



POLICY:	STATEMENT OF BUSINESS ETHICS
STATUS:	APPROVED
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ISSUED BY:	Executive Services
INQUIRIES:	Internal Auditor

OBJECTIVE

The Statement of Business Ethics is intended to provide guidance for all sectors of the community when conducting business with the Blue Mountains City Council. It helps set the ethical ground rules for all business dealings between the Council and its suppliers including, but not limited to, providers of goods and services, contractors, tenderers and consultants.

The Statement sets out the Council expectations for the Council officials and requirements for the private sector when doing business with the Council. It defines the Council ethical standards and obligations, and establishes the Council expectation that all suppliers will be aware of, and comply with, these standards. It also provides suppliers with an understanding of what to expect from the Council when doing business with the Council.

The Statement outlines the core values of the Council and aims to increase the private sector's awareness of and respect for these values. The Statement explains the consequences for Council officials and suppliers in not complying with the requirements.

For the purpose of the Statement the term Council Official refers to a member of the Council staff, an elected Councillor and delegates of the Council.

BACKGROUND / DEFINITIONS

What is a Statement of Business Ethics?

It provides guidance for all sectors of the community when conducting business with the Council. It helps set the ethical ground rules for all business dealings between the Council and its suppliers including, but not limited to, providers of goods and services, contractors, tenderers and consultants.

Why have a Statement of Business Ethics?

The Statement sets out the Council expectations for the Council officials and requirements for the private sector when doing business with the Council. It defines the Council ethical standards and obligations and establishes the Council expectation that all suppliers will be aware of, and comply with, these standards.

ICAC Advice

The Independent Commission Against Corruption (ICAC) in NSW defines those people employed by the Council as consultants or contractors to be "public officials". When employed by the 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 the Council in its honest or impartial exercise of 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 and copies of all relevant Council policies are also available at any time.

BMCC and the community have worked together to outline a 25 year strategy with five key focus areas. These focus areas outline our commitment to the community and reflect Council values which underline our Business Ethics. The five key areas are:

- **Looking After Environment**

The Blue Mountains natural environment is protected and conserved.
The impact of existing and new development on the mountain is managed.
Blue Mountain people live sustainably in harmony with the environment.

- **Looking After People**

The health and wellbeing of the people of Blue Mountains are improved.
Services and facilities are accessible and fairly distributed.
Blue Mountains communities are safe, caring and inclusive.

- **Using Land For Living**

A strong sense of local identity and place is created.
Well managed infrastructure supports sustainably living.
The liveability and vibrancy of our towns and villages are strengthened.

- **Moving Around**

Safe environmentally transport choices promote healthy lifestyles.
The main transport corridor is a safe and beautiful space that adds to our local amenity and World Heritage identity.
The ability of people to connect with each other and access services is improved.

- **Working and Learning**

The local economy is strengthened and diversified.
The Blue Mountains is a model for sustainably business and industry.
A culture of the life long learning is natured in the Blue Mountains.

POLICY STATEMENT

Blue Mountains City Council Business Ethics are formed by the Council desire to meet its obligation to act lawfully, ethically and in the best interest of the public. The Council aims to build and maintain ethical relationships with all sectors of the community and in particular the private sector.

The Council places significant value on open and accountable business transactions aiming to be consistent in all measures. The Council will ensure probity and diligence when undertaking public duties and using public resources, acting with impartiality, honesty and fairness at all times.

Fairness means being objective, reasonable and even-handed. It does not mean pleasing everyone. The 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 the Council will always go to formal tender or call for bids for items of low monetary value. The Council will only deal exclusively with suppliers where it can be demonstrated that there are valid reasons for doing so, based on sound probity principles.

Blue Mountains City Council expects all Council officials to behave ethically and in accordance with the Statement and the Council Code of Conduct. The Council also expects

the private sector and its representatives to maintain similar standards of ethical conduct in their dealings with the Council.

As a local government body, the Council has a commitment to ensure community funds are expended efficiently, effectively and economically. The Council 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, including:

- 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 the Council after considering the above factors.

PROCEDURES

1. Procedure and Obligations

1.1 The Council Officials

Code of Conduct

The Council has a formally adopted Code of Conduct by which Council officials must abide in their practice. The Code embraces the concept of integrity, ethical conduct and accountability throughout the organisation. The Council officials must treat others with respect at all times and not harass or discriminate against colleagues or members of the public.

Procurement and Tendering

The Council officials 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 or lost through disclosure. Information will only be released if required by a court or the Freedom of Information Act.

The Council officials are expected to:

- Treat all potential providers of goods & services equally;
- Abide by the law;
- Avoid, disclose and resolve any conflicts of interest;
- Strictly comply with the Council adopted Code of Conduct, particularly in relation to incentives, gifts and benefits; and
- The Councillors are expected not to contact or issue instructions to the Council suppliers.

