



Attachment 1 to Item 240

Hawkesbury City Council Third Party Framework

Date of meeting: 23 November 2021
Location: By audio-visual link
Time: 6:30 p.m.

Third Party Framework

Hawkesbury City Council Third Party Framework

WHAT IS IT?

The Third Party Framework details the approach, provides direction and establishes the requirements for a compliant and council-recognised 3rd party relationship to occur.

WHAT IS A Third PARTY RELATIONSHIP?

A Third party relationship is a formal agreement between Hawkesbury City Council and is usually an Australian recognised business entity. The entity receives funding from Hawkesbury City Council to deliver services for the community on behalf of council that help it maintain legislative or regulatory requirements within the local government area (LGA). The business entity may be established by Hawkesbury City Council (under delegable powers specified in the Local Government Act; or council may have an active stake in the business entity).

HOW ARE Third PARTY RELATIONSHIPS CREATED?

A Third party relationship is entered into via an executed Third party relationship agreement which has satisfied all requirements under the framework

How is a Third party relationship different?

Aspect	Contractor	Vendor	Third Party Relationship	Customer	Stakeholder
Is an accepted trading entity or approved committee			✓		
Conducts business with HCC	✓	✓	✓	✓	
Has an ABN	✓	✓	✓		
Supplies goods to HCC -short term or one off		✓	✓		
Supplies services to HCC – short term of one off		✓	✓		
Purchases goods from HCC				✓	
Purchases services from HCC				✓	
Has a vested interest in HCC operations			✓	✓	✓
Delivers a service or goods to the community	✓	✓	✓		✓
Receives funding from HCC			✓		
Receives payment from HCC	✓	✓	✓		
Is connected to HCC operations via some sort of agreement or instrument (MoU, contracted terms)	✓	✓	✓		
Typically receives more than \$100k in payments or funding from HCC per financial year	✓	✓	✓		
Has a number of reporting and/or probity obligations to fulfil	✓	✓	✓		
Must be an Australian company or association; either not for profit (registered via ACNC) or for profit (registered by ASIC)	✓	✓	✓		
Has either been established by HCC; or HCC has an active stake in the entity			✓		
Enables HCC fulfil and/or facilitate specific legislative and/or regulatory requirements within the LGA			✓		
Supplies goods and services under contractual arrangements	✓		✓		

