

ITEM 16 POLICY REVIEW: CODE OF BUSINESS ETHICS

With the introduction of a new Model Code of Conduct and the review of Council's own Codes of Conduct, the Code of Business Ethics was reviewed to ensure consistency with the new Codes. This report presents a revised draft Code of Business Ethics for consideration by Council.

RECOMMENDATION

Council adopt the revised Code of Business Ethics.

REPORT AUTHORISATIONS

Report of: Todd Hopwood, Manager Governance and Customer Service
Authorised by: Renee Campbell, Director Corporate Services - Connected + Engaged City

ATTACHMENTS

- 1 Draft revised Code of Business Ethics

BACKGROUND

With the review of Council's values and Codes of Conduct, a review of the Code of Business Ethics was triggered and undertaken. Changes made to the Code of Business Ethics include:

- Updating of Council's values
- Use of more direct and inclusive wording throughout the policy as administrative changes, without affecting the intent of the policy
- Removal of some wording relating to staff acceptance of gifts. Council's Codes of Conduct make clear its expectations of staff in terms of acceptance of gifts from suppliers and contractors.

PROPOSAL

It is proposed that this draft policy be reported to the same meeting of Council as the Codes of Conduct for adoption by Council.

CONSULTATION AND COMMUNICATION

Professional Conduct Coordinator

PLANNING AND POLICY IMPACT

This report contributes to the delivery of Our Wollongong 2028 goal "We are a connected and engaged community".

It specifically delivers on core business activities as detailed in the Governance and Administration Service Plan 2018-19.

CONCLUSION

The general content of Code of Business Ethics remains consistent with Council's Codes of Conduct and administrative changes only have been made to the draft document. It is appropriate that the Code of Business Ethics and Codes of Conduct are considered by Council at the same time.



ADOPTED BY COUNCIL: [TO BE COMPLETED BY CORP SUPPORT]

BACKGROUND

Wollongong City Council works with private, public and non-profit sectors to provide a range of services to the community. Accordingly, organisations, service providers, small businesses and individuals can expect high standards of ethical behaviour from Councillors and members of staff. Underpinning these expectations are our organisational values. They drive our behaviour and reflect how we conduct ourselves in our business. The four-five values are:

<u>INTEGRITY</u>	-	<u>honest & reliable</u>
<u>RESPECT</u>	-	<u>inclusive & considerate</u>
<u>SUSTAINABLE</u>	-	<u>use our community's resources responsibly</u>
<u>ONE TEAM</u>	-	<u>together we deliver excellent service</u>
<u>COURAGE</u>	-	<u>challenge the norm to be better</u>

OBJECTIVE

This Code of Business Ethics provides guidance regarding the standards of ethical behaviour that organisations, service providers, small businesses and individuals can expect from Councillors and members of staff and that are expected of them, in their dealings with Council.

POLICY STATEMENT

Our values guide our actions in conducting business in a socially responsible and ethical manner. As an organisation, and as individuals, we respect, apply and comply with the law, support human rights and equal opportunity, protect the environment, achieve operational excellence and work for the benefit of our communities. Council officials will at all times act with honesty and integrity in an open and transparent manner, performing their roles efficiently, effectively and fairly, thereby attracting the highest level of confidence from our community.

POLICY REVIEW AND VARIATION

- 1 Council is to have opportunity to review and adopt, at least once during its Term, each Council policy.
- 2 This policy will be reviewed concurrent to any review of Council's Codes of Conduct
- 3 A resolution of Council is required to adopt any variations to this policy, with the exception of minor administrative changes, such as updates to legislative references, which may be endorsed by the Executive Management Committee (EMC). Endorsement of administrative changes made to this policy by EMC does not alter the requirement for it to be reviewed and adopted by each Term of Council.

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STATEMENT OF PROCEDURES

COUNCIL'S CODES OF CONDUCT

The Wollongong City Council Codes of Conduct set the requirements of conduct for Council officials in carrying out their functions. It reflects Council's determination to support the highest level of community confidence in the integrity of Council. The Codes of Conduct have been developed to assist Council officials to:

- Understand the standards of conduct that are expected of them;
- Enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence (Section 439 – *Local Government Act (NSW) 1993*); and
- Act in a way that enhances public confidence in the integrity of local government.

