

Ku-ring-gai Council

Draft Policy

Ethical Lobbying

Version Number 1

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Ethical Lobbying

Table of Contents

Controlled Document Information	3
Authorisation Details	3
Related Document Information, Standards & References	3
Version History	4
Policy	5
Purpose and Objectives	5
Scope	5
Definitions	6
Obligations and Responsibilities	6
Procedure for Interaction with Lobbyists	8
Guidelines for Record-Keeping and Disclosure	8
Reporting and Breaches of the Policy	9
Related Records	9

Controlled Document Information

Authorisation Details

This is a Controlled Document. Before using this document check it is the latest version by referring to Council's Controlled Document Register. Unless otherwise indicated, printed or downloaded versions of this document are uncontrolled.			
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Related Document Information, Standards & References

Related Legislation:	Lobbying of Government Officials (Lobbyists Code of Conduct) Regulation 2014 (NSW)	Provides requirements for NSW Government.
Related Policies (Council & Internal)	Code of Conduct Councillor Access to Information, Interaction with Staff and Records Management Policy	Provides a definition of "Council Official" as follows: includes councillors, members of staff of a council, administrators, council committee members, members of wholly advisory committees, delegates of council, and, for the purposes of clause 4.16, council advisers Part 2 of the policy sets out the obligations of Councillors with relation to records management.
Related Documents - Procedures, Guidelines, Forms, WHS Modules/PCD's, Risk Assessments, Work Method Statements, etc	N/A	N/A
Other References	ICAC – Lobbying Local Government Councillors – A guide for Councillors, constituents and other interested parties	Provides an introduction to lobbying in the arena of Local Government and outlines inappropriate lobbying.

Version History

Version Number	Version Start Date	Version End Date	Author	Details and Comments
1	(date version comes into effect)		Governance Support Officer and Manager Governance & Corporate Strategy	First Version

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Policy

Purpose and Objectives

Councillors are frequently required to make decisions that have long-lasting effects on the entire community. As a result, they are often lobbied by people who seek to influence the decision-making process.

The appropriate lobbying of Councillors is a normal aspect of democracy and Councillors have a representative role to consider the views of their constituents. The free and open access to Councillors and other Council Officials is vital to efficient and effective local government, and is a significant source of public participation through which residents can have their say on issues closest to them.

Nonetheless, lobbying activities should be carried out ethically, transparently and fairly. Occasionally there may be attempts to improperly influence Council decision-making and obtain preferential consideration or treatment based on factors other than the merits of a matter. In carrying out their duties, Council officials should ensure that they consider issues fairly and properly, and are not compromised by participating in lobbying practices that are outside the bounds of appropriate or lawful behaviour.

Council Officials must make decisions in an open and transparent manner without undue influence, or the perception of undue influence by external parties.

The intention of this policy is to implement specific controls over the activities of Lobbyists engaged to act on behalf of third-party clients and allows officials who are approached by Lobbyists to establish whose interests they represent so that informed judgements can be made about the outcome/s they are seeking to achieve. Furthermore, the policy intends to outline the standards and behaviour expected by Council Officials and Lobbyists in engaging in lobbying activities with Council.

Scope

The objectives of this policy are to:

- Provide a definition of “lobbying activities” and “Lobbyist”.
- Outline the disclosure requirements for Lobbyists.
- Provide guidelines for expected behaviour of Lobbyists and Council Officials.
- Outline what constitutes inappropriate lobbying.

This policy will apply to all Council Officials, as defined under Part 2 of Ku-ring-gai Council's Code of Conduct, and all Lobbyists.

Definitions

In this policy, the following terms have the following definitions:

Council Official	Includes Councillors, members of staff of Council, Administrators, Council Committee members, members of wholly advisory Committees, delegates of Council, and, for the purposes of Clause 4.16 of the Code of Conduct, Council advisers.
Lobbying	Lobbying a Council Official means communication with the Official for the purpose of representing their interests or the interests of others. Lobbying is an attempt to influence the decision-making of Council. Areas for influence may include, but are not limited to: <ul style="list-style-type: none"> • Development matters • Upgrading of local facilities • Revenue decisions • Planning matters • Tenders and contracts • Environmental protection and management
Lobbyist	A “Lobbyist” refers to any person, company or organisation who conducts lobbying activities on behalf of a third party. This definition does not include the following: <ul style="list-style-type: none"> • Peak industry bodies, professional organisations and trade unions who represent the interests of their members. • Professionals, such as accountants, architects, lawyers, surveyors and town planners, where contact with Council on behalf of a client may be an incidental but necessary part of their usual work to provide their technical or professional services to their clients.

Obligations and Responsibilities

Council Officials:

Council Officials are responsible for complying with the provisions of this policy and reporting any inappropriate lobbying efforts to unduly influence the decision-making process or unlawful conduct to the General Manager.

