

FILE NO: PSC2010-00010

TITLE: STATEMENT OF BUSINESS ETHICS

OWNER: GOVERNANCE SECTION MANAGER

1. PURPOSE:

- 1.1 The objective of the Statement of Business Ethics Policy is to provide guidance to all sections of the community, including commercial businesses, when conducting business with or on behalf of Council.

2. CONTEXT/BACKGROUND:

- 2.1 Port Stephens Council is required to comply with the Model Code of Conduct developed by the NSW Office of Local Government. Council needs to meet its obligations under the Model Code of Conduct, by developing this Statement of Business Ethics.

3. SCOPE:

- 3.1 Port Stephens Council (Council) is committed to high ethical standards and this Statement of Business Ethics sets out the standards that Council requires of its contractors and business associates. It is essential that all Council officials, contractors (as well as their employees) and other business associates work together to maintain Council's reputation.
- 3.2 These standards are based upon the standards within Council's Code of Conduct, which apply to all Council officials.
- 3.3 In dealing with Council there is a strong expectation that contractors and/or business associates are responsible for maintaining our high ethical standards in all contract work. Port Stephens Council expects all parties to perform their duties with integrity, honesty and fairness.
- 3.4 Reference should be made to Council's Code of Conduct for definitions relating to "gifts and benefits of token value".

What you can expect from Council

- 3.5 Council will ensure that all policies, procedures and processes relating to tendering, contracting and the purchasing of goods or services are consistent with best practice and the highest standards of ethical conduct.

3.6 The elected Council and employees of Council are bound by the Port Stephens Council Code of Conduct. When doing business with the private sector, the Mayor, Councillors and staff are accountable for their actions and are expected to:

- a) Use public resources effectively and efficiently
- b) Deal fairly, honestly and ethically with all individuals and organisations
- c) Avoid any conflict of interest (real or perceived)
- d) All potential suppliers will be treated with impartiality and fairness and given equal access to information and opportunities to provide their services to Council
- e) All 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
- f) Council will not release confidential and proprietary information without firstly consulting with the owner of the information.

What Council requires of private sector providers

3.7 Council requires all private sector providers of goods and services to observe the following principles when doing business with Council:

- a) Comply with Council's procurement policies and procedures
- b) Provide accurate and reliable advice and information when required
- c) Declare actual or perceived conflicts of interest as soon as you become aware of the conflict
- d) Act ethically, fairly and honestly in all dealing with Council
- e) Take all reasonable measures to prevent the disclosure of confidential Council information
- f) Refrain from engaging in any form of collusive practice including offering the Mayor, a Councillor or Council staff inducements or incentives designed to improperly influence the conduct of their duties
- g) Refrain from discussing Council business or information with the media
- h) Assist Council to prevent unethical practices in our business relationship
- i) Observe all applicable legislative provisions pertaining to the contracted functions.

Why is compliance important?

3.8 By complying with Council's Statement of Business Ethics, contractors and/or business associates will be able to advance their business objectives and interests in a fair and ethical manner. As all Council suppliers of goods and services are required to comply with this statement, compliance will not disadvantage any contractors and/or business associates in any way.

3.9 Contractors and/or business associates should also be aware of the consequences of not complying with the Council's ethical requirements when doing business with Council. Demonstrated corrupt or unethical conduct will lead to:

- a) termination of contracts
- b) loss of future work
- c) loss of reputation
- d) investigation for corruption
- e) matters being referred for criminal investigation.

3.10 The information below is additional information that should be considered as part of this Statement.

Conflicts of Interest

3.11 If a conflict of interest in the work with Council exists or arises, the contractors and/or business associates must disclose it to Council. A conflict of interest arises if the contractors and/or business associates (or anybody close to the contractors and/or business associates including family or friends) own interests (that may be business, contractual, economical, professional or social interests), conflict with your obligations to the Council.

