



Circular Details	23-15 / 4 December 2023 / A860774
Previous Circular	<i>22-41 Update on the Guidelines for Risk Management and Internal Audit for Local Government in NSW</i>
Who should read this	General Managers / Councillors / Council governance staff / Audit, risk and improvement committee members and internal audit personnel
Contact	Council Governance Team / (02) 4428 4100 / olg@olg.nsw.gov.au
Action required	Council to Implement

Regulation amendments prescribing requirements for audit risk and improvement committees, internal audit and risk management

What's new or changing

- As foreshadowed in circular 22-41, the Local Government (General) Regulation 2022 (the Regulation) has been amended to give statutory force to key elements of the Office of Local Government's (OLG) Guidelines for Risk Management and Internal Audit for Local Government in NSW (the Guidelines).
- The Amendment Regulation, which is attached to this circular, commences on 1 July 2024 to give councils and joint organisations time to implement the new requirements.
- The Guidelines have been updated to reflect the Regulation amendments as drafted.

What this will mean for your council

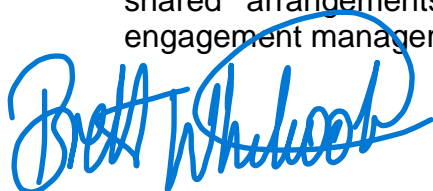
- The requirements prescribed under the Regulation are largely the same as those set out in the draft Guidelines issued in December last year.
- Some minor modifications have been made for legal reasons, but these largely give effect to the same outcomes set out in the draft Guidelines issued in December last year.
- An overview of the amendments and any modifications are set out in the attachment to this circular.

Key points

- The amendments do not take effect until 1 July 2024 to allow councils and joint organisations time to implement them.
- Councils and joint organisations will be required to report on their compliance with the Regulation in their annual reports from 2024/25.
- Councils and joint organisations are exempt from compliance with the Regulation in certain circumstances subject to their reporting their non-compliance, the reasons for their non-compliance and the alternative steps taken to achieve the same outcomes prescribed by the Regulation to OLG and in their annual reports.

Where to go for further information

- The Amendment Regulation is attached to this circular.
- An overview of the Amendment Regulation is set out in the attachment to this circular.
- An updated version of the Guidelines has been published on OLG's website [here](#).
- The model terms of reference for audit risk and improvement committees, an example risk management policy and the model internal audit charter are available in Word format for use by councils and joint organisations on OLG's website [here](#).
- Templates for the attestation and non-compliance statements required to be published in councils' and joint organisations' annual reports from 2024/25 is available in Word format for use by councils and joint organisations on OLG's website [here](#).
- For further information please contact the Council Governance Team on 02 4428 4100 or by email at olg@olg.nsw.gov.au.
- If councils or joint organisations require assistance in establishing an ARIC or shared arrangements for an ARIC, they should contact their council engagement manager at OLG.



1 December 2023

Brett Whitworth
Deputy Secretary, Local Government

ATTACHMENT

Membership of audit risk and improvement committees (ARICs)

- The Amendment Regulation prescribes the membership of councils' and joint organisations' ARICs.
- As foreshadowed in circular 22-21 and the draft Guidelines for Risk Management and Internal Audit for Local Government in NSW (the Guidelines), ARICs must comprise of an independent chairperson and at least two independent members.
- Councils and joint organisations may appoint one councillor (who must not be the Mayor) as a non-voting member of the ARIC.
- Members of ARICs must be appointed by resolution.
- The Amendment Regulation prescribes the same eligibility criteria and independence requirements for chairpersons and independent members of ARICs previously set out in circular 22-21 and the draft Guidelines.
- As previously foreshadowed, council staff may serve as independent members of another council's or joint organisation's ARIC if they satisfy the eligibility criteria and independence requirements but not as chairperson.
- Council staff cannot be appointed as an independent member of another council's or joint organisation's ARIC where the ARIC is shared by the council or joint organisation that employs that person. However, staff may now be appointed as an independent member of another councils' or joint organisation's ARIC where that council or joint organisation shares an internal audit function with the council or joint organisation that employs that person (NB, this softens a restriction previously foreshadowed in circular 22-21 and the draft Guidelines).
- ARIC chairpersons and members are to be appointed for a term of no more than 4 years. They may be re-appointed if eligible but must not be a member of the ARIC for more than 8 years in any 10-year period.
- Councils and joint organisations may remove chairpersons and independent members of the ARIC at any time but must notify OLG within 28 days of doing so.
- Councils may pay remuneration to the chairperson and independent members of the ARIC.