- Council Officials must:
 - Not knowingly permit unregistered Lobbyists to conduct lobbying activity.
 - End contact immediately upon becoming aware or beginning to suspect lobbying activity in breach of this policy.
 - Forward the details of an unregistered Lobbyist upon becoming aware to the General Manager.
 - Keep adequate records of associations and dealings with registered Lobbyists.

- Council Officials must not:
 - Accept undisclosed payments or benefits whilst making a decision that affects the gift givers' interests.
 - Accept a political donation in return for the favourable exercise of discretion during decision-making. Councillors should keep lobbying and fundraising activities they are involved in separate to avoid the perception that a political donation could influence their decision-making.
 - Grant access to a particular individual or group while unreasonably denying similar access requested by another party.
 - Fetter discretion by giving undertakings to an interested party prior to considering all the information relevant to a decision.
 - Act in a manner that exceeds the role of a Councillor as defined in section 232 of the Local Government Act as a result of being lobbied.
 - Disclose confidential information whilst being lobbied.
 - Be unduly influenced by factors that are irrelevant to the merits of the matter under consideration.

Lobbyists:

- Lobbyists must:
 - Register on the Lobbyists' Register for each matter on which they intend to lobby Council.
 - Inform the Council Official of the below when making initial contact:
 - That they are a Lobbyist on Council's Register of Lobbyists
 - That they are making contact on behalf of a third party
 - The name of the third party
 - The nature of that third party's issues
 - The reasons for the approach and/or the matter they wish to discuss
 - Use all reasonable endeavours to satisfy themselves that the information they are providing to Council Officials is true and accurate, to the best of their knowledge.
 - Not engage in misleading, dishonest, corrupt or other unlawful conduct in relation to their lobbying.
 - Disclose to Council Officials, prior to any meeting, of any financial or other interest they have in the matter.

Lobbyist Register:

Council will keep a register that contains the names and organisations of Lobbyists and the clients they represent. The register will be published to Council's website and updated periodically, and will include:

- Date of the primary contact (for multiple contacts on the same matter, this will be the meeting date or date of first contact for written/ telephone contacts)
- The name of the third-party lobbyist and their third-party lobbyist organisation/ entity
- Who the third-party lobbyist represented
- Subject matter
- Outcome
- Contact type (i.e. email, phone call, post mail)

An entry in the Lobbyist Register will be removed from the website after 5 years after the primary contact date.

Procedure for Interaction with Lobbyists

It is essential that before any Council Official communicates with a Lobbyist, that an appropriate process is followed. This process is outlined below:

1. Meeting request – the Lobbyist (or employee, contractor or person otherwise engaged by the Lobbyist) makes a formal request in writing to the Councillor or Council Official. The Lobbyist should ensure they are registered on Councils' Lobbyist Register prior to submitting a meeting request.
2. Council Official ensure the Lobbyist is listed on Council's Register for Lobbyists published on the website.
3. Council Official is made aware by the Lobbyist:
 - a) Whether the Lobbyist is making contact on behalf of a third party or parties.
 - b) The name of the third party or parties.
 - c) Details of the third party or parties.
 - d) The reasons for the approach and/or the matter they wish to discuss.
4. The interactions between the Lobbyist and Council Officials must be recorded in line with the below record-keeping obligations.

Guidelines for Record-Keeping and Disclosure

Council Officials have an obligation to transparently disclose interactions with Lobbyists and comply with the relevant record keeping policies. The principles for records management within those policies apply to all communication with Lobbyists.

To ensure transparency in dealings with Lobbyists, Council Officials should:

- Thoroughly document all meetings and phone calls with Lobbyists (this includes items of discussion; any substantive issues raised; any key decisions, advice, actions, outcomes, guidance or information given to the Lobbyist and which Council Official gave this information; who is responsible for the actions arising).
- Conduct meetings in official locations such as the Council Chamber, the Level 3 Board Room, the Ante Room, the Councillors' Office and the public areas of the Council's buildings.
- Not meet with Lobbyists without another Council Official present.
- Ask Lobbyists who have requested a meeting to put their key issues and arguments in writing.
- Provide copies of information presented during lobbying meetings to Council officers for consideration and assessment (if required), and file as part of Council's records processes.
- Make a declaration at a Council Meeting about any interactions with a Lobbyist related to a matter on the agenda.

Reporting and Breaches of the Policy

- Where a Lobbyist has not met their obligations under this policy, lobbying interaction with Council Officials will not be permitted until they are compliant.
- Where a breach of this policy is considered to involve potentially corrupt conduct, Council will notify the ICAC.
- Breaches of this policy by Council Officials will be dealt with under Council's Code of Conduct provisions.

Related Records

These are sample templates and may change from time to time without referral to Council.

- Lobbyist Registration Form – [2021/009014](#)
- Register of Lobbyists – [2021/009006](#)
- Record of Meeting Template – [2021/009518](#)