

## **Council Policy**

### **STATEMENT OF BUSINESS ETHICS POLICY**

#### **1. INTRODUCTION**

Port Macquarie-Hastings Council (PMHC) values its tradition of integrity, responsibility and fair dealing. Our ratepayers need to have confidence that Council officers continue to strive to maintain the highest standards in our dealings with the Community we serve, particularly with regard to the use of ratepayers' money. This policy outlines the standards and transparent procedures that will ensure all business dealings can withstand any scrutiny.

#### **2. POLICY STATEMENT AND SCOPE**

The objective of this policy is to help set the ethical ground rules for all business dealings between Council and our business partners.

This Statement of Business Ethics is intended to provide a clear understanding of mutual Obligation. It helps set the ethical ground rules for all business dealings between Council and suppliers and business partners. It applies to all Councillors, Council staff, business partners and suppliers, including providers of goods and services, contractors, tenderers and consultants.

#### **3. RESPONSIBILITIES AND AUTHORITIES**

The following Council officers are responsible for the implementation of and the adherence to this Policy:

- Chief Executive Officer;
- Group Manager Governance;
- Group Manager Financial Services;
- Strategic Procurement Manager.

The following Council officers can provide support and advice on this Policy:

- Group Manager Financial Services;
- Strategic Procurement Manager;
- Procurement Operations Coordinator;
- Procurement & Contracts Officer.

The Policy will be communicated utilising Council's Policy Development Process.

Additionally:

Pre-Policy adoption – The community will be made aware of the proposed Policy via the applicable Council Business Paper.

Post-Policy adoption – A brief will be provided for Councillors, Executive Group and Group Managers.

#### 4. REFERENCES

This policy is based on recommendations from the Independent Commission Against Corruption (ICAC), *Section 55 of the Local Government Act 1993 (NSW)*, Part 7 of the *Local Government (General) Regulation 2005 (NSW)* and Council's Code of Conduct.

#### 5. DEFINITIONS

**Chief Executive Officer** - A 1<sup>st</sup> tier management position and titled as such

**Director** - A 2<sup>nd</sup> tier management position and titled as such

**Group Manager**- A 3<sup>rd</sup> tier management position and titled as such

**Council officer** - A member of Council staff

#### 6. PROCESS OWNER

Group Manager Financial Services

#### 7. AMENDMENTS

Changes that have been made in reference to the last version (16/05/2013) include:

- Transfer content to new template.
- Changes to staff titles.
- Addition of “Lodging a report through this process will provide protections for the reporter from reprisals” to the “What happens if I think there is a breach” section.
- Addition of “or a Disclosure Officer as stated in the Public Interest Disclosure - Internal Reporting Policy” to the “What happens if I think there is a breach” section.

## POLICY

### Purpose of this document

This Statement of Business Ethics is intended to provide a clear understanding of mutual obligation. It helps set the ethical ground rules for all business dealings between Port Macquarie- Hastings Council and suppliers and business partners. It applies to all business partners and suppliers, including providers of goods and services, contractors, tenderers and consultants.

It defines Council's ethical standards and establishes Council's expectation that all Suppliers will meet these standards. It also provides businesses dealing with Council a degree of understanding of what to expect in such dealings.

This Statement aligns to Council's core values, primarily through the value of 'Openness and Accountability'. In keeping with this value, Council will endeavour to behave with integrity, impartiality, transparency and fairness at all times.

This Statement of Business Ethics also explains what the consequences are for Staff, Councillors, suppliers and business partners of not complying with the requirements of this statement.

### **What is the impact of Business Ethics? ICAC Advice**

The Independent Commission Against Corruption (ICAC) in NSW defines those people employed by Council as consultants or contractors to be "public officials". When engaged by Council, consultants and contractors are subject to the jurisdiction of ICAC and are considered to be "public officials" for the purpose of the ICAC Act.

