
Lobbyists Policy

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1 Policy Statement

The Lobbyists Policy (**Policy**) outlines the standards and behaviour expected of employees in Infrastructure NSW (**INSW**) when interacting with lobbyists. INSW must promote confidence in the integrity of public administration and always act in the public interest, not in any individual's private interest.

The following items are key to ensuring compliance with statutory obligations:

- The *Lobbying of Government Officials Act 2011* (**Act**) establishes a system that governs contact between NSW Government Officials and lobbyists and is designed to ensure that lobbying is conducted in a transparent and ethical manner.
- The *Lobbying of Government Officials (Lobbyists Code of Conduct) Regulation 2014* (**Regulation**) establishes a Code of Conduct for Lobbyists and additional disclosures that are required of lobbyists in New South Wales.
- Premier's Memorandum *M2019-02-NSW Lobbyists Code of Conduct* (**Premier's Memorandum**) provides additional requirements and obligations for NSW Government Officials when engaging with lobbyists.

INSW is committed to consulting with all stakeholders in a transparent and equitable manner. Decisions must be made in an open and transparent manner, without any undue influence, or the perception of undue influence, by external parties.

2 Purpose

The purpose of this Policy is to:

- affirm INSW's support of the objectives of the Act and Regulation;
- assist employees in meeting the requirements of the Premier's Memorandum;
- provide guidance for employees about what constitutes a Third-party Lobbyist; and
- provide a framework for managing employees' interactions with lobbyists in an open and transparent manner, without any undue influence, or the perception of undue influence, by external parties, that is also consistent with INSW's Code of Ethics and Conduct.

This Policy will be reviewed at least every two years or if there are relevant legislative changes to ensure currency with statutory and NSW Government requirements.

3 Who does this Policy apply to?

This Policy covers contact by Third-party Lobbyists and Other Lobbyists with a Government Official in INSW. The Policy applies to:

- INSW employees in ongoing, temporary or casual employment;
- contractors or consultants engaged by INSW to provide services to or on behalf of INSW;
- volunteers and other Government sector employees who are on secondment or assigned

to INSW; and

- certain employees or officers of a corporation that have been engaged by INSW to provide services to or on behalf of INSW.

For the purposes of this Policy, “employees” refers to all people to whom this Policy applies. In addition to complying with the Policy, employees must also comply with the Premier’s Memorandum, INSW’s Code of Ethics and Conduct, INSW’s Gifts, Benefits and Hospitality policy, as well as the Public Service Commission’s Code of Ethics and Conduct for NSW Government Sector Employees.

4 Definitions

INSW matter means any issue, consultation, application, proposal, plan, strategy, advice, information, recommendation, review, report, assistance, procurement, or other matter being considered, developed, or made by INSW.

Government Official includes:

- a Minister or Parliamentary Secretary;
- a staff member of a Minister or Parliamentary Secretary (including a staff member in an electorate office);
- the head of a Public Service agency;
- a person employed in the Public Service of New South Wales, the Transport Service of New South Wales, or any other service of the Crown;
- an individual who is engaged under a contract to provide services to or on behalf of the Public Service of New South Wales, the Transport Service of New South Wales or any other service of the Crown; or
- a member (however expressed) of, or of the governing body of, a statutory body.

Lobbying means communicating with a Government Official for the purposes of representing the interests of others in relation to:

- legislation or proposed legislation;
- a Government decision or proposed Government decision;
- a Government policy or proposed Government policy;
- the exercise by the Government Official of their official functions; or
- in relation to INSW, an INSW matter.

Lobbyists Code of Conduct means Schedule 1 of the **Regulation**.

Lobbyists Register means the Register of Third-party Lobbyists, an online register kept and maintained by the NSW Electoral Commission, that contains the names and organisations of Third-party Lobbyists and the clients they represent.

Lobbyists Watch List means a list, kept and maintained by the NSW Electoral Commission, of Third-party Lobbyists or Other Lobbyists that have contravened the Act or the Lobbyists Code of Conduct. It is located on the Register of Third-party Lobbyists.

Other Lobbyist means individuals or bodies that lobby Government Officials but are not Third-party Lobbyists, including members of a profession (such as lawyers, medical practitioners, qualified accountants) and persons where lobbying is incidental to the provision of professional services to a client in the course of their work.

Public Service Commission's Code of Ethics and Conduct for NSW Government Sector Employees means the Code of Ethics and Conduct for NSW Government Sector Employees available at https://www.psc.nsw.gov.au/sites/default/files/2022-08/code_of_conduct_direction_2022.pdf

Third-party Lobbyist means an individual or body carrying on the business (generally for money or other valuable consideration) of lobbying Government Officials on behalf of another individual or body, and registered as a Third-party Lobbyist in accordance with the Act. This definition excludes members of a profession (such as lawyers, medical practitioners, qualified accountants) and persons where lobbying is incidental to the provision of professional services to a client in the course of their work.

