

<b>Name of policy:</b>	<b>Statement of Business Ethics</b>		
<b>Adoption by Council:</b>	<b>23 August 2023</b>	<b>Minute number:</b>	<b>326/2023</b>
<b>Last review date:</b>	<b>March 2023</b>		
<b>Review timeframe:</b>	<b>4 years</b>		
<b>Next scheduled review date:</b>	<b>March 2027</b>		
<b>Related legislation:</b>	<i>Local Government Act 1993</i> <i>Privacy and Personal Information Protection Act 1998</i> <i>Modern Slavery Act 2018</i>		
<b>Associated policies/documents:</b>	<b>Code of Conduct</b> <b>Gifts and Benefits Policy</b> <b>Secondary Employment Policy</b> <b>Privacy Management Plan</b> <b>Procurement Policy</b>		
<b>Responsible division:</b>	<b>Corporate Services</b>		

## Policy objective

MidCoast Council is committed to conducting its business in a professional and ethical manner. This Statement of Business Ethics sets out the standard of behaviour that Council expects from the private sector when conducting business. It is essential that all Council officials (elected members and employees), suppliers, consultants, contractors and their employees, and other business associates work together to maintain and enhance our reputation.

## Policy statement

The *Local Government Act 1993* requires every council to adopt a Code of Conduct. The standards within this Statement are based on the standards in Council's Code of Conduct, which applies to all Councillors, administrators, council employees, independent conduct reviewers, members of council committees and delegates who may exercise a Council function.

In dealing with Council you are responsible for maintaining high ethical standards in all business transactions. These transactions include procurement of goods and services, engagement of contractors and consultants, dealings with development and business applicants and objectors, interaction with political lobbyists and other business partnerships. Council expects all parties to perform their duties with integrity, honesty and fairness.

If, after reading this Statement, you have any questions or are unsure about any matter relating to this Statement, please contact Council's Manager Governance.

### **Coverage of the policy**

This Statement of Business Ethics applies to all private sector entities supplying goods and providing services to MidCoast Council. All Council contractors and sub-contractors are expected to comply. Suppliers are responsible for making their contractors aware of this Statement and requiring their compliance with it.

### **Strategic plan link**

*Value – Strong Leadership and Shared Vision*

### **Policy content**

This Statement of Business Ethics sets out the standard of behaviour that Council will exhibit and expects from the private sector when conducting business.

### **What you can expect from MidCoast Council**

As a local government body, MidCoast 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.

Staff and Councillors are expected to act in accordance with the 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.

You can expect that Councillors and Council staff will:

- Act honestly, openly, fairly and ethically in all their dealings with you
- Use public resources effectively and efficiently;
- Respect confidentiality of commercial information and privacy of individuals;
- Prevent actual, potential or perceived conflicts of interest;

- Be accountable and act in the public interest;
- Comply with the law including legislation and regulations;
- Comply with Council's policies and procedures including the Code of Conduct and purchasing policies;
- Exercise authority appropriately, lawfully and transparently;
- Not solicit or accept any benefit from a provider for the discharge of official duties;
- Make objective decisions based on merit considering reasonable criteria and only relevant and material facts;
- Promote fair and open competition while seeking best value for money;
- Respond promptly to reasonable requests for advice and information;
- Promote a safe and healthy workplace;
- Fully and clearly document all procurement activities and decisions to provide an effective audit trail to allow for effective performance review of contracts;
- Ensure we pay within the payment terms;
- Treat all potential suppliers with impartiality and fairness and give equal access to information and opportunities;
- Not call tenders unless Council has a firm intention to proceed to contract; and
- Report corruption, maladministration and wastage.

### **What we expect from you**

We expect that you will:

- Act professionally, ethically, fairly and honestly in all dealings with Council and in all your dealings on behalf of Council;
- Respect confidentiality of commercial and Council information and privacy of individuals;
- Prevent actual, potential or perceived conflicts of interest and declare such conflicts of interest as soon as you become aware of them;
- Comply with the law including legislation and regulations;
- Comply with this Statement and Council's other policies and procedures;
- Respect the fact that Councillors and Council's staff must comply with Council's Code of Conduct and Council's other policies and procedures;
- Respect the conditions set out in documents supplied by Council;
- Provide Council with a quality product or service on time that gives us value for money;
- Be economically, socially and environmentally responsible in the provision of all goods and services;
- Communicate clearly and provide accurate and reliable advice or information in a prompt manner when required;
- Refrain from engaging in any form of collusive practice, including offering Councillors or staff inducements or incentives designed to improperly influence the conduct of their duties;
- Ensure that you do not lobby or seek to influence or pressure Councillors or Council staff during the tender process or consideration of business proposals;
- Talk directly to us about any problems with our relationship and not discuss anything publicly or with the media;
- Respect Council's "Secondary Employment" policy and avoid offering Council employees secondary employment which conflicts with this policy;

- At all times, be courteous towards the public, elected members and employees and not bring the council into disrepute;
- Not harass, discriminate against, or support others who harass and discriminate against Councillors, Council staff or members of the public;
- Ensure that all sub-contractors and other people employed by the supplier are aware of this Statement and the consequences of breaching it;
- Ensure that safety is paramount and that all persons doing work with or for Council will protect their own safety and the safety of others in the work environment and the public arena; and
- Assist Council to prevent unethical practices in our business relationships.

### **Why you should comply**

Council requires all providers of goods and services to comply with this Statement of Business Ethics.