OUR KEY BUSINESS PRINCIPLES

The Wollongong City Council Codes of Conduct are based on the Model Code of Conduct for Local Councils in NSW and a number of key [ethical](#) principles and sets out [the](#) standards of conduct that meet these principles and statutory provisions applicable to local government activities. The key [ethical](#) principles that the Codes of Conduct are based on are:

Integrity

We must not place ourselves under any financial or other obligation to any individual or organisation that might reasonably be thought to influence us in the performance of our duties.

Leadership

We have a duty to promote and support the key principles by leadership and example and to maintain and strengthen the public's trust and confidence in the integrity of the Council. ~~This means promoting~~We promote public duty to others in the Council and ~~outside~~all others that we deal with, by our own ethical behaviour.

Selflessness

We have a duty to make decisions in the public interest and not act in order to gain financial or other benefits for ourselves, our family, friends or business interests. ~~This means making~~We make decisions because they benefit the public, not because they benefit the decision maker, or someone associated with the decision maker.

Impartiality

We ~~should~~ make decisions on merit and in accordance with our statutory obligations when carrying out public business. This includes the making of appointments, awarding of contracts or recommending individuals for rewards or benefits. This means fairness to all, impartial assessment, merit selection in recruitment and in purchase and sale of Council's resources, considering only relevant matters.

Accountability

We are accountable to the public for our decisions and actions and should consider issues on their merits, taking into account the views of others. This means recording reasons for decisions, submitting to scrutiny, keeping proper records, establishing audit trails and conducting audits.

Openness

We have a duty to be as open as possible about our decisions and actions, giving reasons for decisions and restricting information only when the wider public interest clearly demands. This means recording, giving and revealing reasons for decisions, revealing other avenues available to the client or business, when authorised, offering all information, communicating clearly.

Honesty

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We have a duty to act honestly. We must declare any private interests relating to our public duties and take steps to resolve any conflicts arising in such a way that protects the public interest. This means obeying the law, following the letter and spirit of policies and procedures, observing the Codes of Conduct, fully disclosing actual or potential conflict of interests and exercising any delegated authority strictly for the purpose for which the authority was delegated.

Respect

We must treat others with respect at all times. ~~This means~~We do not ~~using-use~~ derogatory terms towards others, ~~we observing-observe~~ the rights of other people, treating people with courtesy and recognising the different roles others play in local government decision making.

In making our business decisions we strive to obtain the best value for money. Depending on the circumstances, our decision making takes into account many things including upfront costs, ongoing costs, suitability, quality, reliability, availability, experience, reputation, safety, legal compliance and environmental sustainability. While we strive to obtain the best price for goods and services we do not necessarily buy at the cheapest price nor sell at the highest price. Council is required to balance all relevant factors including initial cost, whole-of-life costs, quality, reliability and timeliness in determining true value for money.

Although Council business dealings must be transparent and open to public scrutiny, there will be times when information on Council's relationships with private sector suppliers of goods and services cannot be made publicly available, however we will always act fairly in our decision making. That means we are objective, reasonable and even-handed. It does not mean that we can satisfy everyone all of the time. We will publicly support our decisions unless we have to maintain confidentiality or protect privacy.

WHAT YOU CAN EXPECT FROM US

Council will ensure that all policies, procedures and practices related to tendering, contracting and the purchase of goods or services are consistent with best practice and the highest standards of ethical conduct. All Council procurement activities are based upon the following core business principles –

- Transparency of process;
- Accountability;
- Ethically managing potential conflicts of interest;
- Obtaining best value; and
- Monitoring and evaluation of performance.

In maintaining these business principles, Council will ensure that:

- Potential suppliers will be treated with impartiality and fairness and given equal access to information and opportunities to submit bids;
- Procurement activities and decisions will be fully and clearly documented to provide an effective audit trail and to allow for effective performance review of contracts;
- Tenders will not be invited unless Council has a firm intention to proceed to contract; and
- Council will not disclose confidential or proprietary information.

