

MURRAY RIVER COUNCIL
COUNCIL POLICY

**STATEMENT
OF
BUSINESS
ETHICS
POLICY**

POL-111.V#2



murray river
council

1. INTRODUCTION

Murray River Council (the 'Council') is committed to high ethical standards and this Statement of Business Ethics Policy (the 'Policy') sets out the standards that Council requires of all Council Officers and Officials.

The standards contained in this Policy are based on those in Council's adopted Code of Conduct Policy (POL-100). In dealing with Council you are responsible for maintaining Council's high ethical standards in all areas of work. Council expects all parties to perform their duties with integrity, honesty and fairness.

2. OBJECTIVES

This Policy provides guidance regarding the standards of ethical behaviour that organisations, service providers, small businesses and individuals can expect from Council Officers and Officials and what is expected of them in their dealings with Council.

3. SCOPE

This Policy applies to all Council Officers and Officials. Suppliers of goods and services to Council must also adhere to this Policy.

All contracted persons must comply with this Policy when doing business with Council. If a contracted person employs a sub-contractor/s in whilst undertaking work for Council, the contracted person must make the sub-contractor/s aware of and ensure they comply with this Policy.

4. POLICY STATEMENT

Council requires Council Officers and Officials to undertake their roles and responsibilities in an ethical manner. All Council Officers and Officials must also comply with the requirements of Council's Code of Conduct Policy (POL-100).

Council is guided by four (4) key principles at all stages of the purchasing, tendering, contracting and Development Application (DA) process. These principles are:

1. **Law Abiding:**

Council Officers and Officials must comply with all applicable Federal and State laws.

2. **Value for money to the ratepayer:**

Is determined by considering the impact of factors such as quality, reliability, timeliness, service and 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. **Impartially through the assessment stages:**

"Impartiality" means trying to be objective, even-handed and reasonable. As an 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.

4. **Fairness:**

Council works within an environment where it seeks to be fair with all its dealings and endeavours to minimise any adverse effects from the decision making process, however, it must be understood that fairness does not mean pleasing everyone. If people are adversely affected by a decision, it can be considered unfortunate, but not necessarily unfair.

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

ETHICAL PRINCIPLES

Respect for the law and system of Government

Council Officers and Officials must exercise powers lawfully, and provide information and assistance when authorised to do so.

Respect for persons

Council Officers and Officials must treat everyone with respect, seek to ensure that members of the public receive their proper entitlements and know their rights, and respond appropriately to requests.

Integrity

Council Officers and Officials must act honestly and impartially, not abuse their powers or the resources available to them, and avoid and declare any conflict between personal interest and official duties. They must avoid behaviour that could undermine public confidence in the system of government or public administration.

Diligence

Council Officers and Officials must observe procedural fairness when making decisions and make all reasonable efforts to provide high standards of service to clients. They must act in accordance with their duty of care, avoid negligent conduct, and seek to maintain high standards of government and public administration.

Economy and efficiency

Council Officers and Officials must manage all forms of public resources, eg. Human, material and financial resources, intellectual property and information. They must act in the interest of safeguarding public assets and revenue and ensure efficient programs and service delivery.

By working with these common Ethical Principles, Council Officers and Officials aspire to set a standard of excellence that will benefit the community and Council's business clients and suppliers.

MURRAY RIVER CODE OF CONDUCT

Council's Code of Conduct Policy (POL-100) sets the requirements of conduct for Council Officers and Officials in carrying out their functions. The Code of Conduct has been developed to assist Council Officers and Officials to:

- a) Understand the standards of conduct that are expected of them;
- b) Enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence; and
- c) Act in a way that enhances public confidence in the integrity of Local Government.

LGA Section 439

WHAT YOU CAN EXPECT FROM MURRAY RIVER COUNCIL ?

Council will ensure that all its policies, procedures and practices related to tendering, contracting and the purchase of goods or services are consistent with best practice and the highest standards of ethical conduct.

