

 Central Highlands Regional Council	CENTRAL HIGHLANDS REGIONAL COUNCIL POLICY	
	Competitive Neutrality Complaints	POLICY REF NO CHRCPC: 0036

1.0 Policy Purpose

- 1.1 Council is required to implement a policy to deal with complaints received in relation to competitive neutrality issues. It will ensure compliance with the relevant National Competition Policy (NCP) provisions of the *Local Government Act 2009* and Local Government Regulation 2012.
- 1.2 The NCP advocates the delivery of local government services of its significant business activities on commercial principles. It is designed to ensure that, where appropriate, council sets prices on the same basis as the private sector by making adjustments for the advantages and disadvantages of public ownership. This policy is applicable to those activities to which competitive neutrality applies.

2.0 Policy Statement

- 2.1 Council is committed to ensuring that its business activities are accountable and transparent for financing, pricing and other business decisions, as well as identifying the true cost of service provision to the community.
- 2.2 Council supports the principles of competitive neutrality by ensuring that council businesses operate without any net competitive advantages over other businesses as a result of the public ownership.
- 2.3 Where council competes in the market place, it will always do so on the basis that it does not use its public position to gain an unfair advantage over private sector competitor.
- 2.4 Relevant information will be provided to a complainant to facilitate a complete understanding of competition policy. The operation of a council business activity will be investigated and reviewed if a legitimate complaint is made, in accordance with the council’s Competitive Neutrality Complaints Procedure.
- 2.5 A change will be made to a council business practice where a complaint is substantiated.

3.0 Management of Competitive Neutrality Complaints

- 3.1 The *Local Government Act 2009* requires council to adopt a process for resolving competitive neutrality complaints. Section 44 of the Local Government Regulation 2012 mandates the minimum requirements for the resolution of competitive neutrality complaints.
- 3.2 Council must ensure that the process deals with the following:
 - 3.2.1 Establishing operational procedures before an affected person makes a complaint including a process for:
 - Raising concerns about alleged failures of a significant business to comply with the competitive neutrality principles.
 - Clarification of issues and resolutions.

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Adoption Date: 20/10/2021	Amended Date:	Document Name: Competitive Neutrality Complaints Policy
Revokes: Document Set ID: 1151156	Review Date:	Page 1 of 3
Version: 10, Version Date: 18/04/2024	Version: 3	

3.2.2 Recording all complaints, decisions and recommendations.

3.2.3 Appointing someone other than the competition authority as a referee to:

- Review the way an affected person may make a complaint.
- Appoint a referee.
- Advise the complainant of the complaint process.
- Send a complaint to a referee.
- Investigate a complaint.
- Give a complainant an opportunity to provide further details about the complaint to the referee.
- Provide times within which the referee must give reports to council.
- Any other matters that council considers appropriate.

4.0 Outputs

4.1 The full cost pricing model adopted by council involves setting prices on a commercial basis. It is founded on the principles that the price charged, or the provision of goods or services should recover sufficient revenue to cover the costs of production, the funds to replace assets as they are consumed, and the achievement of a reasonable rate of return.

4.2 Whilst a full cost pricing model has been utilised for the annual determination of cost recovery levels for council's significant business activities, an appropriate long term financial sustainability model will enable the identification of ongoing investment requirements, helping to inform capital funding decisions and borrowing programs, as well as assisting in the development of longer term price paths and revenue strategies for the business and compliance with the full cost pricing principles, in accordance with legislative requirements.

5.0 Further Information

5.1 Further information on competitive neutrality can be found in the National Competition Policy [here](#).

6.0 Definitions

CEO refers to Chief Executive Officer.

Competitive Advantage is an advantage a business entity conducting a significant business activity has over a private sector business because the local government owns the activity. For example, a competitive advantage includes –

- A financial advantage;
- A procedural advantage; and
- A regulatory advantage.

Examples of a procedural advantage

A business entity conducting a significant business activity has a procedural advantage if the business entity:

- does not have to supply the same amount of information under a government approval process as a private sector business; or
- can access more information for a government approval process than a private sector business can access.

Examples of a regulatory advantage

A business entity conducting significant business activity has a regulatory advantage if the business entity is exempt (or completely or partly) from a government approval process a

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Adoption Date: 20/10/2021	Amended Date:	Document Name: Competitive Neutrality Complaints Policy
Revokes: Document Set ID: 1151156	Review Date:	Page 2 of 3

private sector must follow.

Competitive Neutrality is defined in the *Local Government Act 2009* as principles that an entity which is conducting a business activity in competition with the private sector should not enjoy a net advantage over competitors only because the entity is the public sector.

NCP refers to National Competition Policy.

Significant Business Activity has meaning applied by s.43(4) of the *Local Government Act 2009* with the activity having expenditure that meets or exceeds the thresholds prescribed annually by s.19(2) of the *Local Government Regulation 2012*.

Strategic Link	Chapter 3, Part 2, Division 2 Local Government Act 2009 s 44 , Local Government Regulation 2012
Category	Organisational
Lead Business Unit	Governance
Public Consultation	No
Adoption Date	20 October 2021
Next Review Due	
Document Number	1151156
Record Keeping	ECM, Vine and Council Website
Related Documents	Competition and Water Reform Policy (CHRCP: 0012) Competitive Neutrality Complaints Procedure

Electronic version current – uncontrolled copy valid only at time of printing

Adoption Date: 20/10/2021	Amended Date:	Document Name: Competitive Neutrality Complaints Policy
Revokes: Document Set ID: 1151156	Review Date:	Page 3 of 3
Version: 10, Version Date: 18/04/2024	Version: 3	