Any supplier providing a proposal to Council for the provision of goods and services is agreeing to comply with this Statement of Business Ethics as part of that supplier's proposal. Non-compliant proposals will not be considered to be valid and will not be further assessed.

The principles of this Statement are consistent with the ethical requirements of other public sector agencies.

This will advance the business objectives and interests of private sector providers in a fair and ethical manner and will enhance providers' capacity to undertake public sector work with similar compliance requirements in the future.

You should be aware of the consequences of not complying with this Statement of Business Ethics when doing business with us. Demonstrated corrupt or unethical conduct could lead to:

- Termination of contracts;
- Loss of future work;
- Loss of reputation;
- Investigation for corruption;
- Matter being referred for criminal investigation; and
- Disqualification of tender.

### **Additional information**

#### Alcohol and drugs

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

#### Confidential and personal information

- You must take care to maintain the security of any confidential or personal information you become aware of in your work with Council.

- You must abide by privacy legislation, including Council's Privacy Management Plan, governing the collection, holding, use, correction, disclosure or transfer of personal information obtained through your dealings with Council.
- Personal information is any information about a person where you know who the person is, or you can guess who the person is.
- No one should access, use or remove from Council premises any Council information or personal information, unless they need it for their work with Council and have authorisation to use or disclose the information.
- Any breach of the security, or misuse of Council's confidential or personal information must be reported to Council's Manager Governance (Privacy Contact Officer).

### Conflicts of interest

Council's Code of Conduct defines a conflict of interest as existing "where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your official functions in relation to a matter". You must avoid or appropriately manage any conflicts of interest should they exist or arise in your work with Council.

*A conflict would exist where you have a personal interest, or your relative, company, employer or other person known to you has an interest that could lead you to be influenced in the way you carry out your duties for the Council.*

Councillors, staff, delegates, consultants, contractors and customers doing business with Council are required to disclose in writing any perceived or actual conflicts of interest and have that recorded on the relevant Council files.

### Council resources

Council resources – such as equipment, facilities, vehicles and staff time – may only be used for purposes connected to your business with Council. You must avoid any action or situation in which Council resources are being improperly used (or appear to be improperly used) for private benefit.

### Former Council staff

Former Council staff who have dealings with Council need to ensure that they do not seek, or appear to seek, favourable treatment or access to confidential information.

### Gifts and benefits

Gifts or benefits should not be offered to any Council official as any such offer may reasonably give perception by the public that the Council official may depart from his or her proper course of duty. Council's Gifts and Benefits Policy discourages the acceptance of any gifts unless the circumstance are such that they cannot be reasonably refused and that they are of token value only. Council officials are required to make a written disclosure of any offers of gifts and/or benefits, whether accepted or refused which will be kept in Council's Gifts and Benefits Register in accordance with Council's Gifts and Benefits Policy.

Cash **must** not be, in any circumstances, offered to a Council official.

### Intellectual property

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

### Modern Slavery Act 2018 (NSW)

You must comply with the requirements of the above legislation in any and all of your dealings with Council. You should be aware that Council:

- a) Is opposed to and will oppose all forms of modern slavery.
- b) Requires its Suppliers to respect Human Rights and ensure that they are not complicit in Human Rights abuses.
- c) Believes that no-one should be made to work through force or intimidation of any form.

### Offers of secondary employment to Council staff

If you offer a Council staff member a second job or contract work, whilst they are still employed with Council, the Council staff member will need to seek approval from Council's General Manager in accordance with Council's Secondary Employment Policy. Approval will not be given if the second job, or contract work, could conflict with their official duties with Council.

### Public comment

You must not make any public comment or statement that would lead anyone to believe that you are representing Council or expressing its views or policies. This includes comments or statements made at public and community meetings, via the media, on social media, or when it is likely that the public at large will become aware of such comments or statements.

### Reporting corruption, maladministration and wastage

When contracted to Council you are considered to be a public official for the purposes of the *Independent Commission Against Corruption Act 1988* and subject to the Independent Commission Against Corruption's (ICAC) jurisdiction. When doing work for Council you have a responsibility to report any suspected instances of corruption, maladministration or serious and substantial waste to Council's General Manager or Manager Governance. In some instances, this report may constitute a Public Interest Disclosure under the *Public Interest Disclosures Act 1994* which offers protection to public officials who disclose corruption related matters from reprisal or detrimental action and ensures that disclosures are properly investigated and dealt with.

Alternatively, you can report any suspected instances of corruption to the ICAC or maladministration to the Ombudsman.

They can be contacted as follows:

NSW Independent Commission Against Corruption	1800 463 909
NSW Ombudsman	(02) 9286 1000
NSW Office of Local Government	(02) 4428 4100

Corruption occurs when a public official carries out public duties dishonestly or unfairly or anyone does something that could result in a public official carrying out public duties

dishonestly or unfairly. Maladministration is conduct that involves action or inaction of a serious nature that is:

- Contrary to law
- Unreasonable, unjust, oppressive or improperly discriminatory; or
- Based wholly or partly on improper motives.

If you are aware of an elected member, Council staff member or Council contractor breaching the Code of Conduct, which may not involve corruption, maladministration or waste, you should report this to Council's General Manager, preferably in writing.

### Breaches

Non-compliance with the Statement, illegal or corrupt conduct could lead to:

- Termination of contracts
- Loss of future work
- Investigative and/or administrative action
- Reporting to other relevant organisations

### **Responsible officer (position)**

Manager Governance