All Council procurement activities are based upon the following core business principles:

- ▶ Compliance with Council policies and procedures, including the Code of Conduct;
- ▶ Provide fairness to all individuals and/or organisations who quote or tender for the provision of goods and services;

- ▶ Encourage fair and open competition, while at the same time seeking value for money;
- ▶ Be transparent, accountable and open to the public scrutiny, where possible;
- ▶ Monitor and evaluate performance;
- ▶ Protect commercial in-confidence information;
- ▶ Comply with public interest and accountability standards;
- ▶ Deal honestly and equitably with suppliers;
- ▶ Avoid personal conflicts of interest with public duty;
- ▶ Not to solicit or accept financial or other benefits from a supplier for performing official duties;
- ▶ Promptly respond to reasonable requests for advice and information;
- ▶ Act in accordance with the highest standards of ethical conduct; and
- ▶ Use Council resources efficiently and effectively.

In maintaining these principles, Council will ensure that:

- ▶ Potential tenderers will be treated with impartiality and fairness and given equal access to information and opportunities to submit bids;
- ▶ Procurement activities and decisions will be fully and clearly documented to provide an effective audit trail and to allow for effective performance review of contracts;
- ▶ Tenders will not be invited unless Council has a firm intention to proceed to contract; and
- ▶ Council will not disclose confidential or proprietary information.

When doing business with the private sector, Council Officers and Officials are accountable for their actions and are required to:

- ▶ Use public resources effectively and efficiently;
- ▶ Deal fairly, honestly and ethically with all individuals and organisations;
- ▶ Avoid any conflict of interests (whether actual or perceived);
- ▶ Treat all tenderers for supply of goods and services equitably;
- ▶ Meet or exceed public interest and accountability standards;
- ▶ Abide by all relevant and applicable laws and regulations;
- ▶ Respect and follow Council's policies and procedures;
- ▶ Promote fair and open competition while seeking best value for money;
- ▶ Protect confidential information;
- ▶ Never solicit or accept remuneration, gifts or other benefits from a supplier or applicant for the discharge of official duties; and
- ▶ Respond to reasonable requests for advice and information in an appropriate timeframe.

WHAT MURRAY RIVER COUNCIL ASKS OF YOU ?

Council requires all private sector providers of goods and services to observe the following principles when undertaking business with the Council:

- ▶ Act ethically and honestly in all dealings with Council;
- ▶ Declare actual or perceived conflicts of interests as soon as you become aware of the conflict;
- ▶ Assist Council to prevent unethical practices in our business partnerships;

- ▶ Respect the conditions and requirements stated in documents supplied by Council;
- ▶ Present information concisely;
- ▶ Respect the obligation of Council Officers to comply with Council's Procurement Policy (POL-205);
- ▶ Abstain from collusive practices and not act secretly or fraudulently;
- ▶ Prevent the unauthorised release of privileged or confidential information, such as commercial in-confidence information;
- ▶ Respond to reasonable requests for advice and information;
- ▶ Refrain from discussing Council business or information with the media;
- ▶ Refrain from offering Council Officers and Officials any financial or other inducement, which may lead to a position of unfair advantage in dealings with Council.
- ▶ At all times be courteous towards the public, Council Officers and Officials and not bring the Council into disrepute;
- ▶ Obey all relevant laws or contractual obligations;
- ▶ Provide a safe work environment free of harassment or discrimination;
- ▶ Protect their safety and others in the work environment and the public arena;
- ▶ Comply with privacy legislation in relation to personal information obtained through dealings with Council or work undertaken for Council;
- ▶ Respect the environment, comply with environmental laws and have sustainable practices in the use of resources and waste management;
- ▶ Communicate clearly and respond promptly to questions, resolving any issues quickly; and
- ▶ Provide Council with a quality product or service on time that gives Council value for money.

It is incumbent upon all private sector providers of goods and services to Council to declare to Council (at the earliest opportunity) that they:

- ▶ Have not been convicted for fraud or a fraud-related offence, or, where the provider is a company, the directors have not been convicted for fraud or a fraud-related offence;
- ▶ Have not been bankrupt or a director of a company that has entered into a Deed of Company Arrangement, been placed into External Administration or into Liquidation, or, where the tenderer is a company, the directors have not been bankrupt or a director of a company that has entered into a Deed of Company Arrangement, been placed into External Administration or into Liquidation; and
- ▶ Have not had any corrupt findings or been identified as a person of interest by the Independent Commission Against Corruption (ICAC).