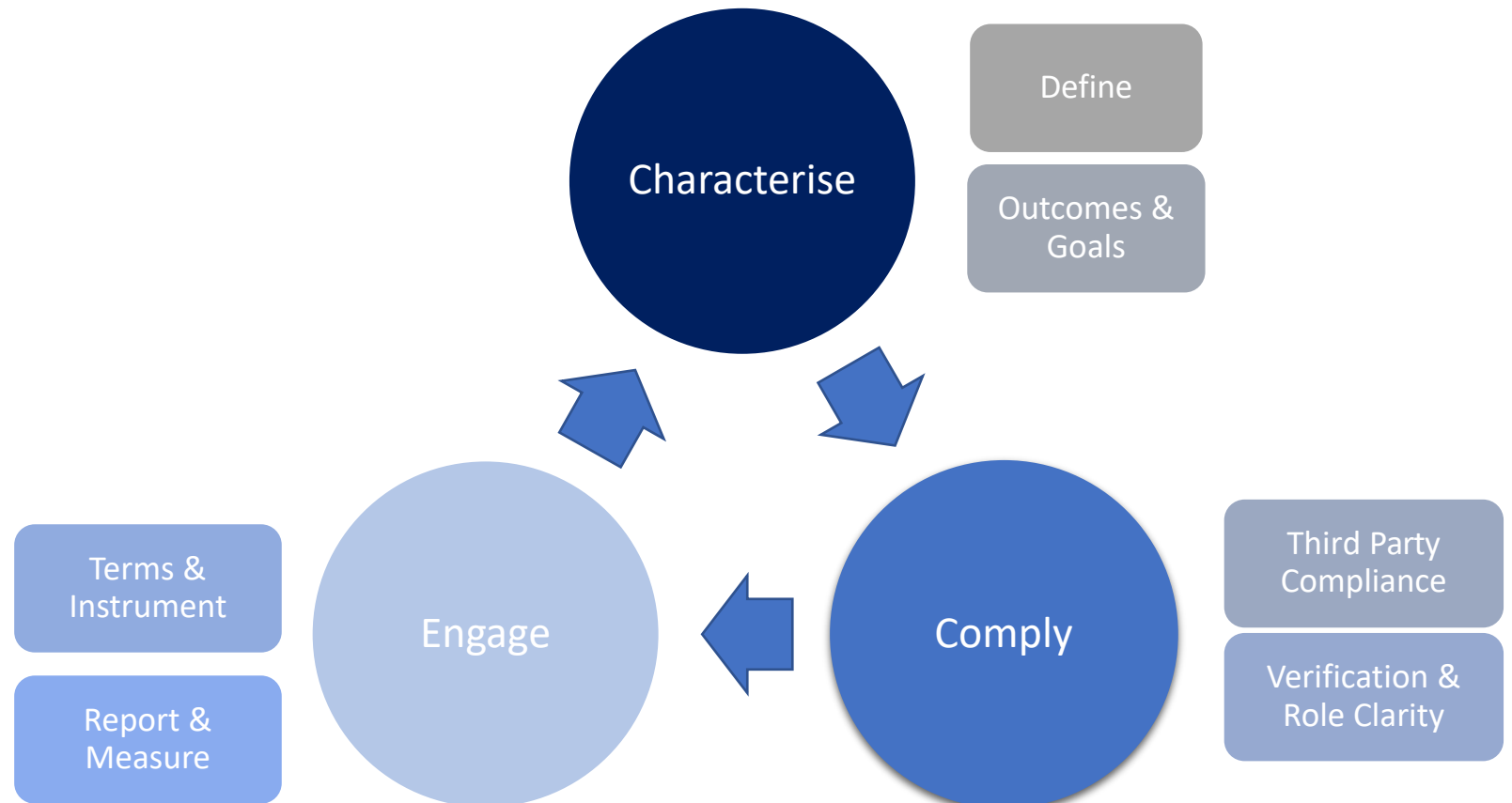
Hawkesbury City Council Third Party Framework

There are three cornerstones to the Hawkesbury City Council Third Party Framework. Each cornerstone has two distinct key phases which outline what is required for the 3rd party relationship to be valid and compliant

Characterise: Making sure the agreement is a Third party one, and being clear on the outcomes and goals upfront

Comply: Ensuring the expectations are clearly understood on compliance requirements

Engage: Executing the Third party relationship and establishing reporting and measurement tools and templates



HCC Strategic Priorities



Characterise

Comply

Engage

Define

Outcomes & Goals

Compliance

Verification & Role Clarity

Terms & Instrument

Report & Measure

"Is this a third party relationship?"

- 3rd party definition
- Principles & expectations of a 3rd party relationship
- Clarity on legislative and delegable powers

"What are we hoping to achieve?"

- Aligned to community benefits
- Mapped to council strategic agenda
- Specific and measurable
- Value Proposition

"Operational Expectations"

- Conflict of Interest
- Minimum compliance standards
- Risk Mgmt and WHS / IM
- Governance Arrangements
- Expectations of HCC

"Who are we doing business with?"

- Probity requirements
- National Criminal Checks
- Insurance requirements
- Role and resp's of council officers
- Director / Executive skill and expertise min requirements

"On what terms?"