Council staff are bound by Council's Codes of Conduct. When doing business with the private sector, Council staff are accountable for their actions and are required to:

- Use public resources effectively and efficiently;
- Deal fairly, honestly and ethically with all individuals and organisations;
- Avoid any conflicts of interest (whether actual or perceived);
- Treat all tenderers for supply of goods and services equitably;
- Meet or exceed public interest and accountability standards;
- Abide by all relevant and applicable laws and regulations;
- Respect and follow Council's policies and procedures;
- Promote fair and open competition while seeking best value for money;
- Protect confidential information;
- Never solicit or accept remuneration, gifts or other benefits from a supplier or applicant for the

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- discharge of official duties; and
- Respond promptly to reasonable requests for advice and information.

WHAT WE ASK OF YOU

We require all ~~private sector~~ providers of goods and services to observe the following principles when doing business with Council –

- ~~Secure access to~~ Be familiar with and comply with Council's procurement policies and procedures;
- Provide accurate and reliable advice and information when required;
- Declare actual or perceived conflicts of interest as soon as you become aware of the conflict;
- Act ethically, fairly and honestly in all dealings with Council;
- Take all reasonable measures to prevent the disclosure of confidential Council information;
- Refrain from engaging in any form of collusive practice, including offering Council employees inducements or incentives designed to improperly influence the conduct of their duties;
- Refrain from discussing Council business or information with the media;
- At all times be courteous towards the public, Council staff and councillors and not bring Council into disrepute;
- Obey all relevant laws and contractual obligations;
- Provide a safe work environment free of harassment or discrimination;
- Protect the safety of staff and others in the work environment and the public arena;
- Assist Council to prevent unethical practices in our business relationships;
- Comply with privacy legislation in relation to personal information obtained through dealings with Council or work undertaken for Council;
- Respect the environment, comply with environmental laws and have sustainable practices in the use of resources and waste management;
- Communicate clearly and respond promptly to questions resolving any issues quickly; and
- Provide ~~us~~ Council with a quality product or service on time that gives ~~us~~ value for money.

It is incumbent upon all ~~private sector~~ providers of goods and services to Council to declare to Council (at the earliest opportunity) ~~that if~~ they:

- Have ~~not~~ been convicted of fraud or a fraud-related offence, or, where the provider is a company, the directors have ~~not~~ been convicted of fraud or ~~a~~ fraud-related offences;
- Have ~~not~~ been declared bankrupt, ~~and are not or are~~ a director of a company that has entered into a Deed of Company Arrangement, been placed into External Administration or into Liquidation, or, where the tenderer is a company, the directors have ~~not~~ been declared bankrupt and are ~~not~~ a director of a company that has entered into a Deed of Company Arrangement, been placed into External Administration or into Liquidation; ~~and/or~~
- Have ~~not~~ had any corrupt findings recorded against them, or been identified as a person of interest, by the Independent Commission Against Corruption (ICAC).

This is a self-declaratory mechanism. The responsibility for such declaration at all times lies with the provider.

WHY IS COMPLIANCE IMPORTANT?

You should be aware of the consequences of not complying with Council's ethical requirements when doing business with Council. By complying with this Code of Business Ethics, you can avoid damaging allegations of unfair or unethical conduct in your dealings with this Council. Demonstrated corrupt or unethical conduct could lead to –

- Termination of contracts with Council;
- Loss of work;
- Damage to your reputation;
- Investigation for corruption;
- Matters being referred for criminal investigation; and
- Criminal Prosecution.

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Consequences for Councillors, staff and delegates may include:

- Investigation;
- Misconduct charges;
- Loss of civic office for Councillors;
- Disciplinary action including termination of employment; and
- Potential criminal charges.

GUIDANCE NOTES

Gifts and Benefits

In general, Council expects its staff to decline gifts, benefits, travel or hospitality offered by parties with whom Council conducts business. You should refrain from offering any such 'incentives' to Council staff as all offers will be formally reported to Council by its officers.

