

1. Purpose

This Lobbying of Government Officials Policy (Lobbying Policy) outlines the obligations of staff in the Department of Planning, Industry & Environment (Department) when interacting with groups and individuals who seek to influence government decision making, policy and legislation.

This Policy is focussed on the activity of lobbying, rather than the identity of the person engaged in lobbying. The purpose of the Lobbying Policy is to:

- Provide a framework for managing employees' interactions with groups and individuals who seek to influence decision making in an open and transparent manner, without any undue influence, or the perception of undue influence, by external parties.
- Assist employees to ensure that their interactions comply with the requirements of the [Lobbying of Government Officials Act 2011](#) (the Lobbying Act), the [Lobbying of Government Officials Regulation 2014](#), the [Premier's Memorandum M2019-02 NSW Lobbyists Code of Conduct](#) and the [Department's Code of Ethics and Conduct](#).
- Provide clear guidance about:
 - the scope and content of what constitutes lobbying
 - keeping appropriate records of interactions
 - how meeting and publication requirements for third party lobbyists need to be met.

In addition to complying with the Lobbying Policy, employees must also comply with the Department's Code of Ethics and Conduct, the [Public Service Commission's Code of Ethics and Conduct for NSW Government Sector](#).

2. Application

The Lobbying Policy applies to ongoing, temporary and casual staff employed in and through the Department, including other Government sector employees who are on secondment or assigned to the Department. Volunteers, contractors and consultants to the Department must comply with the Lobbying Policy when working at or visiting Department workplaces.

3. Principles

The Department must promote confidence in the integrity of public administration and always act in the public interest, not in individuals' private interest. Decisions of the Department must be made in an open and transparent manner, without any undue influence, or the perception of undue influence, by external parties.

The Department has decision making, regulatory and policy making functions that have a significant impact on the NSW economy, community and environment. Therefore, it needs to approach any interactions and communications that seek to influence its regulatory, decision making and policy responsibilities in an open and transparent manner.

Employees are accountable for complying with ethical standards and statutory and Government policy requirements when interacting with groups or individuals that are engaged in lobbying activities. Included in those standards and requirements is the obligation to keep records, consistent with the [State Records Act 1998](#).

4. Responsibilities

In all dealings with lobbyists and business contacts, employees must:

- Behave in a lawful, professional and reasonable manner and always act in the best interests of the Department.
- Make impartial decisions that demonstrate the values of the Department and the [Public Service Commission's Code of Ethics and Conduct for NSW Government Sector Employees](#) and promote confidence in the integrity of public administration.
- Comply with this policy, including:
 - Follow protocols that cover the scheduling of, and attendance at, meetings, as well as telephone, email or other written and electronic communications.
 - Keep an accurate record of any contact with any group or individual that may influence or be perceived to influence policy, legislation, planning approvals, or government decisions, including procurement decisions.
 - Keep an accurate record of any meeting with a third-party lobbyist, whether or not lobbying has occurred in relation to that meeting.

5. Lobbying

The Lobbying Act and Regulation:

- defines lobbying
- regulates the conduct of third-party lobbyists in NSW including requiring third party lobbyists to register (the Lobbyists Register) and comply with the Lobbyists Code of Conduct
- gives the NSW Electoral Commission responsibility for maintaining and publishing the [Lobbyists Register](#) and the [Lobbyists Watch List](#).

While the conduct and registration requirements of the Lobbying Act are confined to third party lobbyists, the definition of lobbying is much broader.

5.1 What is lobbying?

The Lobbying Act ([section 4](#)) defines lobbying as communicating with (a government) official for the purpose of representing the interests of others in relation to:

- (a) legislation or proposed legislation or a government decision or policy or proposed government decision or policy
- (b) a planning application
- (c) the exercise by the official of his or her official functions.

Lobbying can be through a face to face meeting, teleconference or other electronic means.

Lobbying **does not** include:

- a) any communication by a member of Parliament acting in the ordinary course of his or her duties as a member (or any communication by a constituent of a member of Parliament in the ordinary course of seeking electorate advice or assistance from the member)
- b) any communication by a Government official acting in the ordinary course of his or her duties as a Government official.

5.2 Who is a lobbyist?

A Lobbyist is:

- a third-party lobbyist
- any other individual or body that lobbies government officials.

A third-party lobbyist is an individual or body carrying on the business (generally for money or other valuable consideration) of lobbying Government on behalf of a third-party. Third-party lobbyists must be registered on the [Lobbyist Register](#) and must comply with the [Lobbyist Code](#).