In addition, any individual can be found corrupt by the ICAC (even if they are not a public official) if they try to improperly influence a public official or Council's honest or impartial exercise of its official functions.

Further information relating to the ICAC Act is readily available to all Suppliers (including tenderers, contractors and consultants) at the ICAC web site - [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au) and copies of all relevant Council policies are also available at any time.

### **Impact for Suppliers and Business Partners**

By aligning business practices with Council's ethical expectations, suppliers and business partners can expect to:

- Compete for business on an even playing field;
- Establish practices that put them in good stead in competing for works with other public sector agencies.

If suppliers and business partners to Council do not comply with this statement, then the consequences may be as follows:

- Formal investigation for corruption or other offences;
- Possible loss of work;
- Termination of contracts;
- Damage to reputation;
- Loss of rights (such as loss of operating or trade licences etc).

### **Impact for Council Staff**

If Council Staff do not comply with this statement, then the consequences may be as follows:

- Formal investigation;
- Disciplinary action;
- Dismissal;
- Potential criminal charges.

## How to Comply

### Council

Council aims to follow processes that are transparent and to act with impartiality, honesty and fairness and to be consistent in all measures. Council expects its entire staff to abide by the law and all relevant policies and procedures.

Fairness means being objective, reasonable and even-handed. It does not mean pleasing everyone. Council will strive to be fair by ensuring that our processes are appropriate and demonstrate this by being open and accountable, wherever practicable. This does not mean that Council will always go to formal tender or that we will call for bids for items of low monetary value. Council will only deal exclusively with parties in exceptional circumstances and where we can demonstrate there are valid reasons for doing so, based on sound probity principles and in line with the Local Government Act 1993 and related regulations.

As a local government body, Port Macquarie-Hastings Council has a commitment to ensure Community funds are expended efficiently, effectively and economically and aims to attain "best value for money" in its business dealings with the private sector.

"Best value for money" is determined by considering all the factors, which are relevant to a particular purpose - for example:

- Experience;
- Quality;
- Reliability;
- Timeliness;
- Service;
- Initial and ongoing costs.

It is important to note that "Best value for money" does not automatically mean the "lowest price". It means the offer that is most advantageous to Council after considering the above factors.

### Council Staff and Councillors

#### Code of Conduct

Council has a formally adopted Code of Conduct for its Staff and Councillors. The Code embraces the concept of integrity, ethical conduct and accountability throughout its organisation. Our staff are accountable for their actions and are expected to act in the public interest.

*As stated in Council's Code of Conduct:*

Staff and Councillors are expected to act in accordance with this Code of Conduct and to maintain the highest standards of ethical behaviour consistent with the positions they hold. Equally, suppliers and business partners are expected to demonstrate the equivalent behavioural standards.

## **Procurement and Tendering**

Staff and Councillors must abide by the law and all its policies, procedures and practices, particularly those related to Procurement and Tendering, including relevant legislation and codes of practice. All Procurement and Tendering actions and decisions will be fully documented to a standard that will withstand scrutiny through an audit process. All pricing will remain confidential where it is considered that a commercial advantage may be gained/lost through disclosure.

All Council Staff will be accountable for their actions and are required to act in the public interest and to always act with due care, integrity, transparency and fairness.

All Council Staff are also expected to:

- Avoid conflicts of interest;
- Treat all potential providers of goods and services equally;
- Abide by the law;
- Strictly comply with Council's adopted Code of Conduct, particularly in relation to incentives, gifts and benefits;
- Disclose any conflict of interest, including related party employment.

