

Policy Section:	6. Finance & Corporate Services
Policy Name:	National Competition Policy
Classification:	Public – Council Policy
Adopted:	24 March 2020
Frequency of Review:	Every four years
Last Review:	October 2019
Next Review Due:	March 2024
Responsible Officer(s):	Manager Finance & Corporate Services
Policy and Code of Practice Manual File Ref:	CC10/2601
Council File Reference:	CR19/67927
Legislation Authority:	Local Government Act 1999 Government Business Enterprises (Competition) Act 1996 Revised Clause 7 Statement on the application of Competition Principles to Local Government under the Competition Principles Agreement
Related Policies and Codes:	N/A
Related Procedures:	N/A

1. BACKGROUND

- 1.1 The National Competition Policy applies to government business activities and seeks to ensure open and fair competition to achieve a balance, termed competitive neutrality, between competitive principles and social objectives.
- 1.2 The Council as part of Local Government is required to meet the provisions of Government Business Enterprises (Competition) Act 1996, by ensuring that competitive neutrality principles and practices are applied to significant business activities conducted by the Council.
- 1.3 The intent of competitive neutrality is to ensure that where a Council conducts business activities that provide goods and services that it does not have an unfair advantage over a private sector business by virtue of being in the Local Government sector. Any such business activities should be subject to the same conditions as private business.

2. LEGISLATION

- 2.1 The Clause 7 Statement on the Application of Competition Principles to Local Government under the Competition Principles Agreement (2002), and the Government Business Enterprises (Competition) Act 1996 requires that Council apply the principles of competitive neutrality unless that cost of implementing such principles is greater than the anticipated benefits.
- 2.2 The Council must categorise any significant business activities as:
 - 2.2.1 Category 1 – annual revenue in excess of \$2m or employing assets in excess of \$20m.
 - 2.2.2 Category 2 – all other.

3. BUSINESS ACTIVITIES

- 3.1 A significant business activity is where there:
 - 3.1.1 are goods and services produced for sale;
 - 3.1.2 is a commercial or profit-making focus;
 - 3.1.3 are user charges for goods and/or services;
 - 3.1.4 is an activity not funded from rate or grant revenue; or
 - 3.1.5 there is provision for Council to submit a tender in competition with the private sector.
- 3.2 The Council undertakes a regular review to identify all significant business activities. –
- 3.3 A significant business activity does not include any activity where there is no competition with local suppliers or where the achievement of community benefits is the main priority of the activity.
- 3.4 The application of competitive neutral principles is often difficult to apply to small businesses conducted by Local Government. In such cases Cost Reflective Pricing is appropriate.

The calculation of a competitive neutral price should take into account:

- 3.4.1 actual cost of providing the good or service on a full cost basis;
- 3.4.2 cost advantage of Local Government ownership due to non-payment of taxes, lower cost of debt and exemption from some legislation;
- 3.4.3 cost disadvantage of Local Government ownership due to increased accountability and administration and higher costs in some areas;
- 3.4.4 return on interest and dividend payments to Local Government.

Cost reflective pricing may be decided by the pricing for similar goods and services.

4. COMPLAINTS

4.1 Competitive Neutrality Complaint

- 4.1.1 A competitive neutrality complaint is a complaint from the public or a business that a Council has failed to determine a policy on competitive neutrality; or failed to determine that a particular activity is a significant business activity, or that a Council activity is unfairly competing with a private business, or a similar type of complaint.

4.2 Complaint Process

- 4.2.1 The following complaint process has been set up to manage complaints resulting from the application or non-application of the competitive neutrality principles to business activities.
 - 4.2.2 All complaints are to be in writing to the CEO who is to investigate, seek external assistance where required and report to Council.
 - 4.2.3 The following action should be taken when a complaint is received; however it is critical that complaints are handled independently of the original decision maker or any staff member who may be considered to have an interest in the outcome of the process.
- 4.3 Decide whether the complaint will be investigated internally or by appointing a person from the independent panel established by the LGA.
- 4.4 Within 5 working days from the receipt of the complaint:
- 4.4.1 record the complaint in the Complaints Register
 - 4.4.2 acknowledge the complaint
 - 4.4.3 advise the complainant who will be dealing with the complaint
 - 4.4.4 provide the complainant with a copy of the policy
 - 4.4.5 provide the complainant with a copy of the complaints process.
- 4.5 Within 21 working days from receipt of the complaint:
- 4.5.1 investigate the complaint
 - 4.5.2 advise the complainant of the result of the investigation and any corrective action taken
 - 4.5.3 record the outcome in the Complaints Register.

5. REPORTING

- 5.1 Each Council is required to include in the Annual Report information relating to:
- 5.1.1 commencement or cessation of any significant business activities;
 - 5.1.2 the competitive neutrality measure applied;
 - 5.1.3 the introduction of new or any review of by-laws that restrict competition;
 - 5.1.4 complaints received alleging a breach of competitive neutrality principles;

6. REVIEW AND EVALUATION

The effectiveness of this Policy will be reviewed every four years or as required.

The Chief Executive Officer will report to Council on the outcome of the evaluation and if relevant make recommendations for amendments, alteration or substitution of a new Policy.

The Policy will not be altered or substituted so as to affect a process already commenced.

7. FURTHER INFORMATION

Further information about this Policy can be obtained by:-

Telephone: 8522 9211

Email: council@gawler.sa.gov.au

Appointment: Town of Gawler Administration Centre, 43 High Street, Gawler East.

Letter: PO Box 130, Gawler SA 5118

8. AVAILABILITY OF POLICY

The Policy is available for inspection during ordinary business hours at the Council principal office, Town of Gawler Administration Centre 43 High Street, Gawler East or is available on the Council website at www.gawler.sa.gov.au.

A copy of this Policy will be provided to interested parties upon request, for a fee as contained in the Register of Fees and Charges.