

Circular Details	Circular No 22-22 / 8 August 2022 / A731312
Previous Circular	N/A
Who should read this	Councillors / General Managers / All council staff
Contact	Council Governance / (02) 4428 4100 / olg@olg.nsw.gov.au
Action required	Response to OLG

The development of guidelines and a model policy on the lobbying of councillors.

What's new or changing

- In recent investigations, (Operation Dasha, Operation Eclipse and Operation Witney), the Independent Commission Against Corruption (ICAC) has considered the corruption risks associated with the lobbying of councillors and made corruption prevention recommendations.
- Among other things, ICAC has recommended:
 - that the Office of Local Government (OLG), in consultation with the local government sector, develop guidelines to enhance transparency around the lobbying of councillors (ICAC has also made recommendations about the content of the guidelines), and
 - that the *Lobbying of Government Officials Act 2011* (the LOGO Act) is amended to ensure all provisions apply to local government.
- In response to ICAC's recommendations, OLG is proposing to develop guidelines to enhance transparency around the lobbying of councillors. The guidelines will be issued under s 23A of the *Local Government Act 1993*.
- OLG is also developing a model policy on lobbying to support councils to implement the guidelines. If adopted by councils, the policy will operate to supplement the provisions of their adopted codes of conduct.

What this will mean for your council

- OLG is undertaking consultation with councils to seek their views on what should be included in the proposed guidelines and to identify existing best practice in the local government sector in managing corruption risks associated with the lobbying of councillors.
- OLG is also seeking the views of councils on whether the LOGO Act should apply to local government.
- To assist with the development of the guidelines and model policy, OLG is seeking the following from councils:
 - councils' views and suggestions on ICAC's recommendations on the content of the proposed guidelines (set out in the attachment to this circular)
 - suggestions on what issues, behaviours and risks need to be addressed in the guidelines and model policy
 - information about what measures councils currently take to enhance transparency and promote honesty around the lobbying of councillors, and
 - copies of or links to councils' existing lobbying policies.
- Submissions may be made by email to olg@olg.nsw.gov.au.
- Submissions should be labelled '*Lobbying Guidelines*' and marked to the attention of OLG's Council Governance Team.

- Submissions should be made by COB **Monday 5 September 2022**.

Where to go for further information

- Information about ICAC's corruption prevention recommendations in relation to the lobbying of councillors is provided in the attachment to this circular.
- ICAC's report on Operation Dasha is available [here](#).
- ICAC's report on Operation Eclipse is available [here](#).
- ICAC's report on Operation Witney is available [here](#).
- Information on the operation of the LOGO Act is available [here](#).
- Contact OLG's Council Governance Team by telephone on 02 4428 4100 or by email at olg@olg.nsw.gov.au

Michelle Wood

A/Deputy Secretary, Crown Lands and Local Government

ATTACHMENT

ICAC recommendations in relation to section 23A guidelines on the lobbying of councillors

Operation Dasha

Recommendation 8

That the Department of Planning and Environment (DPE), following a reasonable period of consultation, issues guidelines under section 23A of the *Local Government Act 1993* (LGA) to introduce measures to enhance transparency around the lobbying of councillors. The guidelines should require that:

- councils provide meeting facilities to councillors (where practical) so that they may meet in a formal setting with parties who have an interest in a development matter
- councils make available a member of council staff to be present at such a meeting and to prepare an official file note of that meeting to be kept on the council's files (any additional notes made by the member of council staff and/or the councillor should also be kept as part of the council's records)
- all councillors be invited when a council conducts formal onsite meetings for controversial re-zonings and developments, and
- council officers disclose in writing to the general manager any attempts by councillors to influence them over the contents or recommendations contained in any report to council and/or relating to planning and development in the local government area.

Operation Witney

Recommendation 9

That DPE ensures any guidelines issued pursuant to section 23A of the LGA regarding the lobbying of councillors (see Operation Dasha recommendation 8 above) include advice about:

- the nature and frequency of meetings between councillors and interested parties, including the need to ensure transparency around these interactions
- how and where to report concerns about lobbying practices
- the receipt of submissions outside of formal processes, including the transmission of material to specific councillors in a way that excludes other councillors and staff
- councillors' attendance at staff meetings with parties interested in an outcome
- councillor representations to staff arising from lobbying interactions, and
- the lobbying of councillors by interested parties with whom they have a pre-existing relationship.

Recommendation 10

That DPE updates the *Model Code of Conduct for Local Councils in NSW* to refer to any councillor lobbying guidelines and to reflect the substantive advice contained in the guidelines.

ICAC recommendations and findings on the extension of the *Lobbying of Government Officials Act 2011* (the LOGO Act) to local government

Operation Dasha

Recommendation 7

That the NSW Government amends the LOGO Act to ensure all provisions apply to local government.

Operation Eclipse

Key finding 5

The local government sector faces considerable risk of undue influence and should be regulated by the LOGO Act.

Investigations conducted by ICAC and interstate anti-corruption commissions indicate that local councils are often the target of improper lobbying. However, local government officials are not “government officials” as defined by, and for the purposes of, the LOGO Act. The *Model Code of Conduct for Local Councils in NSW* does not explicitly refer to lobbying; however, it does contain general obligations in relation to ethical and honest conduct, as well as more detailed material covering:

- improper and undue influence
- inappropriate interactions
- use and security of confidential information
- recordkeeping.

Extending the provisions of the LOGO Act to local government would, among other matters, allow the lobbying regulator to provide guidance about the appropriate policies and procedures that would best suit the circumstances of local councils, particularly regarding matters about planning, land use, the environment and community amenities.