

Policy title	Code of Conduct
Responsible manager(s)	General Manager
Contact officer(s)	Complaints Coordinator
Directorate	Finance and Business Development
Approval date	28 February 2017
Strategic Focus Area	Collaborative
Delivery Plan Link	C1.1 Conduct the business of Council in an inclusive, responsive and transparent manner C1.2 Manage the organisation to effectively and efficiently meet our statutory obligations
Operational Plan Link	C1.1.1 Support the councillors in meeting their statutory obligations and roles as community representatives C1.2.1 Respond to legislative and policy requirements set by the Department of Local Government

Purpose

Section 440 of the *Local Government Act 1993* (**the LG Act**) requires every NSW council to adopt a code of conduct that incorporates the provisions of *The Model Code of Conduct for Local Councils in NSW* as published by the Office of Local Government (**OLG**).

The *Model Code of Conduct* is designed to help councils conduct with the core business of serving their communities. It does this by providing:

- flexibility to resolve less serious matters informally;
- fair complaints management;
- strong sanctions to help deter ongoing disruptive behaviour and serious misconduct.

All councillors, members of staff and delegates of Eurobodalla Shire Council must comply with the applicable requirements of the adopted Code of Conduct. Council reserve trusts, committees, contractors, and volunteers are also obliged to observe the applicable requirements of the Code.

It is the personal responsibility of all of these Council officials to comply with the standards in the Code, and regularly review their personal circumstances with this in mind.

Policy aims:

- To promote a clear guideline for the conduct of councillors, staff, delegates, reserve trusts, committees, contractors, volunteers and relevant parties when acting as public officials of Council;
- To ensure consistency and fairness in the manner in which the Council deals with matters and complaints relating to the Code of Conduct;
- To ensure compliance with legislative and statutory requirements;
- To promote awareness of the requirements of the Code of Conduct;
- To take such steps as are appropriate to ensure that the Code of Conduct is followed;
- To make Council's requirements and procedures regarding its Code of Conduct readily accessible and understandable to the public.

Policy details

1	<p>Application</p> <p>This policy applies to all councillors, members of staff, delegates, community representatives on committees, contractors and volunteers of Eurobodalla Shire Council, and to the following reserve Trusts: Eurobodalla (North), Eurobodalla (Central) and Eurobodalla (South).</p>
2	<p>Legislation</p> <p>Eurobodalla Shire Council complies with section 440 and 440AA of the <i>Local Government Act 1993</i> by adopting as its Code of Conduct the most current version of the <i>Model Code of Conduct for Local Councils in NSW</i> as published by the Office of Local Government (OLG), and by adopting as its procedure for administration of the Code of Conduct the most current version of the <i>OLG Procedures for Administration of the Code of Conduct</i>.</p>
3	<p>Breaches</p> <p>Failure by a councillor to comply with an applicable requirement of Council's Code of Conduct constitutes misconduct under the provisions of the LG Act.</p> <p>Failure by a member of staff to comply with Council's Code of Conduct may give rise to disciplinary action.</p> <p>Failure by a committee member or committee to comply with Council's Code of Conduct will be addressed in the terms of reference for that committee.</p> <p>Failure by a contractor or volunteer to comply with Council's Code of Conduct will be addressed in the contract or terms of engagement.</p>
4	<p>Code of Conduct complaints</p> <p>A Code of Conduct complaint is defined as:</p> <p style="text-align: center;"><i>“A complaint that alleges conduct on the part of a council official acting in their official capacity that on its face, if proven, would constitute a breach of the standards of conduct prescribed under the council's code of conduct”</i></p> <p>Allegations of suspected breaches of the Code of Conduct by councillors, members of staff of Council (excluding the General Manager), delegates or reserve trusts should be reported to the General Manager in writing.</p> <p>Allegations that the General Manager has breached the Code of Conduct should be reported to the Mayor in writing.</p> <p>Council's Code of Conduct Complaint form should be used for these reports (see Appendix 1. Also available on Council's website at: www.esc.nsw.gov.au).</p> <p>The current OLG <i>Procedures for Administration of the Code of Conduct</i> will be followed for the investigation of any alleged breaches of the Code (see Implementation below).</p>

