

ITEM A OATH OR AFFIRMATION OF OFFICE

The *Local Government Act 1993* requires newly-elected Councillors to take an Oath or Affirmation of Office at or before the first Council meeting.

RECOMMENDATION

- 1 Councillor Ann Martin take the Oath of Office, or Affirmation of Office, in accordance with the *Local Government Act 1993*.
- 2 The Oath of Office, or Affirmation of Office, be undertaken and conducted by the General Manager.

REPORT AUTHORISATIONS

Report of: Todd Hopwood, Manager Governance & Customer Service
Authorised by: Renee Campbell, Director Corporate Services - Connected and Engaged City

ATTACHMENTS

- 1 OLG Circular 17-22 - Oath or Affirmation of Office by Councillors

BACKGROUND

Under the *Local Government Act 1993* (the Act), the Lord Mayor and Councillors are required to take an Oath or Affirmation of Office at or before the first meeting of council after they are elected. Section 233A of the Act states -

- (1) *A councillor must take an oath of office or make an affirmation of office at or before the first meeting of the council after the councillor is elected.*
- (2) *The oath or affirmation may be taken or made before the general manager of the council, an Australian legal practitioner or a justice of the peace and is to be in the following form:*

Oath I [name of councillor] swear that I will undertake the duties of the office of councillor in the best interests of the people of [name of council area] and the [name of council] and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the [Local Government Act 1993](#) or any other Act to the best of my ability and judgment.

Affirmation I [name of councillor] solemnly and sincerely declare and affirm that I will undertake the duties of the office of councillor in the best interests of the people of [name of council area] and the [name of council] and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the [Local Government Act 1993](#) or any other Act to the best of my ability and judgment.

- (3) *A councillor who fails, without a reasonable excuse, to take the oath of office or make an affirmation of office in accordance with this section is not entitled to attend a meeting as a councillor (other than the first meeting of the council after the councillor is elected to the office or a meeting at which the councillor takes the oath or makes the affirmation) until the councillor has taken the oath or made the affirmation.*
- (4) *Any absence of a councillor from an ordinary meeting of the council that the councillor is not entitled to attend because of this section is taken to be an absence without prior leave of the council.*
- (5) *Failure to take an oath of office or make an affirmation of office does not affect the validity of anything done by a councillor in the exercise of the councillor's functions.*
- (6) *The general manager must ensure that a record is to be kept of the taking of an oath or the making of an affirmation (whether in the minutes of the council meeting or otherwise)."*

PROPOSAL

It is proposed that the Oath of Office, or Affirmation of Office, be conducted by the General Manager for Councillor Ann Martin, elected to Council on 29 November 2018.

CONCLUSION

The newly elected Councillor is required to take an Oath or Affirmation of Office, at or before their first Council meeting in accordance with section 233A of the Local Government Act.

Circular Details	Circular No 17-22 / 25 July 2017 / A556241
Previous Circular	16-30 and 16-32
Who should read this	Councillors, General Managers and governance staff of councils with upcoming elections.
Contact	Council Governance 02 4428 4100 olg@olg.nsw.gov.au
Action required	Oaths and affirmations of office to be taken at the first meeting

Oath or affirmation of office by councillors

What's new or changing

- Under the *Local Government Act 1993*, councillors (including mayors) are now required to take an oath or affirmation of office. The prescribed words of the oath and affirmation are contained in the attachment to this Circular.
- Oaths or affirmations of office must be taken by each councillor at or before the first meeting of the council after being elected.

What this will mean for your council

- Each council will need to make arrangements for the oath or affirmation to be taken by each councillor at the first meeting of a newly-elected council, or at a newly-elected councillor's first meeting following a by-election.
- Councillors should be made aware of this requirement prior to the first meeting of a newly-elected council or the newly-elected councillor's first meeting following a by-election.
- An oath or affirmation should be taken by each councillor as the first item of business for the meeting.
- The general manager must ensure that a record is kept of the taking of the oath or affirmation. This can be done by way of a signed statement containing the oath or affirmation or by recording the taking of the oath or affirmation by each councillor in the minutes of the council meeting.
- If the councillor is unable to attend the first council meeting, he or she may take the oath or affirmation of office at another location in the presence of the general manager.
- The oath or affirmation of office may also be taken before an Australian legal practitioner or a Justice of the Peace.
- The taking of the oath or affirmation outside a council meeting must be publicly recorded by the council.
- Where an oath or affirmation is taken outside a council meeting, a council staff member should also be present to ensure that an accurate record can be kept by the council.

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Key points

- A councillor who fails, without a reasonable excuse, to take the oath or affirmation of office, will not be entitled to attend council meetings until they do so and will be taken to be absent without leave.
- If a councillor is absent without leave for three consecutive ordinary council meetings their office is automatically declared vacant and a by-election must be held.

Where to go for further information

- For further information contact the Office of Local Government's Council Governance Team on 02 4428 4100.



Tim Hurst
Acting Chief Executive