Senior executive means the Chief Executive Officer and their direct reports, Executive Directors and Directors in INSW.

5 Key Responsibilities

5.1 Chief Executive Officer

INSW's Chief Executive Officer is responsible for ensuring INSW has systems in place to comply with its obligations with respect to Third-party Lobbyists, which includes the procedures set out in section 7.

5.2 Executive Director Corporate Services

The Executive Director Corporate Services is responsible for:

- monitoring INSW's systems for complying with obligations with respect to Third-Party Lobbyists, including the procedures set out in section 7;
- reporting non-compliance with the Act and Lobbyists Code of Conduct to the NSW Electoral Commission, as appropriate.

5.3 INSW senior executives and other managers / supervisors

INSW senior executives and other managers/supervisors are responsible for:

- overseeing the effective management of the Policy;
- complying with all mandatory decision-making, reporting and publishing requirements contained in this Policy, including the procedures set out in section 7;
- discussing compliance as part of the ongoing management of their teams; and
- monitoring and evaluating the operation of the Policy in their area of responsibility.

5.4 Employees

Employees must comply with this Policy, including the procedures set out in section 7, and report instances of non-compliance to their manager/supervisor.

5.5 NSW Electoral Commission

The NSW Electoral Commission maintains the Register of Third-party Lobbyists and the Lobbyists Watch List and enforces the Lobbyists Code of Conduct.

To improve compliance, the NSW Electoral Commission may enter into arrangements with lobbyists to ensure that they follow the Lobbyists Code of Conduct. If a lobbyist breaches the Lobbyists Code of Conduct, the NSW Electoral Commission may place the lobbyist on the Lobbyists Watch List and impose further restrictions on contact with Government Officials.

6 Lobbying

6.1 Forms of lobbying

Lobbying is communicating with a Government Official for the purpose of representing the interests of others in relation to:

- legislation or proposed legislation;
- a Government decision or proposed Government decision;
- a Government policy or proposed Government policy;
- a planning application;
- the exercise by a Government Official of their official functions; or
- in relation to INSW, or an INSW matter.

Lobbying **does not** include any communications by a Member of Parliament or a Government Official who is acting in the ordinary course of their duties.

6.2 Methods of lobbying

Lobbying extends to any communication– made in person, in writing, by telephone, email or by other electronic means – about matters listed in section 6.1 ‘Forms of lobbying’:

- by a person who works for an organisation for the purpose of representing the interests of the organisation or its members; or
- for the purposes of representing community interests, even if it occurs in an incidental way to other business activity or it is not performed by a Third-party Lobbyist.

An individual or body may still be lobbying even if INSW is not ultimately responsible for assessing or deciding a proposal.

6.3 Third-party Lobbyists

Third-party Lobbyists must be registered on the Lobbyists Register and must comply with the Lobbyists Code of Conduct. This includes individuals involved in operating on behalf of an organisation that is listed as conducting Third-party lobbying.

The following are not Third-party Lobbyists: members of a profession (such as lawyers, medical practitioners, qualified accountants) and persons where lobbying is incidental to the provision of professional services to a client in the course of their work (but see section 6.4 'Other Lobbyists').

6.4 Other Lobbyists

Under this Policy, Other Lobbyists refer to individuals and organisations, such as industry or community organisations, that are not Third-party lobbyists but are still captured under the Act because they lobby NSW Government officials.

This includes members of a profession (including lawyers, medical practitioners, qualified accountants) and persons where lobbying is incidental to the provision of professional services to a client in the course of their work..

6.5 Prohibited lobbying

There are restrictions on the contact that employees can have with lobbyists. Government Officials must not permit lobbying by:

- a Third-party Lobbyist who is not registered in the Lobbyists Register;
- an individual engaged to undertake lobbying for a Third-party Lobbyist who is not themselves registered;
- a Third-party Lobbyist engaging in lobbying on behalf of a client not listed on the Lobbyist Register;
- any lobbyist who has failed to meet the standards and make the disclosures required under the Act and the Lobbyists Code of Conduct;
- a lobbyist whose name has been placed on the Lobbyists Watch List, unless:
 - at least two INSW employees (including at least the Head of Projects NSW or the Executive Director Corporate Services) are present during any communication with the lobbyist; and
 - at least one employee takes notes of the communications with the lobbyist and provides a copy of those notes to the Chief Executive Officer.

7 Procedures

This section sets out INSW procedures for meeting or otherwise engaging with Third-party Lobbyists and Other Lobbyists.