3.12 A conflict would exist where contractors and/or business associates (or relative, company/organisation, employer or other person known to the contractors and/or business associates) have an interest, that could lead the contractors and/or business associates to be influenced in the way you carry out your duties for the Council.

Gifts and Benefits

3.13 Gifts or benefits must not be offered to any Council official which are or could be construed to be designed to gain any advantage for the contractors and/or business associates or their organisation, or which the public could reasonably see as likely to cause that Council official to depart from their proper course of duty.

3.14 Contractors and/or business associates should not accept any gift in relation to their work at Council which could influence, or be seen to influence, their impartiality in relation to the work or services provided to Council.

3.15 In no circumstances should cash be offered to a Council official.

3.16 If a gift or benefit is offered to a Council official to influence the way they do their work, they must report it immediately under the Council's policies and procedures.

Confidential and Personal Information

- 3.17 Contractors and/or business associates must take care to maintain the security of any confidential or personal information they become aware of or manage in their work with the Council.
- 3.18 Contractors and/or business associates must abide by the privacy legislation governing the collection, retention, use, correction, disclosure or transfer of personal information obtained through their dealings with the Council.
- 3.19 Personal information is any information that can identify an individual.
- 3.20 No one should access, use or remove from Council premises any Council information or personal information, unless they need it for their work with the Council and have authorisation to use or disclose the information.
- 3.21 Any breach of the security, or misuse, of the Council's confidential or personal information must be reported to the Council's Privacy Contact Officer by telephone on (02) 4988 0255.
- 3.22 Council officials also are required to only release information in accordance with the Government Information (Public Access) Act 2009. For further information please contact Council's Right to Information Officer by telephone on (02) 4988 0255.

Council resources

- 3.23 Council resources may only be used to do work for the Council with Council's approval.
- 3.24 Council resources include material, equipment, vehicles, documents, records, data and information.

Public comment

- 3.25 Contractors and/or business associates must not make any public comment or statement that would lead anyone to believe that they are representing Council, or expressing its views or policies.
- 3.26 This includes comments or statements made at public and community meetings, via the media, or when it is reasonably foreseeable that comments, or statements will become known to the public at large.

Alcohol and drugs

- 3.27 No one should come or return to work for the Council, under the influence of alcohol or other drugs that could impair their ability to carry out their job, cause danger to their safety or endanger the safety of others.

Offers of secondary employment to Council staff

- 3.28 If a contractor offers a Port Stephens Council staff member secondary employment whilst they are still employed with the Council, the Council staff member must seek approval from Council's General Manager prior to commencing any secondary employment.
- 3.29 Approval may not be granted if there is a potential for conflict with their official duties at Council.

Reporting corrupt, maladministration and wastage

- 3.30 When contracted to Port Stephens Council a contractor is considered to be a public official for the purposes of the Independent Commission Against Corruption (ICAC) Act and subject to the ICAC's jurisdiction.
- 3.31 When undertaking work for Council, contractors have a responsibility to report any suspected instances of corruption, maladministration or serious and substantial waste to Council's Public Interest Disclosures Coordinator or the General Manager by telephone on (02) 4988 0255.
- 3.32 Alternatively, any report of suspected corruption can be made to the ICAC, or maladministration to the NSW Ombudsman.
- 3.33 For the purposes of the Public Interest Disclosures Act 2022, contractors are considered to be a council official when conducting works on behalf of Council. Therefore, a contractor may make a disclosure under the Public Interest Disclosures Act 2022.

Breaches of the Code

- 3.34 Failure to comply with this Statement of Business Ethics may cause contract penalty clauses to be invoked, civil or criminal proceedings to be brought or any other action considered to be appropriate by Port Stephens Council.

4. DEFINITIONS:

- 4.1 An outline of the key definitions of terms included in the policy.

Council

Port Stephens Council.

Council official	Mayor, Councillor, employee of Port Stephens Council, a volunteer or contractor.
Contractor	An individual, business or company engaged by Port Stephens Council to provide goods and services.
ICAC	Independent Commission Against Corruption NSW.

