

Regulatory priorities procedures

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1. Abbreviations and definitions

Abbreviations

Constitution Act	<i>Constitution Act 1902 (NSW)</i>
Electoral Act	<i>Electoral Act 2017 (NSW)</i>
Electoral Commission agency	NSW Electoral Commission staff agency
EF Act	<i>Electoral Funding Act 2018 (NSW)</i>
GIPA Act	Government Information (Public Access) Act 2009 (NSW)
LG Act	<i>Local Government Act 1993 (NSW)</i>
Lobbying Act	<i>Lobbying of Government Officials Act 2011 (NSW)</i>
Lobbying Regulation	<i>Lobbying of Government Officials (Lobbyists Code of Conduct) Regulation 2014 (NSW)</i>

Definitions

Staff – All ongoing, temporary and casual employees and contractors who access to NSW Electoral Commission information assets, IT systems and physical premises.

Lobbyist – a third-party lobbyist, or any other individual or body that lobbies Government officials (including an individual engaged to undertake lobbying for a third-party lobbyist)

Lobbyists Code - means the Lobbyists Code of Conduct prescribed by the Lobbying Regulation.

2. Introduction

- 2.1. As a sovereign jurisdiction in the Commonwealth of Australia, New South Wales depends on democratic institutions and arrangements specified in its Constitution for the enduring governance of the State.
 - 2.2. Elections are fundamental to the system of representative government in New South Wales, established by the Constitution Act.
 - 2.3. Integrity and public confidence in the outcomes of elections and the decision-making processes of government are vital to democracy.
 - 2.4. As well as being responsible for the delivery of State and Local Government elections, the NSW Electoral Commission is responsible for promoting compliance by political and election participants, including voters, with the requirements of the legislation it regulates.
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3. Purpose

- 3.1. These Regulatory Priorities Procedures set out the steps for the NSW Electoral Commission to annually determine and operationalise Regulatory Priorities.
 - 3.2. The NSW Electoral Commission uses a range of tools to encourage compliance, including candidate and voter education, and working with other government agencies.
 - 3.3. The NSW Electoral Commission and the NSW Electoral Commissioner have powers for enforcement remedies to address contraventions, including penalties, undertakings and litigation, provided in legislation: the Electoral Act, the EF Act, the Lobbying Act and the Local Government Act.
 - 3.4. The NSW Electoral Commission and NSW Electoral Commissioner's regulatory powers are exercised according in accordance with published policies and procedures (See Section 8 – Associated Documents)
 - 3.5. The Regulatory Priorities Procedures are informed by a risk-based assessment on current and future events. This supports the NSW Electoral Commission to focus its regulatory effort to address the highest priorities and ensure responses to non-compliance are targeted and proportionate.
 - 3.6. At the beginning of each financial year, the NSW Electoral Commission will publish updated Regulatory Priorities to meet emerging issues and reflect key events in the election cycle (for example, General elections, Local Government elections, referendums or significant legislative reform concerning elections, political donations, election funding or Lobbyists).
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4. Scope

- 4.1. Staff of the Electoral Commission Agency must be familiar with the Regulatory Priorities Procedures and annual Regulatory Priorities in force at the time.
 - 4.2. Staff must consider the Regulatory Priorities when undertaking operational planning and when exercising functions around stakeholder education, audits, inspections, investigations, issuing of penalties and commencement of litigation.
 - 4.3. The Regulatory Priorities Procedures and annual Regulatory Priorities are to be published on the website of the NSW Electoral Commission as part of its proactive release of information under the GIPA Act.
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5. Policy details

Guiding principles

- 5.1. The NSW Electoral Commission exercises its compliance and enforcement powers independently from executive government, in the public interest and with reference to the objects of its governing legislation.
- 5.2. The objects in the NSW Electoral Commission's governing legislation include, but are not limited to:
 - integrity of **representative government**
 - **free participation** of citizens in electoral processes
 - the fair and transparent **conduct of elections**
 - transparent **electoral funding, expenditure and donations** disclosure
 - **prevention of corruption** and undue influence in government from donations
 - transparency, **integrity and honesty in lobbying** of government officials

Framework structure

- 5.3. The NSW Electoral Commission selects an issue for inclusion in annual Regulatory Priorities when there is one or more of the following factors:
 - Significant public interest or **concern relating to election integrity**
 - Negative experience of a **voter's personal safety or confidentiality** of their vote [or enrolment information]
 - **Voting fraud**, whether actual or perceived
 - Detriment to the **integrity of election information**
 - through large-scale distribution of **non-compliant electoral material**, whether **physical** or **online**; or
 - by the **targeting** of non-compliant electoral material towards **vulnerable groups**
 - Detriment to the integrity of the **funding, disclosure** or **political donation** regime by intentional action or omission
 - **Lobbying of government officials** contrary to the Lobbyist Code
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6. Roles and responsibilities

Who	Role
NSW Electoral Commission	<ul style="list-style-type: none">• Consider and approve these Regulatory Priorities Procedures
Executive Director, FDC & GC and Executive Director, Elections	<ul style="list-style-type: none">• Approve whole-of-agency systems to operationalise the Regulatory Priorities Procedures:<ul style="list-style-type: none">– annual publication of Regulatory Priorities– timing and sequencing of priority actions– stakeholder communication– resource prioritisation– performance measurement.• Interrogate evidence on regulatory activity and performance to inform each annual Regulatory Priorities
Directors and Managers, FDC & GC and Elections Divisions	<ul style="list-style-type: none">• Incorporate Regulatory Priorities into corporate planning, divisional business plans and personal development plans• Develop systems to monitor achievement of the priorities, including stakeholder feedback• Support Executive Directors to operationalise and assess the performance of the agency in achieving the Regulatory Priorities.

7. Monitoring, evaluation and review

- 7.1. The NSW Electoral Commission will introduce performance measures to quantify the effectiveness, efficiency and costs of annual Regulatory Priorities including:
1. obtaining and responding to feedback from stakeholders (including voters) to the quality of education material and support provided about the Regulatory Priorities
 2. monitoring divisional business plans to ensure senior executives and managers have built the Regulatory Priorities into future operations
 3. monitoring completion and achievement of the Regulatory Priorities
 4. evaluation of the effectiveness of each priority, including compliance incidents detected
 5. publish annual Regulatory Priorities to meet emerging issues and reflect key events in the election cycle (principally General elections, Local Government elections, referendums or significant legislative reform).
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8. Associated documents

- Compliance and Enforcement Policy
 - Compliance and Enforcement Procedures
 - Compliance Audit Policy
 - Compliance and Enforcement Publication Policy and Procedures
 - Disclosure Policy and Procedures
 - Registration of Political Participants Policy
 - Non-Prohibited Donor Determinations Policy and Procedures
 - Party Registration Policy and Procedures
 - Penalty Notice and Caution Procedures
 - Identification of Potential Political Donors Policy and Procedures
 - Prosecution Policy
 - Public Funding Policy
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9. Relevant legislation

- *Constitution Act 1902 (NSW)*
 - *Electoral Act 2017 (NSW)*
 - *Electoral Funding Act 2018*
 - *Lobbying of Government Officials Act 2011 (NSW)*
 - *Local Government Act 1993 (NSW)*
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10. Document control

Document management

Approved by Electoral Commission:	Date approved:
N/A	15 June 2022
Executive Director Review:	
Rachel McCallum	
Director Review:	
N/A	

Publication details

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Revision record

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