as per Section 8 of the EAPA) are to:

- a) advise the Director General so as to promote a coordinated approach in policy and administration between the Director General and government departments administering legislation relating to the importation, control, care and welfare of animals;
- b) monitor the effectiveness of the scheme governing the exhibition of animals and to recommend to the Director General any changes that may appear to the Committee to be necessary for the efficient operation of the administration of the legislation; and
- c) carry out any function that may be delegated to it by the Director General.

2.2. More broadly the Committee provides advice to the Director General on matters affecting the welfare of exhibited animals by:

- a) recommending revisions and amendments to *Exhibited Animals Protection Act 1986*, policy, strategies and programs while taking into consideration other relevant matters such as scientific knowledge, best practice, national and international trends, guidelines and standards, practicalities and public opinion;
- b) monitoring community attitudes and trends, identifying current and emerging animal welfare issues, and providing Government with policy options to address these issues;
- c) providing comment on contemporary proposed or revised standards and policies on animal welfare of exhibited animals;
- d) considering, and where appropriate providing advice on, submissions from animal welfare organisations and agencies, industry or individuals concerning exhibited animal welfare; and
- e) providing considered advice on any exhibited animal welfare matters referred to it by the Minister or the Department.

3. Membership

3.1. Composition of the Committee

3.1.1. The Exhibited Animals Advisory Committee consists of six members who are appointed by the Minister under Section 6(4) of the EAPA. Of the members:

- a) one is to be a person nominated by the Minister,
- b) one is to be a person selected by the Minister from a panel of persons nominated by the Zoological Parks Board of NSW,
- c) one shall be a person nominated by the Minister administering the *National Parks and Wildlife Act 1974*,
- d) one shall be a person nominated by the Minister administering the *Prevention of Cruelty to Animals Act 1979*,
- e) one shall be a person selected by the Minister from persons nominated by prescribed animal welfare organisations, and
- f) one shall be a person selected by the Minister from persons nominated by prescribed organisations representing exhibitors of animals.

Prescribed animal welfare organisations under Clause 40(1) of the *Exhibited Animal Protection Regulation 2010* (EAPR) are:

- Animal Welfare League NSW.
- Humane Society International.
- Primates for Primates.
- Royal Society for the Prevention of Cruelty to Animals.
- World Wide Fund for Nature Australia.

Prescribed organisations under Clause 40(2) of the EAPR representing exhibitors of animals are:

- Circus Federation of Australia.
- Mobile Wildlife Educators Association.

- New South Wales Fauna and Marine Parks Association
 - Zoo and Aquarium Association.
- 3.1.2. Where the Minister is unable to appoint a member because of the failure of a prescribed organisation to nominate a person or panel of persons the Minister may appoint any person considered qualified to hold office.
 - 3.1.3. A member of the Committee appointed by the Director-General is to be the Chairperson of the Committee.
 - 3.1.4. Appointments are made on the basis of merit. This means that candidates must be able to demonstrate excellence in relevant skills and achievements.
 - 3.1.5. Ministers and agencies are required to consider the composition of board membership when making recommendations for new appointments or re-appointments.
 - 3.1.6. Strategies are in place to increase representation of groups within the community who have traditionally been under represented such as women, people from culturally and diverse backgrounds, Aboriginal and Torres Strait Islander people, people with a disability and young people.
 - 3.1.7. It is possible under some circumstances that political affiliations would constitute an irreconcilable conflict with members' duties. Therefore, candidates should be required to declare any significant political activity which they had undertaken in the previous five years. This might have included holding office or standing as a political candidate.

3.2. Appointment process

When a vacancy to the Committee has occurred due to a member resigning or the term of office of a member is due to expire the following process is undertaken to fill the position.

- a) The Minister sends out letters to prescribed organisations asking for nominees.
- b) The Minister receives nominations from prescribed organisation and other government Departments.
- c) The Minister reviews the nominations in accordance with the expertise of the people nominated and the balance of the Committee.
- d) The Minister chooses one of the nominees.
- e) The name of the nominee is submitted to cabinet for approval.
- f) The Minister sends a letter to the successful nominees advising them of their successful appointment to the Committee.
- g) The new members name is advertised in the NSW Government Gazette.

