

KEMPSEY SHIRE COUNCIL

STATEMENT OF BUSINESS ETHICS

Procedure 5.1.2

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| Policy No. and title | 5.1 | Behaviour of Councillors and Staff Policy |
| Procedure | 5.1.2 | Statement of Business Ethics |
| Version | 2 | |
| Date Adopted | 27 August 2012 | |

1 INTRODUCTION

Dealings between Kempsey Shire Council and the private sector, including purchasing goods and services, joint ventures and the complete contracting out of activities must be undertaken with transparency and integrity.

To facilitate this, Kempsey Shire Council and private sector employees must always be aware of the ethical standards the public demands when Kempsey Shire Council money is used either directly or indirectly.

This statement sets out the appropriate standards for doing business with Kempsey Shire Council. It provides guidelines on what to expect from Kempsey Shire Council and explains the mutual obligations, roles and constraints of all parties. These ethical standards are not an additional requirement but an integral part of sound commercial practices.

All individuals and organisations that deal with Kempsey Shire Council must adopt these standards of ethical behaviour. The standards comply with NSW Government guidelines for procurement, contracting and market testing.

The likely reward for maintaining ethical business dealings is enhanced public confidence and repeat business.

Not complying with Kempsey Shire Council's ethical requirements when undertaking business with us may lead to termination of contract, loss of future work and loss of reputation. Serious breaches of compliance may lead to further investigation.

The consequences for non compliance by employees are disciplinary action, dismissal or further investigation.

If you need more information regarding this statement, or wish to provide information about suspected corrupt conduct, please contact Kempsey Shire Council on 65663200.

2 PURPOSE

This statement of Business Ethics forms part of Kempsey Shire Council's policies and is intended to provide guidance for the private sector when doing business with Kempsey Shire Council.

3 STRATEGY

3.1 The role of all parties

Kempsey Shire Council employees are involved in purchasing goods and services from the private sector.

Kempsey Shire Council expects both its permanent and contract employees to behave ethically and comply with its Code of Conduct and Ethics.

Kempsey Shire Council also relies on industry and its employees to maintain similar standards of ethical conduct in their dealings with Kempsey Shire Council.

A common understanding between Kempsey Shire Council and the private sector on ethical issues will help develop a productive and mutually beneficial working relationship.

3.2 Business principles

Three key principles form the basis of Kempsey Shire Council business agreements.

3.2.1 Obtain the best possible value for public money.

3.2.2 Impartially through all stages and processes.

3.2.3 Ensuring our business relationships are fair, honest, ethical and consistent.

These principles enable suppliers to promote their interests effectively but avoid unproductive and potentially questionable activities.

All potential providers of goods and services are subject to the same ethical operating environment and must comply with these guidelines.

3.3 Definitions

3.3.1 Value for money

Value for money is determined by considering the impact of factors such as quality, reliability, timeliness, service, initial and ongoing costs.

It does not mean 'lowest price'. However, the lowest price might offer the best value if it meets other essential criteria such as quality and reliability.

3.3.2 Impartiality

Impartiality means trying to be objective and even-handed. For example, an impartial person will try to objectively establish the criteria for determining best value for money and then assess each bid against these criteria.

Being impartial includes taking account of practicalities. For example, the principle of impartiality does not entail publicly advertising for bids for items of low monetary value or inviting bids from firms that have performed poorly in the past.

3.3.3 Fairness

Fairness overlaps with impartiality in the sense of being even-handed. In some circumstances fairness can also entail taking into account the effects of actions on others. For example, it would be unfair to call tenders when there is no serious intent to award a contract, even if a satisfactory or exceptional offer was received.

Fairness does not mean pleasing everyone. If people are adversely affected by a decision, it is unfortunate but not necessarily unfair.

4 STATEMENT

Council expects that those conducting, or wishing to conduct, business with it will maintain relationships with Council personnel that are based on mutual trust, and which will stand up to public scrutiny and preserve public trust. The private sector can expect relationships with Council to be friendly, and conducive to the prompt and proper handling of any business issue that may arise.