This is a self-declaratory mechanism. The responsibility for such declaration at all times lies with the provider.

WHY IS COMPLIANCE IMPORTANT?

You should also be aware of the consequences of not complying with Council's ethical requirements when doing business with Council. By complying with this Policy, you can avoid damaging allegations of unfair or unethical conduct in your dealings with Council. Demonstrated corrupt or unethical conduct could lead to:

- ▶ Termination of contracts with Council;
- ▶ Loss of work;
- ▶ Damage to your reputation;
- ▶ Investigation for corruption or referral to the ICAC;

- ▶ Matters being referred for criminal investigation; and
- ▶ Criminal prosecution.

Consequences for Council Officers and Officials may include:

- ▶ Investigation;
- ▶ Misconduct charges;
- ▶ Loss of civic office for Councillors;
- ▶ Disciplinary action including termination of employment; and
- ▶ Potential criminal charges.

PRACTICAL GUIDELINES

Confidentiality

All Council information should be treated as confidential.

In addition, most significant commercial transactions that need to be approved by Council will be dealt with in closed Council to protect the commercial in-confidence nature of such matters.

LGA Section 10A(2)(a-i)

Conflict of Interests

All Council Officers and Officials are required to disclose any conflict of interests – actual or perceived. A conflict of interests may be either a pecuniary or non-pecuniary interest in matters before Council.

Conflict of interests can involve spouses, family members and friends.

Council Policy – Code of Conduct & Code of Meeting Practice LGA Chapter 14

- ▶ **Pecuniary Interest:** Is described where an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated.

LGA Section 442-443

- ▶ **Non-Pecuniary Interest:** Involves a situation where through personal or family relationships or involvement in sporting, social or cultural activities a Council Officer's and Official's interests could influence their judgement or decisions, even though there is no financial benefit to the Council Officer and Official.

Any complaints or alleged breaches of conflict of interests can be investigated by the CEO who can refer such matters to the Pecuniary Interest Tribunal, which has the authority to hand down severe penalties.

Development Applications

Throughout the Development Application (DA) process, all parties, including Council Officers and Officials, should understand that Council, in its formal role in determining a DA, has to consider the matters prescribed in legislation in a way that is open and transparent and is seen to be fair to all parties involved. Support or otherwise for proposals for applications, including objections to a proposal, may be seen to influence the decision making process. Council Officers and Officials should not be expected to offer support or otherwise for any party associated with the DA process. Council Officers and Officials are professional people and will treat all aspects of the DA process in a professional and ethical manner.

Intellectual property rights

These rights are subject to negotiation. No individual or organisation is entitled to acquire any intellectual property rights because they are employed by, or have a contract with, Council.

Gifts and benefits

In general, Council expects its Council Officers and Officials to decline and declare the offer of gifts, benefits, travel, entertainment or hospitality offered by parties with whom Council conducts business. You should refrain from offering any such 'incentives' to Council Officers and Officials as all offers will be formally disclosed and reported in Council's Gifts and Benefits Register.

All Council Officers and Officials must comply with Council's Code of Conduct Policy (POL-100) regarding personal benefit and Council's Gifts and Benefits Procedure.

Council Officers and Officials must not:

- ▶ Seek or accept a bribe or other improper inducement;
- ▶ Seek gifts or benefits of any kind;
- ▶ Accept any gifts or benefits as a general rule
- ▶ Accept any gift or benefit that may create a sense of obligation on their part or may be perceived to be intended or likely to influence them in carrying out their public duty;
- ▶ Accept any gifts unless there are cultural considerations where refusal may cause offence. Gifts accepted in these circumstances must be handed in to Council.
- ▶ Accept a gift or benefit of value under any circumstances, if their public duty involves procurement, tendering, sales, regulatory or decision making;
- ▶ In accordance with Council's Gifts and Benefits Procedure, all offers of gifts and benefits to Council Officers and Officials must be disclosed and recorded in a public Gifts and Benefits Register, regardless of their value or if they were accepted or refused.