3.3. Qualities of candidates

Candidates must be able to demonstrate excellence in relevant skills and achievements. The following is a list of general skills and qualities that are sought when locating candidates for positions on the Committee:

- a) Leadership – An ability to promote a sense of confidence and stability in the Committee and its role in the animal exhibition industry and the wider community.
- b) Strategic focus – A clear understanding of the exhibition industry and how it functions.
- c) Management skills – Experience in managing people, organisations, institutions or activities related to the Committee.
- d) Capacity to learn quickly – An ability to handle complex issues and offer innovative solutions.
- e) Team player – An ability to work with other board members harmoniously while promoting vigorous debate when necessary.

4. Term of Office

Membership to the Committee is for a period not exceeding 3 years, as may be specified in the instrument of appointment of the member, but is eligible (if otherwise qualified) for re-appointment.

5. Induction of Members

5.1. New members

Newly appointed members to the Exhibited Animals Advisory Committee are to be inducted in order to introduce them to the requirements and functioning of the Committee.

5.2. Member induction

The induction process includes:

- a) Receiving a formal letter from the Minister notifying them of their appointment to the Committee.
- b) Receiving the agenda for the next meeting.
- c) Being introduced to the other members of the Committee.
- d) Being provided with information regarding:
 - the functioning of the Committee.
 - the *Exhibited Animals Protection Act 1986* legislation.
 - the *Guidelines for Exhibited Animals Advisory Committee Members*.
 - a copy of the previous minutes.
 - a schedule of upcoming meeting dates.
 - the *Departmental Code of Conduct for members of advisory committees, boards, contractors and consultants*.
 - the impact of the EAPA legislation on the role of the Committee.

- Committee procedures.
- arrangements for declaring interests including conflicts of interest.
- the kind of environment in which the Committee operates (e.g. government policies, business context etc.).

6. Remuneration

- 6.1. Members from government agencies are not subject to remuneration.
- 6.2. A member is entitled to be paid such remuneration (including sitting fees, travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

7. Termination of Appointment

- 7.1. A member shall be deemed to have vacated office if the member:
 - a) dies;
 - b) absents himself or herself from four consecutive meetings of the Committee of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for being absent from those meetings;
 - c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
 - d) becomes a mentally incapacitated person;
 - e) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable;
 - f) resigns the office by instrument in writing addressed to the Minister; or
 - g) is removed from office by the Minister under 7.2 or 7.3.
- 7.2. The Minister may remove a member from office.
- 7.3. Without affecting the generality of 7.2, the Minister may remove a member from office if the member contravenes the provisions of disclosing pecuniary interests.
- 7.4. In some exceptional cases, a member's appointment may need to be terminated prior to the expiry of their term (See the *NSW Government Board and Committee Guidelines*). Examples include:
 - a) The member is no longer able to commit adequate time to his or her role.
 - b) There has been a disagreement with other members that cannot be resolved.
 - c) There is a conflict of interest that cannot be mitigated.

- d) The member no longer meets the membership criteria, such as where the member:
- was appointed as a representative a particular entity and no longer represents that entity.
 - is unable to perform the duties of office due to illness or other commitments.
 - breached the Committee's code of conduct.

8. Responsibilities

8.1. Responsibilities of the Chairperson

The responsibilities of the Chairperson are to:

- a) provide leadership and strategic direction to the Committee;
- b) effectively organise and direct the Committees business to enable the Committee to meet its functions;
- c) ensure individual members make an effective contribution in debate and facilitate frank and open discussion within meetings;
- d) undertake to resolve conflicts of interest and grievances within the Committee;
- e) be available to the Director-General and Minister to provide advice on exhibited animals issues;
- f) ensure that the Committee performs its functions within any relevant statutory powers, legal obligations and complying with policies relevant to the entity (including whole of government policies);
- g) facilitate the flow of information to Committee members and stakeholders; and
- h) ensure that appropriate secretariat support is provided.