- Instrument and execution
- Standard terms and conditions
- Renewal and selection processes
- Financial requirements and obligations
- Breach and dispute resolution
- Value for money

"Let us know what's happening"

- Standard Reporting requirements
- Outcome tracking
- Incident and risk reporting
- Financial / Operational audits
- Strategic Planning reporting
- ROI (return on investment) reporting

Government Information (Public Access) ■ Associations Incorporation Act ■ Privacy & Personal Information Act ■ Local Government Act

Audit and review cycles throughout each of the phases in the 3rd party framework

Third Party Guidelines & Definitions
Table Probity Procedure
Conflict of Interest Procedure

Risk Management Policy – Third Parties
Third Party standard agreement templates
Outcomes and goals dashboard / tracker

Renewal and selection Procedure
Third party breaches and non-compliance
Procedure Council officer roles and responsibilities
Procedure

Third Party Relationship Policy
WHS & Insurance Procedure
Reporting Guidelines

Hawkesbury City Council Third Party Framework

Define

"Is this a third party relationship?"

- 3rd party definition
- Principles & expectations of a 3rd party relationship
- Clarity on legislative and delegable powers

Why do we need this?

The define phase of the framework aims to address two key aspects: whether the arrangement is in fact a 3rd party relationship, and if so having a clear understanding on Hawkesbury City Council's interests. Councils' interests would cover how much of a stake council has in the entity, whether it's executed under delegable powers, and what regulations and legislations need to be considered as part of the 3rd party relationship.

The second aspect is ensuring a shared understanding on the proposed expectations of how the 3rd party arrangement should work; with a specific focus on ensuring the entity engaging with council under a 3rd party relationship is clear on outcome, reporting, compliance, governance and probity expectations that would apply throughout the term of the relationship. Depending on the complexity and funding, it may be required to go out to tender..

If it is not considered a 3rd party relationship, or there is reluctance to engage or align to the expectations, the relationship could be executed as a modified contractor / vendor relationship.

Key policy document(s): 3rd party relationship policy

Supporting documents: 3rd party relationship guidelines and expectations

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Outcomes & Goals

“What are we hoping to achieve?”

- Aligned to community benefits
- Mapped to council strategic agenda
- Specific and measurable
- Value Proposition

Why do we need this?

Once the arrangement is clarified as a 3rd party relationship, Hawkesbury City Council must then determine what the value proposition is in the engaging entity's proposal. Specifically, the engaging entity must be able to clearly articulate what makes using them different to any equivalent competitor; or what they bring in their service or product offering that adds value.

The 3rd party relationship must also clearly agree on what the community benefits are that are aligned to Hawkesbury City Council's strategic plan. If there is no alignment, then it cannot be considered as a 3rd party relationship and may proceed under a modified contractor / vendor arrangement. When agreeing on the outcomes, they must follow the SMART principle (specific, measurable, achievable, realistic and time-framed).

At this time a simple return on investment will also be considered to understand what the quantum is in the value over the level of investment.

3rd Party Goal Formula:

VALUE PROPOSITION + OUTCOMES (Aligned to community + Aligned to HCC Strategic Plan) = Shared understanding on the goals, value

Key policy document(s): 3rd party relationship policy

Supporting documents: Outcomes and goal tracker, 3rd party relationship guidelines and expectations

Hawkesbury City Council Third Party Framework

Compliance

"Operational Expectations"

- Conflict of Interest
- Minimum compliance standards
- Risk Mgmt and WHS / IM
- Governance Arrangements
- Expectations of HCC

Why do we need this?

This phase specifically addresses the key core compliance requirements in relation to 3rd party relationships. Avoiding and managing Conflict of interest (perceived or otherwise) is essential in managing the 3rd party relationship and is built upon the existing conflict of interest requirements in the code of conduct and statement of business ethics. An example of a 3rd party relationship conflict of interest is a council appointed representative also negotiating terms and conditions in the agreement. Another example is clarifying councilor involvement and input.

Following on is the requirement to clarify the minimum compliance standards that will address aspects across the business operations including work, health and safety, injury management, business strategy and planning, HR (including volunteers) and governance arrangements. Furthermore a 3rd party relationship will have clear guidelines to follow on risk management and the need to comply with relevant legislation, regulations and community expectations against the services and products delivered to the community.

Key policy document(s): 3rd party relationship Conflict of Interest policy

Supporting documents: 3rd party relationship Risk Management and Compliance guide

Hawkesbury City Council Third Party Framework

Verification & Role Clarity

*"Who are we doing
business with?"*

- Probity requirements
- National Criminal Checks
- Insurance requirements
- Role and resp's of council officers
- Director / Executive skill and expertise min requirements

Why do we need this?