1.2 Suppliers General Requirement

The Council requires all suppliers whom it deals with to observe the following principles:

- Act fairly, ethically and honestly in all dealings with the Council;
- Not to disclose confidential the Council information;

- Not to exert pressure or influence on the Council officials that may cause them to waiver from the Council Code of Conduct;
- To abide by relevant legislative processes and industry Codes of Practice in all procurement dealings;
- To have respect for the obligation of the Council officials to act in accordance with the Statement;
- Commit to not offer the Council officials gifts or incentives such as money, benefits, entertainment, hospitality, employment opportunities, travel or accommodation;
- Not harass or bully the Council officials. Harassment includes verbal, non-verbal and physical harassment such as sexual or suggestive remarks, offensive jokes, threats or insults, wolf whistling, offensive hand or body gestures, unnecessary physical contact or indecent or sexual assault. Further information can be obtained from the Council Harassment Policy; and
- Ensure that all sub-contractors and other people employed by the supplier are aware of the Statement and the consequences of breaching it.

2. What is the impact of Business Ethics?

2.1 Impact for Suppliers

By aligning business practices with the Council ethical expectations, suppliers can expect to:

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

If suppliers to the Council do not comply with the Statement, then the consequences may be as follows:

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

2.2 Impact for Council officials

If the Council officials do not comply with the Statement, then the consequences may be as follows:

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

3. Bribes, Gifts and Benefits

The Council Code of Conduct requires that the Council officials do not seek or accept bribes, gifts or benefits of greater than nominal value.

Bribes should never be accepted. A person offered a bribe should refuse it and report the incident as soon as possible to their supervisor. The Council will take steps to report the matter to ICAC and the police immediately.

Nominal value gifts or benefits do not create a sense of obligation and may include things like inexpensive pens and pencils, notepads, key rings or diaries.

The Council understands that the offering of gifts and incentives is common practice in the private sector to promote business relations. However, the Council applies the principles of

merit to all dealings of the Council. There is no need or place for gifts or incentives when doing business with the Council.

It should be made clear that gifts must not be given in connection with any prospective business dealings with the Council and that the Council officials are not permitted to ask for any reward or incentive for doing their job.

Suppliers are asked to respect that the Council officials may refuse gifts or incentives because they wish to avoid any perception of conflicts of interest and comply with the Council policy.

4. Conflicts of Interest

A conflict of interest exists when you could be influenced, or a reasonable person would perceive that you could be influenced, by a personal interest when carrying out your public duty.

The Council Code of Conduct requires that the Council officials disclose and resolve any possible conflicts of interest. The Code requires that if any Council official has a conflict of interest, in any matter, they must not be involved in any discussion or decision making regarding the matter.

The Council Code of Conduct also requires a member of the Council staff who is considering outside employment or contract work that relates to the business of the Council, or that might conflict with their Council duties, to notify and seek the approval of the General Manager in writing.

The General Manager may prohibit employees from engaging in secondary employment if that work directly or indirectly conflicts or potentially conflicts with the business of the Council or with the employee's function, duties or responsibilities at the Council.

5. Communication Requirement

As a general principle, all communication by the Council officials with suppliers from the Council should be clear, direct & accountable. Suppliers also have an obligation to ensure that their communication with the Council abides by these 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 the Council core values of integrity, transparency and fairness.

6. Tendering

This Statement will form part of the formal tendering process for the Council and all tenderers will be asked to submit a signed declaration stating that they have read and fully understood the contents of the full Statement in relation to dealing with the Council.

7. Public Awareness

A public awareness brochure has been developed. This brochure will be distributed to suppliers and the Council officials informing them of the existence of the Council Statement of Business Ethics Policy and stressing its important features.

The Council Statement of Business Ethics Policy and public awareness brochure will be published on the Council website.

8. What happens if you 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 one of the Council Group Managers. If you are not satisfied with the response you can then contact the Executive Officer, and finally the General Manager, if the Executive Officer is not able to assist. Please be aware that if you do approach a Group Manager or the Executive Officer with such a report, it is a requirement of ICAC that they must inform the General Manager immediately.

It should also be noted that once the General Manager 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 the Council staff, please refer to Section 10 of the Council Code of Conduct, for more information on the processes that you are required to follow in the case of a possible breach of the Statement.

It is important for the private sector to be aware of the consequences of not complying with the Council ethical requirements when doing business with the organisation.

RELEVANT LEGISLATION

State:

The Local Government Act 1993

Local Government (General) Regulation 2005

ICAC Act

Code of Practice and Code of Tendering for the Construction Industry – Department Local Government Practice Note No. 8(a)

Council:

Code of Conduct (2005)

Probity Audit Policy (2006)

Tendering Policy (2000)