8.2. Responsibilities of the members

The responsibilities of all Members (including the Chairperson) are to:

- a) attend and actively participate in meetings utilising their own experience and knowledge or that of their nominating organisation, while not representing any particular interest group;
- b) ensure that the focus of all contributions is towards enabling the functions of the Committee;
- c) serve the interests of the Committee in carrying out its functions and not to lobby on behalf of the organisation that nominated them;
- d) make the necessary commitment of time to ensure they have sufficient information to participate in matters for consideration by the Committee;
- e) treat other members of the Committee fairly and consistently, with proper regard for their rights and obligations;
- f) comply with requests from the Director-General and Minister;
- g) comply with any relevant legislative, industrial, policy and administrative requirements of the Department;
- h) declare any conflict of interest and take appropriate steps to mitigate such conflicts (See Section 8.5);
- i) keep confidential all information received as a member of the Committee;

- j) accompany an authorised inspector during the conduct of an inspection if the Committee, by instrument in writing, authorises the member to do so;
- k) comply with the *NSW Government Board and Committee Guidelines*; and
- l) comply with the *Code of Conduct for Members of Advisory Committees/Boards, Contractors and Consultants to the NSW Department of Primary Trade and Investment, Regional Infrastructure and Services*.

8.3. Confidentiality

The Committee must note and comply with the confidentiality provisions within the *Trade and Investment Code of Conduct for members of advisory committees/boards*. In addition to these provisions, Members must comply with the following clauses:

- a) If in any doubt, Members must seek the advice of the Chair.
- b) Former Members of the Committee will not, without the express approval of the Minister, expose any document or other information obtained whilst a Member.

8.4. Disclosure of pecuniary interest

- 8.4.1. A member who has a direct or indirect pecuniary interest:
 - a) in a matter that is being considered, or is about to be considered, at a meeting of the advisory committee, or
 - b) in a thing being done or about to be done by the advisory committee, shall, as soon as practicable after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the advisory committee.
- 8.4.2. A disclosure by a member at a meeting of the advisory committee that the member:
 - a) is a member, or is in the employment, of a specified company or other body, or
 - b) is a partner, or is in the employment, of a specified person, or
 - c) has some other specified interest relating to a specified company or other body or a specified person,
 shall be deemed to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure.
- 8.4.3. The advisory committee shall cause particulars of any disclosure made under subclause 8.4.1 or 8.4.2 to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection of any person.
- 8.4.4. After a member has, or is deemed to have, disclosed the nature of an interest in any matter or thing pursuant to subclause 8.4.1 or 8.4.2, the member shall not, unless the Minister otherwise determines:

- a) be present during any deliberation of the advisory committee, or take part in any decision of the advisory committee, with respect to that matter, or
 - b) exercise any functions under this Act with respect to that thing,
 - c) as the case requires.
- 8.4.5. Notwithstanding that a member contravenes the provisions of this clause, that contravention does not invalidate any decision of the advisory committee or the exercise of any function under this Act.
- 8.4.6. Nothing in this clause applies to or in respect of an interest of a member in a matter or thing which arises by reason only that the member:
- a) is associated with a licensed animal display establishment, or
 - b) is entitled to a share of any profits of licensed animal display establishments,
 - c) other than a licensed animal display establishment which is, or which belongs to a class of licensed animal display establishments which is, the subject of that matter or thing.
- 8.4.7. A reference in this clause to a meeting of the advisory committee includes a reference to a meeting of a committee of the advisory committee.