7.1 Third-party Lobbyists

7.1.1 Meetings with Third-party Lobbyists

Employees must use the following procedures when dealing with Third-party Lobbyists:

- Meetings must be set up with at least 7 days' advance notice;
- the Executive Director Corporate Services or Head of Projects NSW must be informed in advance of the scheduling of a meeting;

- the Third-party Lobbyist(s) must have provided reasons for the meeting and any financial or other interest they have in the issues to be discussed;
- a senior executive of INSW (Director level and above) must be present at all meetings;
- at least two INSW employees must attend;
- meetings must be held at INSW or other Government premises;
- a detailed record must be kept and filed in SharePoint about the meeting, attendees, what was discussed, any outcome or agreed actions; and
- a copy of the detailed record must be provided to the Chief Executive Officer.

7.1.2 Other communications with Third-party Lobbyists

Telephone contact, email contact and other written contact is part of conducting business with Third-party Lobbyists. Calls should only be taken by Directors or above, and other employees who are contacted should refer such calls to a Director.

7.1.3 Keeping Records

Appropriate records must be kept of contact and meetings with Third-party Lobbyists and:

- a copy provided to the Chief Executive Officer; and
- filed in SharePoint.

7.2 Other Lobbyists

7.2.1 Meetings with Other Lobbyists

Employees must use the following procedures when dealing with Other Lobbyists:

- Other Lobbyists must provide basic information to INSW before a meeting is scheduled, including:
 - the reason for the meeting and issues to be discussed; and
 - any financial or other interest they have in the matter;
- obtain approval from their manager/supervisor to have the meeting; and
- once approval has been obtained, schedule the meeting and provide meeting details to the Other Lobbyist, and
- meetings with Other Lobbyists must be held at INSW or other Government premises.

If someone attends the meeting and that person works for a Third-Party Lobbyist (without the employee's prior knowledge) and attempts to lobby the employee on behalf of a client, the employee must advise the person of their responsibilities under the Act, Regulation and the Lobbyist Code of Conduct, and the meeting should be terminated.

7.2.2 Other communications with Other Lobbyists

Telephone contact, email contact and other written contact is part of conducting business with Other Lobbyists. Appropriate records should be kept of all telephone, email or other contact and employees should inform their manager/supervisor.

7.2.3 Keeping Records

Appropriate records must be kept of contact and meetings with Other Lobbyists and filed in SharePoint.

Employees may also obtain further information from their manager or supervisor.

8 Breaches of the Policy

Employees must report behaviour that is contrary to this Policy, to their manager/supervisor or to a senior executive of INSW (unless reporting as a public interest disclosure – see [INSW's Public Interest Disclosures Policy](#)).

Breaches of the Policy will be dealt with in a manner that is proportionate to the seriousness of the matter and in accordance with INSW's Discipline Policy – Managing Misconduct. The *Government Sector Employment Act 2013 (GSE Act)* and the *Government Sector Employment Rules 2014* establish procedures for dealing with allegations of misconduct, and actions that may be taken. A breach of this Policy by an employee may constitute misconduct under the GSE Act and may result in any of the following actions:

- suspension and/or termination of employment;
- imposition of a fine;
- reducing remuneration;
- reducing classification or grade;
- assignment to a different role; or
- caution or reprimand.

INSW provides reports of suspected fraud and/or corrupt conduct to the Independent Commission Against Corruption (ICAC), and in some cases, to the NSW Police. Where a breach of the Policy is considered to involve potentially corrupt conduct, INSW will notify ICAC. ICAC has significant statutory powers to investigate serious corrupt conduct in all NSW Government departments and agencies.

9 Contacts

NSW Electoral Commission

Visit the Lobbyists Register website at: <https://lobbyists.elections.nsw.gov.au/whoisontheregister>

By email at: lobbyists@elections.nsw.gov.au

By phone on: 1300 022 011

10 Relevant Legislation and Documents

Relevant legislation and documents	
Related documents	Premier's Memorandum M2019-02-NSW Lobbyists Code of Conduct

Relevant legislation and documents	
	Register of Third-party Lobbyists Online Lobbyists Training Gifts and Benefits Policy Code of Ethics and Conduct Fraud and Corruption Control Policy Public Interest Disclosure Policy
Related legislation	<i>Lobbying of Government Officials Act 2011</i> <i>Lobbying of Government Officials (Lobbyists Code of Conduct) Regulation 2014</i>

Employees may access the Act and regulation at <https://legislation.nsw.gov.au/>.

Employees may access INSW policy and the Code of Ethics and Conduct through the [INSW intranet](#).

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Lobbyists Policy

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