Verification is important and an essential requirement for the engaging entity to comply with. This includes the need to cover off on any probity requirements (including solvency checks, national criminal checks, Working With Children Check (WWCC) and NDIS checks (if applicable).

Insurance requirements will also be clarified including directors insurance, public liability and workers compensation.

For any council employees appointed to manage and/or oversee a 3rd party relationship, there will be clear roles and responsibilities established under an addendum to their existing position description.

Finally, any Directors and key personnel in the engaging entity will have to demonstrate they have the relevant qualifications, skill and experience to completely fulfill the requirements of running the entity and the 3rd party relationship.

Key policy document(s): 3rd party relationship probity and verification policy

Supporting documents: 3rd party relationship position description duties, procedure and 3rd party relationship insurance and probity guidelines

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Terms & Instrument

"On what terms?"

- Instrument and execution
- Standard terms and conditions
- Renewal and selection processes
- Financial requirements and obligations
- Breach and dispute resolution
- Value for money

Why do we need this?

Depending on the scale, complexity and funding in a 3rd party relationship there will be a range of instruments to execute the arrangement against. All 3rd party relationships must be approved by the Hawkesbury City Council Executive and endorsed by the General Manager and usually passed as a council resolution. The main instruments used to execute a 3rd party relationship are:

1. 3rd Party Contract
2. 3rd Party Memorandum of Understanding

This phase in the framework will also ensure the standard terms and conditions are agreed to, as developed throughout the process. This also includes clarifying financial obligations back to council including how funding is used, acquitted or reported on. This also includes confirming the relationship is value for money and has an appropriate level of return on investment.

At the time of executing the 3rd party relationship the engaging entity will also understand and agree to the breach, dispute resolution and cancellation terms and processes. If there is a renewal process applied to the 3rd party relationship the terms how it will be renewed or re-tendered will be specified.

Key policy document(s): 3rd party contract (incl. terms and conditions), 3rd party memorandum of understanding

Supporting documents: 3rd party relationship guidelines and expectations

Hawkesbury City Council Third Party Framework

Report & Measure

"Let us know what's happening"

- Standard Reporting requirements
- Outcome tracking
- Incident and risk reporting
- Financial / Operational audits
- Strategic Planning reporting
- ROI (return on investment) reporting

Why do we need this?

Finally, the ongoing reporting and input requirements will need to be understood by the engaging entity under the 3rd party relationship. The reporting requirements will also clarify what incident and risk reports need to be sent into council and at what time intervals.

The engaging entities will be required to regularly report on the business performance, including (but not limited to) performance against the entity's strategic plan, KPIs and financial performance overall. Regular audits and reviews on operation and finance will also need to be complied with as a standard term of the 3rd party relationship.

Hawkesbury City Council will also collaborate with the engaging entity on discussing the 3rd party relationship performance against the agreed outcomes and return on investment.

Key policy document(s): 3rd party relationship policy

Supporting documents: 3rd party relationship reporting guidelines

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Legislation, Regulations

Why do we need this?

- Includes industry regulations, code of conduct and statement of business ethics at Hawkesbury City Council.
- A review against the key legislation ensures the 3rd party relationship is established on the correct legal 'footing'. The core pieces of legislation relevant to a 3rd party relationship are:
 - Government Information (Public Access)
 - Privacy and Personal Information Protection Act
 - Local Government (General) Regulation
 - Local Government Act
 - Associations Incorporation Act
 - Workers Compensation, Work Health and Safety Legislation

Audit & Review Cycles

Why do we need this?

- Regular reviews of the 3rd party relationship ensures Hawkesbury City Council can provide a degree of governance and assurance to the community on how the 3rd party relationships are performing against the expectations, funding and outcomes agreed to
- Audits will help provide a level of transparency and independent assessment on how the various aspects of the 3rd party relationship (primarily financial and risk) are performing