

# Competitive Neutrality and Complaints Handling

Policy | Business & Community Services

The purpose of this policy is to have a system to deal with any complaints received in relation to Competitive Neutrality issues.

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# 1 Background

## 1.1 Title of the Policy and Commencement

The Competitive Neutrality and Complaints Handling Policy takes effect from 15 February 2021.

## 1.2 Purpose of the Policy

This policy establishes a system to deal with any complaints received in relation to Competitive Neutrality issues.

# 2 Objective

## 2.1 Objectives and Coverage of the Policy

*The Trade Practices Act (Cth) 1974* applied to Local Government effective 1 July 1996 and was replaced by the *Competition and Consumer Act, 2010* (the Act). The object of the Act is to enhance the welfare of Australians through the promotion of competition and fair trading and provision for consumer protection.

The National Competition Policy is aimed at creating an overall business environment conducive to improving Australia's international competitiveness.

The principle of competitive neutrality is based on the concept of a "level playing field" between persons competing in a market place, particularly between private and public sector.

# 3 Application

## 3.1 Application of this Policy

Council business Activities subject to Competitive Neutrality.

### Category 1

Name	Brief Description of Activity
Water Supplies	Provision of water for the communities of Broke, Bulga, Jerrys Plains, Mount Thorley and Singleton.
Sewerage Services	Provision of sewerage treatment and disposal for the community of Singleton.
Hunter Resource Recovery	Hunter Resource Recovery is a joint venture company that was established by Cessnock, Lake Macquarie, Maitland and Singleton Councils to combine the resources of the member councils to provide a more cost effective waste management service.



**Category 2**

Name	Brief Description of Activity
Colleen Gale Children's Services	Provision of Long Day Care and Mobile Preschool.
Singleton Gym and Swim	Provision of aquatic and gym facilities.
Strategic Services Australia Limited	Strategic Services Australia Limited (formerly Hunter Councils Limited) has been established to improve the quality and efficiency of local government service throughout the Hunter Region, via resource sharing.

**4 Definitions**

For the purposes of this policy:

Term	Meaning
A complaint regarding competitive neutrality is:	<ul style="list-style-type: none"> <li>• A complaint that Council has not met its requirements under the Policy Statement or "Pricing and Costing for Council Business - A Guide to Competitive Neutrality". This includes a concern that Council has not established an effective complaints handling mechanism.</li> <li>• A complaint that Council has not abided by the spirit of competitive neutrality in the conduct of a business activity.</li> </ul>
A competitive neutrality complaint is not:	<ul style="list-style-type: none"> <li>• A complaint regarding the level of service provided by a business activity (eg reserve requiring maintenance, garbage bin not collected);</li> <li>• A complaint regarding the cost of the service, unless it is that Council has not costed its service to take competitive neutrality into account;</li> <li>• A complaint regarding the trade practices laws and their application to Councils. Complaints which centre on the <i>Competition and Consumer Act, 2010</i>, and related issues can be dealt with by the Council but are not competitive neutrality complaints. They may also be referred to the Australian Competition and Consumer Commission.</li> </ul>



## 5 Principles/Body

### 5.1 Procedural Statement

A Preliminary Review Process commences with the submission of a written complaint to the Public Officer specifying:

- How the complainant is an “affected person”;
- How the complainant believes the competitive neutrality principles have been breached together with any supporting evidence from the complainant.

The Public Officer must, within 10 working days of receiving the written complaint, acknowledge its receipt in writing and request any further information required to properly consider the complainant’s concerns. When undertaking the Preliminary Review Process, the Public Officer must:

- Seek to establish the facts relating to the concerns expressed by the complainant. This may involve meeting with the complainant, collecting data, holding further meetings and recommending mediations;
- Within 45 days of receiving the written complaint, develop a draft response to be forwarded to the complainant and requesting his/her views on the draft response;
- Upon receipt of the complainant’s views on the draft response, provide a report to Council’s General Manager and Director responsible for the Business Group identified in the complaint on the findings of that Officer’s initial investigation and the complainant’s views on the draft response;
- On receiving the Public Officer’s findings and the complainant’s views on the draft response, the General Manager or delegated staff prepare and send an adopted response to the complainant. The response must include details of how to make a formal complaint to the Office of Local Government should the complainant be dissatisfied with the adopted response.

## 6 Relevant Legislation

*Local Government Act 1993, NSW*

*Competition and Consumer Act, 2010*

Division of Local Government – “Pricing & Costing for Council Businesses - A Guide to Competitive Neutrality” – July 1997



## 7 Document Information

Related documents and reference information in this section provides a single reference point to develop and maintain site compliance information.

### 7.1 Related Documents

Related documents, listed in **Table 7-1** below, are internal documents directly related to or referenced from this document.

Number	Title
POL/40007	Complaint Handling Policy
17/88402	Customer Service Charter - 2018

Table 7-1 – Related documents

## 8 Responsible Officer / Policy Owner

Ownership of this policy rests with the Director Business & Community Services.

## 9 Responsibilities

Parties or Persons	Responsibilities
Employees	<ul style="list-style-type: none"> <li>• Council will always remain accountable for a business to the community. Council members and staff will continue to have responsibility for ensuring that a service is being carried out effectively and that ratepayers' funds are being used responsibly.</li> <li>• Staff investigating competitive neutrality complaints will not be involved in Council business activities.</li> </ul>
Public Officer	<p>The Public Officer is responsible for receiving, forwarding and/or acting upon complaints in accordance with this Policy.</p> <p>The Public Officer will:</p> <ul style="list-style-type: none"> <li>• Clearly explain to persons making the complaint what will happen in relation to the information received;</li> <li>• Record in writing and date any complaint received orally (and have the person making the complaint sign the document);</li> <li>• Deal with complaints impartially;</li> <li>• Inform the General Manager;</li> <li>• Be responsible for carrying out or co-ordinating any internal investigation arising out of a complaint, subject to the direction of the General Manager in carrying out their functions;</li> <li>• Report to the General Manager on the findings of any investigation and recommended remedial action</li> </ul>



## 10 Approval

As per cover sheet.

## 11 Monitoring

This policy will be monitored by the Director Business & Community Services to ensure compliance.

## 12 Review Date

This policy, once adopted, is to remain in force until it is reviewed by Council. This policy is to be reviewed approximately every two (2) years to ensure that it meets legislative requirements.

## 13 Last Review Date

This policy was last reviewed on 18 February 2019.

## 14 Record Keeping, Confidentiality and Privacy

This policy is to be made available for public viewing as required under the *Government Information (Public Access) 2009, NSW*.

## 15 Breaches and Sanctions

Any breaches of this Policy will be referred to the General Manager for appropriate action.

## 16 Document History

The below table provides a summary of changes and amendments to this document.

Version.	Date Amended	Author	Comments (e.g. reasons for review)
5	15/02/2021	A Egan	Scheduled review: <ul style="list-style-type: none"> <li>Updated policy number and dates.</li> <li>Changed Director title throughout document.</li> <li>Removed reference to Singleton Regional Livestock Markets from Category 2.</li> </ul>