5	<p>Complaints not related to Code of Conduct</p> <p>The following matters are <i>not</i> considered to be Code of Conduct complaints, and will be referred as below in accordance with Council’s statutory obligations and Complaints policy:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Complaint is about...</th> <th style="text-align: left;">Refer to...</th> </tr> </thead> <tbody> <tr> <td>pecuniary interest, failure to disclose political donations, serious breakdown in Council operations, Council operating unsatisfactorily</td> <td>Office of Local Government</td> </tr> <tr> <td>maladministration, serious or substantial waste of public resources</td> <td>NSW Ombudsman</td> </tr> <tr> <td>corrupt conduct</td> <td>ICAC</td> </tr> <tr> <td>criminal activity</td> <td>Police</td> </tr> <tr> <td>public interest disclosure</td> <td>PID Coordinator</td> </tr> <tr> <td>information (access to, copyright, or privacy)</td> <td>Public Officer</td> </tr> <tr> <td>competitive neutrality</td> <td>Public Officer</td> </tr> <tr> <td>customer dissatisfaction with Council service, activity, or action</td> <td>Relevant officer or their supervisor</td> </tr> <tr> <td>policy, procedure, or decision of Council</td> <td>Relevant Director or Public Officer</td> </tr> <tr> <td>other complaint about Council (not Code of Conduct related)</td> <td>Public Officer</td> </tr> </tbody> </table>	Complaint is about...	Refer to...	pecuniary interest, failure to disclose political donations, serious breakdown in Council operations, Council operating unsatisfactorily	Office of Local Government	maladministration, serious or substantial waste of public resources	NSW Ombudsman	corrupt conduct	ICAC	criminal activity	Police	public interest disclosure	PID Coordinator	information (access to, copyright, or privacy)	Public Officer	competitive neutrality	Public Officer	customer dissatisfaction with Council service, activity, or action	Relevant officer or their supervisor	policy, procedure, or decision of Council	Relevant Director or Public Officer	other complaint about Council (not Code of Conduct related)	Public Officer
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6	<p>Gifts and Benefits</p> <p>Guidance for councillors and staff regarding the standards of behaviour and procedures to be followed, in relation to the acceptance of gifts or benefits which may be offered to them in the course of their duties.</p>																						
6.1	<p>Token Gifts and Benefits</p> <p>In general, gifts and benefits of a token value that cannot reasonably be returned may include:</p> <ul style="list-style-type: none"> (a) Gifts of single bottles of reasonably priced alcohol. This could be at end of year functions, public occasions, or in recognition of work done such as providing a lecture or training session address. (b) Free or subsidised meals, of a modest nature, and/ or beverages provided infrequently (and/ or reciprocally) that have been arranged primarily for, or in connection with, the discussion of official business. (c) Free meals, of a modest nature, and/ or beverages provided to Council officials who formally represent Council at work related events such as training, education sessions, or workshops. (d) Refreshments, of a modest nature, provided at conferences where representing Council officially as a speaker. (e) Ties, scarves, coasters, tie pins, diaries, chocolates, flowers, and small amounts of fresh produce or beverages of a modest value. (f) Infrequent invitations to appropriate out-of-hours “cocktail parties” or social functions organised by groups, such as, council committees and community organisations. 																						

6.2	<p>Non-Token Gifts and Benefits of value</p> <p>In general, all non-token gifts that are accepted are to be recorded in the Council's publicly available Gifts & Benefits Register. Gifts and benefits of non-token value and benefit may include:</p> <ul style="list-style-type: none"> (a) Quantities of alcohol. (b) Corporate hospitality at a theatre and/ or sporting event. (c) Discounted products for personal use. (d) Frequent use of facilities such as gyms. (e) Use of holiday homes, free or discounted travel.
6.3	<p>Disclosure</p> <p>Where a gift or benefit is received of more than token value, in circumstances where it cannot reasonably be refused or returned, once accepted the gift or benefit should be disclosed promptly to the following people:</p> <ul style="list-style-type: none"> • Staff to advise their Director. • Directors to advise the General Manager. • The General Manager to advise the Mayor. • Councillors to advise the Mayor. • The Mayor to advise the General Manager. <p>Once disclosure is made to the relevant person the gift or benefit will be recorded on Council's Gifts & Benefits Register. After the gift or benefit is registered the recipient will be advised if they can keep the gift or benefit or if it has to be provided to Council.</p>