5. STATEMENT:

5.1 This policy will:

- a) Encourage openness, transparency and accountability in all dealings relating to procurement, contracting, supply of goods and services and general business relationships.
- b) Build and maintain ethical relationships with the community and in particular the private sector.
- c) Ensure all parties/organisations understand Council's public duty obligations.
- d) Maintain corruption resistant, ethical work practices.
- e) Manage any potential conflicts of interest, risk and perceptions that can occur in business transactions between public and private sectors.

5.2 Port Stephens Council is committed to the standards in this Statement of Business Ethics. They reflect the high standards expected by our community and as such those engaged and associated with Council are expected to maintain these standards and principles when undertaking work for, or on behalf of our Council.

5.3 Any questions about any matter relating to this Statement of Business Ethics should be directed to Council's Public Officer by telephone on (02) 4988 0255.

6. RESPONSIBILITIES:

6.1 All Council employees are responsible for complying with this policy.

6.2 The Governance Section Manager is responsible for implementing, complying with, monitoring, evaluating, reviewing and providing advice on the policy.

7. RELATED DOCUMENTS:

- 7.1 Local Government Act 1993 (NSW)
- 7.2 Independent Commission Against Corruption Act 1989 (NSW)
- 7.3 NSW Ombudsman Act 1974 (NSW)
- 7.4 Public Interest Disclosures Act 2022 (NSW)
- 7.5 Port Stephens Council Code of Conduct
- 7.6 Privacy and Personal Information Protection Act 1998 (NSW)
- 7.7 Government Information (Public Access) Act 2009 (NSW)

CONTROLLED DOCUMENT INFORMATION:

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VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0	14/12/2010	Executive Officer	Development of first policy	408
1.1	11/02/2014	Executive Officer	Review of policy.	019
1.2	13/02/2018	Governance Manager	Transfer of policy into new corporate policy template and minor administrative review to include the Public Interest Disclosure Act 1994.	015
1.3	10/03/2020	Governance Section Manager	Reviewed the policy, included numbering to each paragraph and updated the version control. Updated title of policy owner. 2.1 – insert ‘Office’ and delete ‘Division’. 3.28, 3.29 & 3.31 – updated to improve intent of subject matter. 6.2 – inserted the word ‘Section’ in the title.	051

Version	Date	Author	Details	Minute No.
1.4	12/07/2022	Governance Section Manager	<p>The policy has been updated in the new policy template and updated the version control.</p> <p>Minor grammatical errors amended.</p> <p>The following clauses were amended:</p> <p>3.4 – removed “token gifts’ and replace with “gifts and benefits of a token value”.</p> <p>3.31 – remove “to Council” and “Officer” and insert “Public Interest” and “Coordinator”.</p> <p>7.6 – insert “Privacy and Personal Information Protection Act 1998”.</p> <p>7.7 – insert “Government Information (Public Access) Act 2009”.</p> <p>7.8 - insert “Public Interest Disclosures Act 2022”</p>	174

Version	Date	Author	Details	Minute No.
1.5	11 March 2025	Governance Section Manager	<p>The policy has been updated in the new policy template and updated the version control.</p> <p>Minor grammatical errors amended.</p> <p>The following clauses were amended:</p> <p>3.33 – remove “1994” and added “2022”.</p> <p>3.7 – added subsection (i) Observe all applicable legislative provisions pertaining to the contracted functions.</p> <p>3.11, 3.12, 5.2 – amended definitions of associated parties of engaged contractors.</p> <p>4.1 – removed definition of Statement of Business Ethics as the policy constitutes the definition (reinforced by subsection 3.1).</p> <p>7.4 – remove “1994” and added “2022”.</p> <p>7.6 – added “(NSW)”.</p> <p>7.7 – added “(NSW)”.</p> <p>7.8 – remove clause.</p>	012