Sponsorship

Council will not enter into any form of sponsorship that is not open or transparent, or if such sponsorship creates a perception that it could be seen as an attempt to improperly influence the decision making process.

Secondary employment

Council has a requirement for approval by the CEO for any Council employee who seeks secondary employment. Any secondary employment will not be approved if it has the potential, either perceived or real, to conflict with their Council employment.

Expectations of contractors and sub-contractors

Contractors are expected to advise any sub-contractor employed on their behalf of Council's Statement of Business Ethics, as outlined within this Policy.

Communication between parties

All communication should be clear, direct and accountable (written confirmation) in order to minimise the risk of perception of inappropriate influence being brought to bear on the business relationship.

Use of Council equipment, resources and information

All Council equipment, resources and information should only be used for the purpose it is made available by Council.

REPORTING UNETHICAL BEHAVIOUR

Council will not tolerate unethical conduct or fraud. Council encourages its Council Officers and Officials and the business community to report such matters. There are a number of forms of protection available

to any person who reports unethical or fraudulent practice in an appropriate manner. Reports should be honest and reasonable. Council will deal with reports in a prompt, professional and confidential manner. Council's Internal Reporting Policy (POL-209) applies to these reports.

Reports of unethical behaviour, fraud, corruption, maladministration or waste can be made to one of the following Council Officers and Officials:

- ▶ Disclosure Coordinator/Disclosure Officers
- ▶ CEO
- ▶ Mayor (if the disclosure concerns or involves the CEO or a Councillor)

External Reporting can also be made to:

- ▶ Independent Commission against Corruption (ICAC)
- ▶ NSW Ombudsman
- ▶ NSW Office of Local Government (OLG)

5. EVALUATION AND REVIEW

It is the responsibility of the Director Shared Services to monitor the adequacy of this Policy and recommend appropriate changes.

This Policy will be formally reviewed every four (4) years or as needed, whichever comes first.

6. LEGISLATION, ASSOCIATED DOCUMENTS AND DEFINITIONS

Legislation

- ▶ Local Government Act 1993
- ▶ Local Government Regulations 2005

Associated Documents

- ▶ MRC Policy - Code of Conduct Policy (POL-100)
- ▶ MRC Procedure – Gifts and Benefits Procedure (linked to POL-100)
- ▶ MRC Policy - Code of Meeting Practice Policy (POL-101)
- ▶ MRC Policy - Procurement Policy (POL-205)
- ▶ MRC Policy - Internal Reporting (PID) Policy (POL-113)
- ▶ MRC Policy – Fraud and Corruption Policy (POL-212)

Definitions

Term	Definition
Act or LGA	<u>Local Government Act 1993 (NSW)</u>
Amendment	In relation to an original motion, means a motion moving an amendment to that motion.
CEO	Chief Executive Officer of Murray River Council
Council Official	Includes Councillors, members of Council staff, Administrator, Council committee members and delegates of the Council.
Council Officer	An officer is defined as being one of the following: <ul style="list-style-type: none"> ▶ An employee, or

	<ul style="list-style-type: none"> ▶ A contractor or subcontractor, or ▶ An employee of a contractor or subcontractor, or ▶ An employee of a labour hire company who has been assigned to work in the person's business or undertaking, or ▶ An outworker, or ▶ An apprentice or trainee, or ▶ A student gaining work experience, or ▶ A volunteer
DA	Development Application
Regulations	<u>Local Government (General) Regulation 2005 (NSW)</u>

DOCUMENT CONTROL

Version No.	Details	Date	Resolution No.	CM9 Reference
1	Initial Issue	08 Aug 2017 to 24 Nov 2020	080817	VF/19/518
2	Reviewed & changes made in line with the organisational restructure	24 Nov 2020 to		VF/19/518

Council reserves the right to review, vary or revoke this policy at any time
This Policy is scheduled for review in October 2024

Disclaimer:

This document was formulated to be consistent with Murray River Council's legislative obligations and with the scope of Council's powers. This document should be read in conjunction with relevant legislation, guidelines and codes of practice. In the case of any discrepancies, the most recent legislation should prevail. This document does not constitute legal advice. Legal advice should be sought in relation to particular circumstances and liability will not be accepted for losses incurred as a result of reliance on this document.