8.5. Conflict of interest

In addition to the disclosure of pecuniary interests the Committee must note and comply with the conflict of interest provisions within the *Trade and Investment Code of Conduct for members of advisory committees/ boards*. In addition to these provisions, members must comply with the following clauses:

- 8.5.1. Where a Member has any direct or indirect interest in any matter of business being considered, or is about to be considered, at a meeting of the Committee, which may be construed as providing personal financial or other gain to the Member; or furthering the interests of personal relationships, political activities, or personal beliefs of that Member; that interest must be declared to the Committee.
- 8.5.2. Where a Member so declares a conflict of interest, the Chair may:
- a) request the Committee to determine how the declaration of conflict of interest should be dealt with;
 - b) refuse the Member the right to speak in relation to that business;
 - c) refuse the Member the right to vote on that business; or
 - d) require the Member to withdraw from a meeting for the period of discussion and resolution of that business.
- 8.5.3. All declared conflict of interests, and the decisions of the Chair under Clause 8.5.2, must be recorded in the minutes of the meeting. The Committee shall cause particulars of any disclosure to be recorded in a book kept for the purpose.

- 8.5.4. Notwithstanding that a member contravenes the provisions of this clause, that contravention does not invalidate any decision of the Committee or the exercise of any function under this Act.

8.6. Grievances

- 8.6.1. Members should initially attempt to resolve the grievance themselves by discussing the problem, and its impact upon them directly with the person involved.
- 8.6.2. If action under clause 8.6.1 is unsuccessful, Members should raise their grievance with the Chair who will record the grievance and the actions taken.
- 8.6.3. Where the Chair is unable to resolve the issue within 30 days, the Chair may refer the grievance to the Director-General for resolution.
- 8.6.4. When resolving grievances, consideration must be given to the Guidelines of the Committee and the relevant legislative, industrial, policy and administrative requirements of the Department.

9. Committee Operations

9.1. General

Effective and accountable decision-making processes require:

- a) careful preparation of the agenda.
- b) papers being circulated well in advance of meetings.
- c) meetings being conducted in ways that allow frank and open discussion.
- d) defining the parameters for the way in which the Committee conducts business.
- e) having rules about access to information.
- f) being able to seek independent and external professional advice at the Department's expense.

9.2. Chairperson

- 9.2.1. The Chairperson may be referred to as the Chairman or Chairwoman, as the case requires.
- 9.2.2. The Chairperson (or, in the absence of the Chairperson, another member elected as chairperson for the meeting by the members present) shall preside at a meeting of the Committee.
- 9.2.3. The person presiding at any meeting of the Committee has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

- 9.2.4. The Chairperson shall be deemed to have vacated office as Chairperson if they cease to be a member of the Committee.
- 9.2.5. The Chairperson provides leadership to, and promotes cohesiveness, effectiveness and functioning of, a board. A major responsibility of the Chair is to ensure that individual members make an effective contribution.
- 9.2.6. The Chairperson is pivotal in developing good relationships between the key stakeholders, the Minister/s, the Committee and the Director-General.

9.3. Quorum

The quorum for a meeting of the Committee is four members.

9.4. Meeting Agenda

- 9.4.1. Committee members must submit all material for agenda to the Executive Officer at least 10 days before a meeting.
- 9.4.2. The Chair should cause to be circulated not less than one week prior to a general meeting, an agenda setting out the business before the Committee.

9.5. Decision making

The Committee cannot make a decision on behalf of the Director-General, unless that function has been delegated to it by the Director-General.

9.6. Voting

- 9.6.1. There is an allowance for voting within the legislation, however this is rarely utilised by the Committee.
- 9.6.2. Members of the Committee should endeavour to reach decisions by consensus rather than through each member voting. This may require compromise between members who hold different views. Members may however express dissenting views and have these minuted but in the best interests of the Committee they should not defer the final decision being made.
- 9.6.3. If voting does occur a decision is supported by a majority of the votes cast at a meeting of the Committee at which a quorum is present.
- 9.6.4. The person presiding at any meeting of the Committee has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

9.7. Correspondence

- 9.7.1. The Committee is to be made aware of correspondence, both received and sent by Committee, at the general meetings.
- 9.7.2. Members of the Committee should communicate issues to the Committee by submitting issues to the Committee's Executive Officer.