## **Suppliers and Business Partners**

### **General Requirement**

Council requires all those with whom it deals in the provision of goods and services, including business partners to observe the following principles:

- Act fairly, ethically and honestly in all dealings with Council;
- Not to disclose confidential Council information;
- Not to exert pressure nor influence on Council Staff or Councillors that may cause them to waiver from Council's Code of Conduct;
- Not to directly or indirectly canvass support from an elected Councillor or staff member of Council during a formal tender period. Doing so will result in disqualification from the process;
- Not to engage in any form of collusive practice;
- To abide by relevant legislative processes and industry codes of practice in all procurement and tendering dealings;
- To have respect for the obligation of Council Staff and Councillors to act in accordance with this Statement of Business Ethics;
- Commit to not offer Council Staff or Councillors inducements or incentives such as money, gifts, benefits, entertainment or employment opportunities;
- Ensure that all sub-contractors and other people engaged by the supplier or business partner are aware of this statement and the consequences of breaching it.

### **Communication Requirement**

As a general principle, all communication with suppliers and business partners to Council should be clear, direct and accountable. Suppliers and business partners also have an obligation to ensure that their communication with Council abides by the above three principles, in order to minimise the risk of inappropriate influences being brought to bear on the business relationship.

There will be times where some communication needs to be strictly confidential for commercial-in-confidence or other reasons. This however should not preclude proper accountability and both parties should be able to explain the reasons for instituting specific communication protocols or keeping some communication confidential.

Public perception of inappropriate influence can be extremely damaging to the reputation of both parties, even if nothing has occurred. Therefore, it is in the best interests of both parties to ensure that formal communication processes are observed at all times and that all communication supports Council's core values of integrity, impartiality, transparency and fairness.

### **Tendering**

This Statement of Business Ethics will form part of all formal procurement processes, including requests for quotation, expressions of interest and tenders for Council and all tenderers will be asked to submit a signed declaration stating that they have read and fully understood the contents of this full statement in relation to their dealings with Council.

### **What happens if I think there is a breach?**

If you are concerned about a possible breach of this statement, or about any conduct that could involve fraud, corrupt conduct, maladministration or serious and substantial waste of public funds, please contact Council's Chief Executive Officer, Group Manager Governance or a Disclosure Officer as stated in the Public Interest Disclosure - Internal Reporting Policy.

In the instance of an approach to the Group Manager Governance with such a report, it is a requirement of ICAC that the Group Manager must inform the Chief Executive Officer immediately.

It should also be noted that once the Chief Executive Officer is made aware of a possible breach as described above, that it is incumbent upon him or her to report this directly to the ICAC.

For Public Officials, please refer to Council's policy titled "Public Interest Disclosure - Internal Reporting" for more information on the processes that you are required to follow in the case of a possible breach of this statement. Lodging a report through this process will provide protections for the reporter from reprisals.

**STATUTORY DECLARATION ON  
STATEMENT OF BUSINESS ETHICS DECLARATION**

The Tenderer must complete and submit this form with tender. All submitted information will be treated as confidential

I, (Print name),

Of (Tendering Organisation),

Do hereby solemnly declare and affirm the following:

1. I hold the position of \_\_\_\_\_, and am duly authorised by the tendering organisation to lawfully proclaim the following and, after having made due inquiry believe the following to be accurate to the best of my knowledge.
2. The Tenderer and the Tenderer's representatives have read and fully understand the contents and meaning of the Port Macquarie-Hastings Council Statement of Business Ethics as included as part of these Tender documents.
3. The Tenderer and the Tenderer's representatives agree to be bound by the standards of ethical behaviour as detailed in the Port Macquarie-Hastings Council Statement of Business Ethics and will not exert pressure nor influence Council staff that may cause them to waiver from Council's Code of Conduct.
4. The Tenderer agrees not to directly or indirectly canvass support from an elected Councillor or Council staff member during the formal tender period, or be disqualified.
5. The Tenderer and the Tenderer's representatives agree to have respect for the obligation of Council Staff to act in accordance with the Statement of Business Ethics.

I make this solemn declaration as to the matter aforesaid, according to the law in this behalf made, and subject to the punishment by law provided for any wilfully false statement in any such declaration.

Signature of Tenderer: Subscribed

and declared at:

This: Day of (Year)

Before me: (Print name)

Witness: (Signature)  
(Justice of the Peace or authorised person)