Implementation

Implementation steps		Responsibility
1	<p>Model Code of Conduct and Procedures</p> <p>This policy will be implemented by adopting and complying with the current version of the <i>Model Code of Conduct for Local Councils in NSW</i> and <i>Procedures for Administration of the Code of Conduct</i> as published by the OLG, and as described below.</p>	<p>General Manager Councillors Complaints Coordinator</p>
2	<p>Reporting a Code of Conduct complaint</p> <p>The Code of Conduct Complaint form should be used to report an alleged breach of the Code of Conduct to the General Manager, or (if the complaint is about the General Manager) to the Mayor.</p>	<p>General Manager Mayor</p>
3	<p>Code of Conduct complaints</p> <p>Code of Conduct complaint or breach are referred to the Complaints Coordinator to engage a Conduct Reviewer for determination and recommendation (as per the OLG Procedures).</p>	<p>General Manager Mayor Complaints Coordinator Conduct Reviewer</p>

	<p>Council will select a Conduct Reviewer from a panel that have been determined by the Canberra Region Joint Organisation of which Council is a member.</p> <p>If the complaint is NOT a Code of Conduct Complaint, it will be dealt with according to the complaint type (see 'Complaints not related to Code of Conduct' above).</p>	Other (referral as clause 5 above)
4	<p>Enforcement and Coordination</p> <p>The General Manager and Executive Leadership Team are responsible for enforcing the policy and Code of Conduct.</p> <p>The Complaints Coordinator supports the General Manager in coordinating the policy and dealing with any complaints which must be referred to a Conduct Reviewer.</p>	<p>General Manager</p> <p>Executive Leadership Team</p> <p>Complaints Coordinator</p>
5	<p>Staff</p> <p>All staff are responsible for their own compliance with the standards of the Code of Conduct.</p> <p>Under supervision, applicable Council staff will be responsible for ensuring that policies are implemented appropriately within their work area, after they have received relevant training to do so.</p>	Council Officers
6	<p>Consultation</p> <p>Consultation regarding this policy will occur as relevant with key stakeholders and may include legislative bodies, other agencies, relevant legislation, industry guidelines, and public comment. Public submissions regarding this policy are invited for consideration during the policy exhibition period.</p>	Key Stakeholders

Review

The policy will be automatically revoked at the expiration of twelve months after the declaration of the poll for the next general NSW local government election, unless Council revokes it sooner.

Note: Automatic revocation of the policy is provided for by section 165(4) of the Local Government Act 1993. The next general local government election is expected to be held in September 2020.

This policy may also be reviewed and updated as necessary when the *Model Code of Conduct for Local Councils in NSW* is reviewed, updated and/ or republished by the OLG; or when Council's functions, structure or activities change; or when technological advances or new systems change the way that Council manages its Code of Conduct.

Reviews of the effectiveness of this policy could include the following:

Performance indicator	Data source(s)
Complaints received	Council Records
Number of breaches	Council Records
Audit (Internal or External)	Audit
DP/ OP objectives achieved	Council reporting

Governance

This policy should be read in conjunction with any related legislation, codes of practice, relevant internal policies, and guidelines.

Related legislation, policies, codes, guidelines

Name	Link
Model Code of Conduct (current version)	www.olg.nsw.gov.au/strengthening-local-government/conduct-and-governance/model-code-of-conduct
Procedures for Administration of Model Code of Conduct (current version)	www.olg.nsw.gov.au/sites/default/files/Procedures-for-Administration-of-Model-Code-of-Conduct.pdf
<i>Local Government Act 1993</i>	www.legislation.nsw.gov.au/#/view/act/1993/30
Complaints Policy Code of Meeting Practice	www.esc.nsw.gov.au/inside-council/council/council-policies

Related external references

Name	Link
Office of Local Government	www.olg.nsw.gov.au
Independent Commission Against Corruption (ICAC)	www.icac.nsw.gov.au
NSW Ombudsman	www.ombo.nsw.gov.au

Supporting documents

Name	Link
Code of Conduct Complaint form	www.esc.nsw.gov.au/inside-council/council/council-policies/code-of-conduct

Change history

Version	Approval date	Approved by	Minute No	File No	Change
1	14 June 2016	Council	16/169	E06.0380	New Policy commenced, and current Model Code of Conduct (Nov 2015) adopted.
2	28 Feb 2017	Council	17/31	E06.0380 E16.0297	Reviewed at start of new Council term. Updated referencing and added 'Gifts and Benefits' section (with repeal of the previous Gifts and Benefits policy).

Internal use

Responsible officer	General Manager		Approved by	Council	
Min no	17/31	Report no	GMR17/006	Effective date	28 Feb 2017
File no	E06.0380 E16.0297	Review date	Sep 2020	Pages	6