



Hawkesbury City Council

attachment 1
to
item 200

statement of business ethics
for business dealings between
hawkesbury city council,
the private sector and
other parties

date of meeting: 31 august 2010
location: council chambers
time: 6:30 p.m.



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public document
adopted by council: XXX

1. INTRODUCTION

Strong working relationships with the private sector are important in ensuring that Hawkesbury City Council can provide efficient and cost effective services to residents.

The Independent Commission Against Corruption (ICAC) has noted that there are important differences between the public and private sector in terms of their responsibilities, principles and goals¹. Hawkesbury City Council (as a public sector agency) is required to conduct its business in conformance within the provisions of the *Local Government Act 1993* and other legislation. This legislative framework directs Council's day-to-day operations through the enactment of government codes of practice and codes of conduct as well as specific procurement and tendering guidelines. These codes and guidelines are based on core public sector values of integrity, accountability, impartiality and transparency.

An understanding of these values are integral to the development of positive and ethical business relationships between private and public sector agencies. ICAC has recommended the adoption of a *Statement of Business Ethics* to communicate core public sector values and principles and establish clear expectations for the conduct of business relationships.

This Statement of Business Ethics has been developed to assist those dealing with Council to know and understand the ethical standards that the community expects from all Council officials (Councillors and staff) and those that enter into a business relationship with Council.

By complying with Council's Statement of Business Ethics, those that enter into a business relationship with Council will be able to advance their business objectives and interests in a fair and ethical manner. Council expects all its customers to comply with this statement and to know and understand the standards that this Statement promotes.

In turn, Council will require all staff to conduct our business activities in accordance with Council's Code of Conduct and observe the highest standards of probity, ethical behaviour and integrity in their business dealings.

It is important to be aware of the consequences, for both public officials and public sector personnel, of not complying with the requirements of the Statement when conducting business with or on behalf of Council.

2. OUR VALUES and BUSINESS PRINCIPLES

Hawkesbury City Council will align its business objectives to the directions and goals within the Hawkesbury Community Strategic Plan 2010-2030. In pursuing these objectives Council will operate in a way that values:

- equity, fairness and community harmony;
- the contributions of people and the exchange of ideas;
- pride in the heritage and natural beauty of our area;
- sustainable development and social cohesion;
- continuous improvement to the quality of our services;
- the sound management of our assets and resources;
- innovation and the pursuit of new opportunities;
- integrity and ethical standards;
- accountable and transparent decision making;
- strong leadership, teamwork and co-operation.

Council will conduct its business in conformance with these values and in ways that deliver value for money to the community based on the principles of transparency, impartiality and fairness. Fairness means being objective, reasonable and even-handed, but does not necessarily mean that Council's

¹ *'Developing a statement of business ethics. A guide to building ethical business relationships between NSW public sector organisations and the private sector'*. Independent Commission Against Corruption, May 2004.

business decisions will please everyone or that some people may not be adversely affected by a particular decision.

Council will strive to be fair by ensuring that wherever practicable, procurement and tendering processes are appropriate, open and accountable. This does not mean that Council will always go to open public tender, or call for bids for items of low monetary value. From time to time, or in exceptional circumstances, Council may not accept the lowest tender or may deal exclusively with parties where it can be demonstrated that there are valid reasons for doing so, based on sound probity principles.

3. COUNCIL'S OBLIGATIONS and COMMITMENTS.

Council will ensure that its policies, procedures and practices relating to tendering, contracting, purchasing of goods and services, assessment of development applications, use of consultants and/or contractors and interaction with lobbyists are consistent with best practice and the highest standards of ethical conduct.

Council officials are bound by Council's Code of Conduct. When doing business with the community or private sector, Council officials are accountable for their actions and are expected to:

- use Council resources efficiently and effectively;
- act honestly, legally and ethically when dealing with the community and others
- avoid conflicts of interest, both real and perceived,
- act with due care and diligence and in the public interest;
- comply with Occupational Health and Safety requirements.

To achieve probity, Council will consider at all stages of the purchasing, tendering, contracting, and development application processes, the following essential factors:

- transparency of processes;
- accountability;
- ethically managing potential conflicts of interest;
- obtaining best value;
- monitoring and evaluation of performance;

Council's dealings will be transparent, accountable and open to public scrutiny whenever possible. However there will be times when confidentiality will be required by Council.

4. COUNCIL'S EXPECTATIONS AND REQUIREMENTS.

Hawkesbury City Council requires all suppliers of goods and services, consultants, contractors, property owners and DA applicants and anyone doing business with the Council to observe the following principles;

- act ethically and honestly in their dealings with Council;
- respect the obligations of Council officials to act in accordance with this Statement and Council's Code of Conduct;
- declare actual or perceived conflicts of interest and soon as knowledge of a possible conflict of interest is known;
- provide accurate and reliable information when required and respond to reasonable requests for information in a timely manner;
- comply with Council's purchasing, and tendering policies and procedures;
- take all reasonable measures to prevent disclosure of confidential Council information and ensure compliance with privacy legislation;
- abstain from collusive practices;
- refrain from offering Council officials inducements or incentives designed to improperly influence the conduct of their duties;

- assist Council to prevent unethical practices in its business relationships.
- comply with all on-site occupational health and safety requirements.

