

Statement

29 November 2019

Information Commissioner action to promote compliance with *Information Access Guideline 1 - For Local Councils on the disclosure of information (returns disclosing the interest of councillors and designated persons)*

Disclosing pecuniary interests of councillors and other designated decision makers furthers openness, transparency and accountability in local government. It also facilitates the identification and management of potential conflicts of interest that might arise where councillors and staff participate in decisions from which they may derive, or be perceived to derive, personal or financial benefit.

Importantly disclosure minimises the risk of fraud and corruption.

By mandating disclosure of interests Parliament recognised the important functions undertaken by local government in delivering services and making decisions that significantly impact the lives of citizens and the importance of these decisions being made free of personal interests.

Local government conducts consultation and provides information and services using websites. The GIPA Act recognises this dominant communication channel by requiring that the disclosures are available to citizens on Council websites. This approach provides an accessible and effective way of ensuring that citizens can hold their elected officials to account.

Following consultation, the Information Commissioner recently issued a revised guideline to local councils on the disclosure of information, which includes the disclosure of interests as required under the *Government Information (Public Access) Act 2009* (GIPA Act) on websites. The Guideline also reflects the revised Local Government of the Model Code of Conduct for Councils (2018).

Local councils must have regard to the Guideline.

Information Commissioner, Ms Elizabeth Tydd said, “The interests required to be declared by councillors and senior decision makers included business interests. Declarations of business and pecuniary interests are a demonstrably effective tool in preventing corruption and promoting integrity. These are strong factors in favour of disclosure particularly in the local government sector where decisions impact the everyday lives of people. Those factors must be balanced against factors against disclosure including privacy. However, declarations of business interests will not necessarily disclose any information impacting personal privacy.”

“The resolutions by councils as they seek to deviate from clear requirements under the GIPA Act and to justify non-compliance for privacy reasons will be something I consider carefully. It is important to stress that the guideline was developed in consultation with the NSW Privacy Commissioner,” Ms Tydd said.

The Guideline was issued in accordance with section 15 of the GIPA Act and confirms the legislative requirements for disclosure of certain information including details about properties and shareholdings, debts and business interests that is to be published on Council websites. It also confirms that councils may, following consideration of each individual case redact some of the information because of an overriding public interest against disclosure.



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Recently three local councils - Central Coast Council, the Mid-North Coast Council and the Clarence Valley Council - publicly stated their intention to adopt practices that appear to offend the requirements of the GIPA Act and Guideline 1.

The Information and Privacy Commission has sought further information from all three councils and re-iterated the obligations under the Guideline.

The Information Commissioner will consider the responses from Councils in taking any further regulatory action.

ENDS

For further information, please contact:

IPC media team on **0435 961 691** or email ccadigital@ipc.nsw.gov.au

About the Information and Privacy Commission:

The Information and Privacy Commission NSW (IPC) is an independent statutory authority that administers New South Wales' legislation dealing with privacy and access to government information. The IPC supports the Information Commissioner and the Privacy Commissioner in fulfilling their legislative responsibilities and functions and to ensure individuals and agencies can access consistent information, guidance and coordinated training about information access and privacy matters.

About the NSW Information Commissioner

The NSW Information Commissioner's statutory role includes promoting public awareness and understanding of the *Government Information (Public Access) Act 2009* (GIPA Act); providing information, advice, assistance and training to agencies and the public; dealing with complaints about agencies; investigating agencies' systems, policies and practices; and reporting on compliance with the GIPA Act.

For further information about the IPC visit our website at www.ipc.nsw.gov.au