Those engaged by Council as contactors or consultants are reminded that they are considered to be public officials and are subject to the requirements of ICAC in the exercise of their functions.

4.1 Kempsey Shire Council requires its employees and contract staff to:

- a) Comply with Kempsey Shire Council and Government policies, procedures and laws.
- b) Show fairness in their treatment of all individuals or organisations that supply goods or services to the Kempsey Shire Council.
- c) Encourage fair and open competition while seeking value for money.
- d) Try to minimise costs to suppliers participating in the procurement process.
- e) Protect commercial-in-confidence information.
- f) Deal honestly with suppliers and pay accounts on time.
- g) Always be accountable and act in the public interest.
- h) Avoid situations where private interests conflict with public duty.
- i) Not solicit or accept financial or other benefits from a supplier for performing official duties.
- j) Respond to reasonable requests for advice and information without delay.
- k) Avoid any conflict of interest, real or perceived.

4.2 Tenderers, suppliers, consultants and contractors are expected to:

- a) Respect the conditions and requirements stated in documents supplied by the Kempsey Shire Council.
- b) Present information clearly and concisely.
- c) Ensure information is accurate.

- d) Comply with any codes of tendering and practice that apply.
- e) Respect the obligation of Kempsey Shire Council staff to comply with Government procurement policies.
- f) Deliver value for money.
- g) Not act fraudulently or secretly.
- h) Prevent the unauthorised release of privileged or confidential information, such as commercial-in-confidence information.
- i) Ensure that any sub-contractors are aware of Kempsey Shire Council's statement of Business Ethics and the consequences of not complying with the statement.
- j) Not discuss Kempsey Shire Council dealings with the media, without consulting the Kempsey Shire Council first.
- k) Respond to reasonable requests for advice and information.
- l) Not offer Kempsey Shire Council employees or contract staff any financial or other inducements which may lead to, or be seen as leading to, gaining an unfair advantage in dealings with the Kempsey Shire Council.
- m) Comply with Kempsey Shire Council post separation employment guidelines.
- n) Declare any actual or perceived conflict of interest.

5 GUIDANCE NOTES

5.1 Communications between parties

To avoid misunderstandings it is important to use written correspondence (letter, fax or email) for communications involving a business related decision. Telephone communications in this regard should be followed up with written confirmation of any decisions or commitments made.

Unless good reasons exist not to, all meetings should be either on Kempsey Shire Council premises or on-site. A written record of commitments given at meetings must be made and endorsed by all parties.

5.2 Confidentiality

Information which is marked confidential, or which a reasonable person would expect to be confidential, should be treated as such. The information could be in various formats such as hardcopy documents or electronically stored.

Intellectual property rights must be negotiated. No individual or organisation is entitled to acquire any intellectual property rights because they are employed by or have a contract with the Kempsey Shire Council.

5.3 Conflict of Interest

All employees of Kempsey Shire Council are required to disclose real or perceived conflicts of interest. Council employees must ensure that in all

dealings with the private sector, their actions are capable of withstanding critical public scrutiny without the need for elaborate justification. There is an expectation that all business partners, contractors and suppliers to also disclose any real or perceived conflicts of interest.

5.4 Kempsey Shire Council property

All property belonging to Kempsey Shire Council, including equipment, information and other resource material should be used in accordance with its official purpose.

5.5 Intellectual Property Rights

All parties will respect the use of each other's intellectual property rights by formally negotiating any access, license or use of intellectual property.

5.6 Entertainment

Suppliers should not pay for any form of entertainment for Kempsey Shire Council employees. Likewise, Kempsey Shire Council employees are generally not entitled to use Government funds to pay for entertainment.

5.7 Lunches etc.

Kempsey Shire Council employees are expected to pay for all their own meals.

The Kempsey Shire Council discourages external parties from providing Kempsey Shire Council employees with benefits such as social lunches.

Employee participation is permitted only if a clear underlying business purpose exists and the value and frequency of such functions is not excessive.

VARIATION

The General Manager reserves the right to renew, vary or revoke this procedure which will be reviewed periodically to ensure it is relevant and appropriate.