5. WHAT IS THE IMPACT OF BUSINESS ETHICS.

For Suppliers. There are considerable benefits flowing from compliance with Council's Statement of Business Ethics. By aligning business practices with Council's ethical expectations, suppliers can expect to:

- compete for business on an even playing field;
- prepare their business for dealing with the ethical requirements of other public sector agencies with similar compliance requirements.

There are also significant consequences for not complying with the principles of business ethics as outlined in this statement. These include;

- investigation for corruption or other offences
- termination of contracts
- loss of future opportunities with Council
- loss of reputation
- matters being referred for criminal investigation

For Council Officials. If Council officials do not comply with this Statement, the consequences may include

- formal investigation
- disciplinary action including termination of employment
- loss of civic office for Councillors
- potential criminal charges.

(ICAC Advice. It should be noted that ICAC defines those people employed by Council as consultants or contractors to be 'public officials'. In this capacity, consultants and contractors are subject to the jurisdiction of ICAC as they are considered to be 'public officials' for the purpose of the ICAC Act. In addition, any individual can be found to be corrupt by 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).

6. GUIDANCE NOTES.

Gifts and Benefits. Customers doing business with Council should not provide (and Council officials are not permitted to accept) a wide range of gifts and benefits including hospitality (in accordance with Council's *Gifts and Benefits Policy* adopted on 8 April 2008).

Token gifts may be accepted by Council officials with the approval of their supervisor/manager. All gifts of value must be declared by Council officials in Council's Gift Register. All attempts should be made to decline gifts of value where possible.

Conflicts of Interest. Conflicts or potential conflicts of interest must be disclosed by Council officials to ensure their actions withstand public scrutiny.

Conflicts of interest exist when it is likely that a Council official may be influenced, or perceived to be influenced, by a personal interest in carrying out their public duty.

Conflicts of interest that lead to partial decision-making may constitute corrupt conduct. Perceptions of a conflict of interest can be as important as actual conflicts.

Councillors, staff, and customers doing business with Council are required to disclose in writing any perceived or actual conflicts and have that recorded.

Sponsorship. Council will not ask for or solicit any sponsorship or enter into a sponsorship agreement that is not open and transparent and transacted in accordance with Council's Sponsorship Policy (adopted by Council on 13 May 2007). Council will not accept sponsorship if such sponsorship creates a perception that it could be part of an attempt to improperly influence Council's decision making processes.

Confidential and Personal Information. Council maintains corporate information about customers and the community and has an obligation to protect this information and maintain its integrity within its systems.

Council officials and private sector agencies engaged by Council must abide by privacy legislation governing the collection, holding, use, correction, disclosure or transfer of personal information obtained through dealings with Council. Information obtained from Council must only be used for the purpose for which it has been provided and should not be used or removed from Council premises unless authorised.

Council will also require private sector agencies to provide access to any Council documentation held by the agency or information relating to work done on Council's behalf to facilitate an application for access to information under the *Government Information Public Access Act*.

Intellectual Property. In business relationships with Council, all parties will respect each other intellectual property rights and will formally negotiate any access, licence or use of intellectual property.

Development Applications. Council is required to determine Development Applications in accordance with matters prescribed in legislation in a way that is open and transparent and is seen to be fair to all parties involved. Council officials should not be expected to offer support or otherwise for any party associated with the Development Application process.

Council Resources. Council resources should only be used for Council purposes and in the public interest. Councillors, members of staff and customers doing business with Council are expected to be efficient, economical and ethical in their use and management of Council resources, including staff time.

Other Employment or Business. Council staff shall not engage in outside employment or business that could conflict, or be seen to conflict, with their duties with the Council and can only engage in a second job or business if they have the written approval of the General Manager.

Reporting Unethical Behaviour. Possible breaches of this Statement, or conduct that could involve fraud, corrupt conduct, maladministration or serious and substantial waste of public funds, should be referred to Council's General Manager or one of Council's Directors. It is a requirement of ICAC that the Director must inform the General Manager immediately if a report of this nature has been made. Once the General Manager is made aware of a possible breach as described above, that it is incumbent upon the General Manager to report this directly to the ICAC.

External reporting can also be made to:

Independent Commission Against Corruption 8281 5999
NSW Ombudsman 9286 1000
NSW Department of Local Government 4428 4100

Public officials reporting corrupt conduct, maladministration or waste can be protected by the Protected Disclosures Act 1994. This Act protects public officials who are disclosing corrupt conduct from reprisal or detrimental action and ensures disclosures are properly investigated. The Council has an adopted policy on Internal Reporting adopted on 1 November 2005.