Other parties lobbying

Industry groups, peak bodies, other professional advisors and consultants, community and not for profit organisations and 'government relations' officers of corporations may be defined as 'lobbyists', depending on the nature of their interactions with the Department from time to time.

Professional advisors, such as lawyers, accountants and doctors are excluded by regulation from the definition of third-party lobbyist where the lobbying they undertake is 'incidental' to the services they provide to their client. However, they would still be considered to be seeking to influence a decision or outcome.

5.3 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 on the Lobbyist Register.
- An individual engaged to undertake lobbying for a third-party lobbyist who is not themselves registered.
- Any lobbyist who has failed to make the disclosures required of them under the Act and the Lobbyists Code (see the Lobbying page on the DPIE Intranet for further information).
- A lobbyist whose name has been placed on the Lobbyist Watch List, unless:
 - At least two Government officials (other than a Minister, a Parliamentary Secretary or a member of their staff) are present during any communication with the lobbyist.
 - One of those Government officials takes notes of the communications with the lobbyist and provides a copy of those notes to the Secretary.

6. Record Keeping and Publication of Records

While there is an inconsistency between what is considered as 'lobbying' and the kinds of 'lobbyist' who are regulated by the Lobbying Act, all employees are obliged to keep 'full and accurate records of the activities of the office', consistent with the [State Records Act 1998](#).

That obligation applies to ensuring that communications and interactions with groups and individuals engaged in lobbying are documented commensurate with the scope and purpose of any interactions.

While the Department is not legally obliged to publish records of meetings, consistent with its commitment to transparency and good governance, the records of meetings with third party lobbyists are required to be published on the Department's website.

Records of meetings with organisations and individuals where lobbying occurs are required to be kept and stored, but publication is not required.

For all other communications and interactions other than with third party lobbyists, employees should use their professional skill and judgement about the level of detail and the kind of records that should be generated, depending on the circumstances.

The table in [Appendix 2](#) sets out a summary of guidance for organising and conducting meetings, record keeping and publication requirements. More detailed guidance can be found in the procedures.

7. Procedure

The Department's Procedure for Lobbying of Government Officials contains detailed guidance and protocols to assist employees to comply with the meeting, record keeping and publication requirements of this Policy.

Employees are responsible for understanding the requirements of, and complying with the Procedure outlined on the Lobbying page on the DPIE intranet

Employees may also obtain further information from the Governance Division.

8. Failure to comply with this policy

Behaviour that is contrary to this policy will be dealt with in a manner that is proportionate to the seriousness of the matter. This may require a discussion with an employee to clarify the responsibilities of the employee. More serious breaches may result in disciplinary action.

The [Government Sector Employment Act 2013](#) and the [Government Sector Employment Rules](#) (and, in particular, [Part 8](#)) establish procedures for dealing with allegations of misconduct, and actions that may be taken. Those actions may range from a caution to termination of employment.

Employees are encouraged to report any instances of a breach of the Lobbying Policy to their People Leader. Employees may be entitled to certain protections, if approved, when providing such reports, or reports of improper inducements and related corrupt conduct by public officials or others, under the terms of the Department Public Interest Disclosure policy.

9. Review

The Governance Division will review this policy no later than three years from the date the document is approved. The document may be reviewed earlier in response to post implementation feedback, changes to legislation, or as necessary.

10. Related document

Other policy documents that should be ready in conjunction with this policy:

- [Code of Ethics and Conduct](#)
- [Public Interest Disclosure Policy](#)
- [Premier's Memorandum M2019-02 NSW Lobbyists Code of Conduct](#)

Legislation that should be read in conjunctions with this policy:

- [Lobbying of Government Officials Act 2011](#)
- [Lobbying of Government Officials \(Lobbyists Code of Conduct\) Regulation 2014](#)
- [State Records Act 1998](#)
- [Government Sector Employment Act 2013](#)
- [Government Sector Employment Rules](#)

Policy Metadata

Table 1 - Policy metadata

Category	Description
Status	Final
Date of approval	April 2020
Approver	Chief Legal Counsel
Group	Legal and Governance
Division	Governance
Policy owner	Executive Director Governance
Branch	Ethics
Document location	DPIE Intranet and Internet
Next review date	April 2022
Associated procedure	Lobbying of Government Officials Procedure
Any additional applicability	Nil
Superseded document	DPE Engaging with Lobbyists and Business Contact Policy
Further information	ethics@dpie.nsw.gov.au
Document Reference	DOC20/235813

