

Competitive Neutrality Complaints Policy

Purpose

This policy is made under this policy to establish a procedure for handling any complaints relating to competitive neutrality under the principles of the National Competition Policy an effective system of dealing with competitive neutrality complaints must be established.

Definition

A complaint regarding competitive neutrality is:

- A complaint that Council has not met its requirements under the “NSW Government Policy Statement on the Application of the National Competition Policy” or “Pricing and Costing for Council Business – a Guide to Competitive Neutrality”. This includes a concern that Council has not established as effective complaints handling mechanism.
- A complaint that Council has not abided by the spirit of competitive neutrality in the conduct of business activity.

A competitive neutrality complaint **IS NOT**:

- A complaint regarding the level of service provided by a business activity (eg water quality inadequate, garbage bin not collected).
- A complaint regarding the cost of the service, unless it is that Council has not costed its service to take competitive neutrality into account.
- A complaint regarding the Trade Practice Laws and their application to Councils. Complaints which centre on the Trade Practices Act 1974 and related issues can be dealt with by the Council but are not competitive neutrality complaints. They may be referred to the Australian Competition and Consumer Commission.

Making a Competitive Neutrality Complaint

Complaints regarding competitive neutrality may be made either to Council or to the State Government. The Department of Local Government is the State Agency responsible for handling complaints made to the State Government.

Complaints Made Directly to Council

1. A competitive neutrality complaint shall be put in writing and forwarded to:

The General Manager
Wentworth Shire Council
PO Box 81

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Application:	All Staff				
Attachments:					

Wentworth NSW 2648
 Phone: (03) 50275027
 Fax (03) 50272131

A complaint may also be personally delivered to the Wentworth Shire Council Office during Office hours.

2. Upon receipt of such written complaint, the General Manager or the nominated Competitive Neutrality Complaints Officer, will investigate the matter. Council will maintain a separate competitive neutrality complaints file to account for complaints received.
3. Whilst any person involved in Council's business activities will be asked for comments on any competitive neutrality complaint received, the investigation and determination of action to be taken in relation to the complaint will be undertaken by a person independent of the business.
4. Upon receipt of a complaint, the circumstances of the complaint shall be investigated as follows:
 - (a) The person responsible for the business activity which is the subject of the complaint will be advised that a complaint has been received.
 - (b) If necessary, discussion will be held with the complainant to clarify the contents of the complaint and the remedy sought.
 - (c) After investigation of the complaint, a meeting may be held with the complainant with a view to resolving the complaint or a written response may be provided to the complainant. (A written response will also be provided if a meeting is held).
5. Competitive neutrality complaints will be investigated and responded to within four (4) weeks of the date on which the complaint is received.
6. In general, the remedies which Council can provide to resolve a complaint will be:
 - (a) To provide more information to the complainant for a more accurate understanding of the competition policy.
 - (b) To investigate/review Council's business activity if a legitimate complaint is made.
 - (c) To change Council's business practice where a complaint is justified.
7. Council will report its progress in implementing competitive neutrality principles in its Annual Report and a summary of complaints received and action taken will be included in the report.

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Complaints to Other State Government Agencies

Should a person choose to make a competitive neutrality complaint to a State Government Agency, the Department of Local Government is the responsible agency.

Complaints may be made to the Department, in writing, as follows:

Department of Local Government
Locked Bag 3015
NOWRA NSW 2541

Phone: (02) 4428 4100
Fax: (02) 4428 4199
Email: dlg@dlg.nsw.gov.au

Other Agencies which may deal with competitive neutrality complaints are listed below, together with an outline of their role in dealing with such complaints.

The Ombudsman

The Ombudsman's Office may receive complaints that concern competitive neutrality either in part or whole. That Office will continue to carry out its role in relation to Local Government, which may involve the consideration of competitive neutrality issues as part of a complaint. It may also decline to investigate a complaint on the basis that the Department is the most appropriate agency to pursue competitive neutrality complaints. That Office has taken steps to be able to identify complaints relating to competitive neutrality and will, in appropriate cases, refer them to the Department. A formal liaison mechanism between the Office and the Department has been put in place.

NSW Ombudsman
Level 24
580 George Street
SYDNEY NSW 2000

Toll Free: 1800 451 524
Email: nswcombo@ombo.nsw.gov.au

The Independent Commission Against Corruption (ICAC)

The ICAC may also receive complaints/information that concern competitive neutrality. Where the complaint also involves a matter within its jurisdiction, the ICAC may choose to investigate such a complaint, as is currently the case. Alternatively, there is already a formal mechanism under the Independent Commission Against Corruption Act for the referral of matters to other bodies for action. The Commission may also require the relevant body to report back to the Commission regarding any action taken. The Department may be formally referred matters concerning competitive neutrality through

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this means. Conversely, the Department may formally refer matters to the ICAC for consideration where this is relevant to the ICAC's role.

As part of the normal liaison arrangements that exist between the Commission and the Department, the Commission will be referring, in the first instance, to the Department all complaints it receives which relate to competitive neutrality in Local Government, even where the Commission retains an interest in the matter.

ICAC
 GOP Box 500
 SYDNEY NSW 2001

Toll Free: 1800 463 909
 Email: icac@icac.nsw.gov.au

The Australian Competition and Consumer Commission (ACCC)

Council may also receive complaints which focus on trade practices issues, rather than competitive neutrality. These will involve the application of the Trade Practices Act 1974 to Local Government. As outlined in the Policy Statement, Local Government has been subject to "competition" rules contained in Part IV of the Trade Practices Act since 20 July 1996.

If Council received a complaint that is it not able to answer, or if the complaint remains unsatisfied, the complainant can be referred to the ACCC, which is the Federal agency handling trade practices issues and investigations. The ACCC provides a phone information services to any person to assist in the understanding of the Act. The Commission also receives formal complaints which it may investigate. The number for Sydney is (02) 9230 9133. The number for Canberra is (02) 6243 1111.

References

- NSW Government Policy Statement on the Application of National Competition Policy to Local Government, June 1996.
- Pricing and Costing for Council Business – A Guide to Competitive Neutrality, NSW Department of Local Government.

Review

This policy may be amended from time to time and will be reviewed within 12 months of its adoption (or latest amendment) with reference to any relevant legislation and best practice guides.

AUTHORISATION:

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 Position: General Manager

Date: /...../.....

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