9.8. In person representations

- 9.8.1. The Committee does not make decisions in relation to approving or refusing specific applications and so will ordinarily not grant leave for an exhibitor or welfare organisation, or their agent, to appear in person to make representations in relation to specific applications that are being considered by the Department or that have been considered and refused.
- 9.8.2. The presence of a person face-to-face can result in undue influence on the Committee by the person making the representations.
- 9.8.3. The Committee will provide advice based on documentary submissions that can be objectively considered by Committee members during open and frank discussions.
- 9.8.4. On occasion the Committee will grant leave for exhibitor or animal welfare organisations to appear in person to make representations or to seek advice in relation to policy issues relating to the industry.

9.9. Observers

- 9.9.1 The Committee will ordinarily not grant leave for observers on the Committee. The Committee endeavours to ensure open and frank discussions are not stifled and potentially interfered with by the presence of observers. The Committee also aims to ensure that the efficiency and confidentiality of the Committee is not compromised.
- 9.9.2 On occasion the Committee will grant leave for exhibitor or animal welfare organisations to appear in person to make representations or to seek advice in relation to policy issues relating to the industry.

9.10. Minutes

- 9.10.1. Minutes of each meeting will be recorded that:
 - a) accurately summarise the discussions undertaken by the Committee.
 - b) record the recommendations made by the Committee.
 - c) record any dissent amongst Committee members.
 - d) record any actual or perceived conflict of interest and the actions taken to address it, if appropriate (e.g. the person left the room during the discussions).
- 9.10.2. Minutes are ratified at the following meeting.

10. Financial Arrangements

10.1. Funding

The Committee and its activities in providing advice to the Director-General will be funded by the Department.

10.2. Sitting fees

Members will be paid meeting fees as prescribed by the NSW Government's '*NSW Government Board and Committee Guidelines*'.

10.3. Expenses

Reasonable expenses, including travel to attend Committee meetings, incurred by Members will be reimbursed as prescribed by the NSW Government's '*NSW Government Board and Committee Guidelines*'.

11. Secretariat Support

The Department will provide all secretariat and executive support services to the Committee in consultation with the Chair. Key secretariat responsibilities may include:

- a) development of agendas and other documents to support the operation of the Committee;
- b) organising meeting facilities and other meeting logistics;
- c) prepare and circulate any background, discussion or other papers for Committee meetings;
- d) assist in preparing correspondence, reports, etc. relevant to the Committee's function;
- e) provide information to the Committee, which is provided by Members or which the Department becomes aware of, that will facilitate the Committee to fulfil the requirements of the Guidelines;
- f) taking minutes of the meeting including decisions, discussion and any dissenting views where appropriate;
- g) maintaining files and records of meetings and appointments of members; and
- h) liaising with other government agencies including central agencies to provide information to enable oversight of boards or committees across the sector.

12. References

Exhibited Animals Protection Act 1986. Available at:

www.legislation.nsw.gov.au/maintop/view/inforce/act+123+1986+cd+0+N

Exhibited Animals Protection Regulation 2010. Available at:
www.legislation.nsw.gov.au/viewtop/inforce/subordleg+444+2010+cd+0+N/?dq=Regulations%20under%20Exhibited%20Animals%20Protection%20Act%201986%20No%20123

Department of Premier & Cabinet (2013) *NSW Government Board and Committee Guidelines*. Department of Premier & Cabinet, Sydney. Available at:
www.dpc.nsw.gov.au/_data/assets/pdf_file/0020/154127/2013-170983_NSW_Government_Boards_and_Committees_Guidelines.pdf

Trade & Investment (2012) *Code of Conduct for Members of Advisory Committees/Boards, Contractors and Consultants to the NSW Department of Primary Trade and Investment, Regional Infrastructure and Services*. NSW Trade and Investment, Sydney. Available at:
www.trade.nsw.gov.au/_data/assets/pdf_file/0008/427643/Code-of-Conduct-Schedule-1-externals.pdf