Version Control

Table 2 - Version Control

Version Number	Date Issued	Changes
1	TBA	DPE Engaging with Lobbyist and Business Contacts converted to DPIE template and amended to focus on lobbying rather than different categories of lobbyist

Appendices

Appendix 1 – Definitions

Appendix 2 – Meeting Type and Requirements

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Table 3 - Definitions

Term	Definition
Development matter	means any matter or proposal relating to the development and use of land or to environmental planning and assessment.
Government official	means: <ul style="list-style-type: none"> • A Minister of 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. • 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: <ul style="list-style-type: none"> • Legislation or proposed legislation. • A Government decision or proposed Government decision. • A planning application. • The exercise by a Government official of their official functions.
Lobbyists Code	means the Lobbyists Code of Conduct
Lobbyists Register	means the Register of Third-Party Lobbyists , which is kept and maintained by the NSW Electoral Commission.
Lobbyists Watch List	means the list maintained by the NSW Electoral Commission that contains the names and other identifying details of any third-party or other lobbyist placed there by the Commission as a result of contraventions of the Lobbyist Code of Conduct or the Act.
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 (previously known as a registered lobbyist).

Appendix 2 – Meeting Type and Requirements

Table 4 - Meeting Types and Requirements

Meeting type	Meeting requirements	Record keeping obligations	Publication requirements
Meeting with a third-party lobbyist	<p>A Third-Party Lobbyist must be directed to register through the Department’s Third-Party Lobbyist Portal. The requirements are as follows:</p> <ul style="list-style-type: none"> Reasonable notice is required between the request and the proposed meeting date to ensure that the appropriate officers are available to participate, otherwise the meeting request may be declined. The request must include details of the purpose of the meeting and the participants. Two officers must attend, with one being at least Director Level. As the meeting is formal in nature, the venue chosen should be appropriate to the circumstances. For meetings that are held by video or teleconference, officers should ensure that the facilities and technology are appropriately secure. 	<p>A record of the meeting (face to face, by teleconference or other electronic means) must be made. Information that must be included is:</p> <ul style="list-style-type: none"> The names and positions of all attendees. The time, date and location of the meeting. A summary of discussion points and outcomes. The records of the meeting, including other notes and documents must be filed in the Department’s records management system so that they can be retrieved when required. 	<p>The record of the meeting must be:</p> <ul style="list-style-type: none"> Signed off by the relevant Group or Division Head (Deputy Secretary). Published on the DPIE website within 10 days of the meeting.

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Meeting type	Meeting requirements	Record keeping obligations	Publication requirements
<p>Meeting with an industry group, peak body, government relations officer or a community organisation</p>	<p>Where the purpose of the meeting is to represent the views of the organisation regarding legislation, policy or a planning application, the meeting must:</p> <ul style="list-style-type: none"> Involve prior notice of the purpose of the meeting and the proposed participants to ensure that the appropriate officers are available to participate, otherwise the meeting request may be declined. Be attended by at least two officers. Be held on government premises, the premises of the relevant organisation or an appropriate alternative location. For meetings that are held by video or teleconference, officers should ensure that the facilities and technology are appropriately secure. 	<p>A record of the meeting must be made. Information that must be included is:</p> <ul style="list-style-type: none"> The names and positions of all attendees. The time, date and location of the meeting. A summary of discussion points and outcomes. 	<p>While there is no requirement to publish these records, some Divisions and agencies may choose to publish a summary of the meetings on their websites.</p> <p>Publication is required where the Department or an agency has a statutory obligation to do.</p> <p>Publication is recommended where the Department or agency performs a regulatory function and meets with organisations whose members they regulate or with organisations that are regulated</p>

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Meeting type	Meeting requirements	Record keeping obligations	Publication requirements
<p>Communications with parties in the ordinary course of duties</p>	<p>Communications with external parties can be by telephone, email, or other electronic means. These communications are often largely transactional, the purpose being to seek and convey information about existing processes, policy or other administrative requirements.</p>	<p>Records of these communications must be kept. The content of the record will vary, according to the content of the communication. Options include:</p> <ul style="list-style-type: none"> • A calendar entry with the name/s of the people with whom the communication took place. • A short email or file note. • A diary or notebook entry. • Any standard DPIE form for recording communications (see Procedure) 	<p>Nil</p>