~~Council only permits its staff to accept gifts if—~~

- ~~• Gifts are of token or nominal value;~~
- ~~• Refusal of a gift is likely to be perceived as rude or offensive to the party who is offering the gift; and~~
- ~~• The offer is not targeted at an individual officer.~~

Council staff involved in procurement, tendering or sales activities for Council are not permitted to accept any gift or benefit from a current or potential supplier or buyer.

If a gift is accepted, Council requires the staff member to record the gift in a publicly accessible Gifts and Benefits Register.

Conflicts of Interest

All Council staff are required to disclose any conflicts of interest. Council extends this requirement to all our business partners, contractors and suppliers. Should a conflict of interest arise or be recognised by you in your dealing with Council you must notify and declare this conflict of interest to Council in writing.

A conflict of interest occurs when a public official is in a position to be influenced, or appear to be influenced, by their private interests when doing their job. A conflict of interest can involve avoiding personal disadvantage as well as gaining personal advantage. A private interest may include social and professional activities, and interests with individuals or groups, including family and friends, as well as financial interests. There are different types of conflict of interest:

- **Actual conflict of interest:** A public official is in a position to be influenced by their private interest when doing their job.
- **Perceived conflict of interest:** A public official is in a position to appear to be influenced by their private interests when doing their job.
- **Potential conflict of interest:** A public official is in a position where they may be influenced in the future by their private interests when doing their job.
- **A pecuniary interest** involves a situation where there is the potential to gain or lose financially from a public position, for example from owning property, having unpaid debts to others, or receiving hospitality or travel.
- **A non-pecuniary interest** does not have a financial component. It can involve personal or family relationships or involvement in sporting, social or cultural activities that could influence a public official's judgement or decisions, even though there is no financial benefit to them.

Confidentiality

All Council information should be treated as confidential unless otherwise advised by Council.

Communication between Parties

All communication should be clear, direct and accountable (written confirmation) in order to minimise the risk of perception of inappropriate influence being brought to bear on the business relationship.

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Use of Council Equipment, Resources and Information

Council equipment, resources and information should only be used for the purpose for which it is made available by Council.

Contracted Employees

All contracted employees must comply with this Code of Business Ethics when doing business with Council. If you employ sub-contractor(s) in your work for Council, you must make your sub-contractor(s) aware of this Code and ensure that they observe this Code of Business Ethics.

Reporting Unethical Behaviour (Internal Reporting Policy)

Council is committed to promoting ethical behaviour. Reports of unethical behaviour, fraud, corruption, maladministration or waste can be made to Council's General Manager, Council's Public Officer or Council's Professional Conduct Coordinator. External reporting can also be made to:

- The Independent Commission Against Corruption 8281 5999
- NSW Ombudsman 9286 1000
- NSW Office of Local Government 4428 4100

Public officials who report corrupt conduct, maladministration or waste may be entitled to protection pursuant to the *Public Interest Disclosures Act (NSW) 1994*. This Act protects public officials who disclose corrupt conduct from reprisal or detrimental action, and ensures disclosures are properly investigated, and confidentiality is maintained. The Council has an adopted policy on Internal Reporting under the *Public Interest Disclosures Act (NSW) 1994*.

WHO TO CONTACT

If you have any questions regarding this Code of Business Ethics or if you wish to provide information about suspected corrupt conduct, you should contact Council's Public Officer on 4227 7684, the General Manager on 02 4227 7010, or Professional Conduct Coordinator on 02 4227 7731 or pcc@wollongong.nsw.gov.au.

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SUMMARY SHEET		
Responsible Division	Office of the General Manager	
Date/s adopted	<i>Executive Management Committee</i> [updated by policy owner]	<i>Council</i> [DD Mmmm YYYY]
Date/s of previous adoptions	30/10/2017, 14/10/2013, 27/05/2008	
Date of next review	November 2020	
Legislative or other requirement for review	Concurrent with reviews of Codes of Conduct	
Responsible Manager	Professional Conduct Coordinator	
Authorised by	General Manager	

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