Operations of ARICs

- ARICs must meet at least quarterly.
- The chairperson may decide the procedure for calling meetings and their conduct (NB, guidance on ARIC meetings is provided in the Guidelines).
- Councils and joint organisations must adopt terms of reference for the ARIC by resolution. In doing so, they must consider the model terms of reference approved by OLG (NB, these are provided in the Guidelines and are available on OLG's website in Word format for use by councils and joint organisations).
- ARICs must exercise their functions in accordance with the adopted terms of reference.

- General managers of councils and executive officers of joint organisations must ensure that the ARIC has the resources necessary to properly exercise its functions and is readily able to access the staff, information and records the ARIC considers necessary to exercise those functions.
- ARICs are to keep under the review the council's or joint organisations internal audit functions.

Internal audit

- Councils and joint organisations must adopt an internal audit charter by resolution. In doing so, they must consider the model internal audit charter approved by OLG (NB, this is provided in the Guidelines and is available on OLG's website in Word format for use by councils and joint organisations).
- Councils and joint organisations must exercise their internal audit functions in accordance with the adopted internal audit charter.
- General managers of councils and executive officers of joint organisations must appoint a member of staff (who may be an existing staff member) to be the internal audit coordinator for the council or joint organisation (NB, this role was previously referred to as the "head of the internal audit function" in the draft Guidelines).
- Councils and joint organisations may enter into an arrangement with another council or joint organisation to share that council's or joint organisation's internal audit coordinator. Where a council or joint organisation enters into such an arrangement with another council or joint organisation, they are not required to appoint their own internal audit coordinator.
- The internal audit coordinator must report to and comply with directions of the ARIC in relation to the exercise of internal audit functions. The internal audit coordinator is not to be subject to direction by the council or a member of staff of the council in relation to the exercise of internal audit functions.
- The general manager of a council or executive officer of a joint organisation must consult with the chairperson of the ARIC about a proposed decision affecting the employment of the internal audit coordinator.
- General managers of councils and executive officers of joint organisations must ensure the internal audit coordinator has the resources necessary to properly exercise their functions and is readily able to access the staff, information, and records necessary to exercise those functions and is able to access the ARIC.
- The ARIC must oversee internal audit activities.
- The ARIC must review the performance and efficacy of internal audit activities over each period of 4 years and prepare a report for the governing body which may include recommendations.

Risk management

- Councils and joint organisations must adopt and implement a system for managing risk (NB, councils and joint organisations are required under section 23A of the *Local Government Act 1993*, to consider OLG's Guidelines when doing so).

- The ARIC must monitor and review the implementation of the system for managing risk and report to the governing body on its operation and efficacy.

Attestation

- From 2024/25, councils and joint organisations must publish in their annual reports, an attestation signed by the general manager or the executive officer in the case of a joint organisation, that specifies whether the council or joint organisation has complied with the Regulation (NB, a template for the attestation is provided in the Guidelines and is available on OLG's website in Word format for use by councils and joint organisations).
- In preparing an attestation, the general manager or executive officer must give the chairperson of the ARIC an opportunity to comment on it. If the chairperson of the ARIC is not satisfied with the attestation, they may prepare an alternative attestation and provide it to OLG.

Exemption

- A council or joint organisation is not required to comply with a requirement under the Regulation where:
 - the council or joint organisation cannot comply with the requirement because of temporary extenuating circumstances or resourcing constraints that will significantly impact the council's or joint organisation's budget, **and**
 - the council or joint organisation cannot enter into an agreement with another council or joint organisation to share the performance of activities necessary to satisfy the requirement, **and**
 - current or proposed alternative arrangements will achieve outcomes equivalent to the requirement under the Regulation, **and**
 - the council or joint organisation notifies OLG of the failure to comply with the Regulation within 28 days, **and**
 - the council or joint organisation publishes a statement in its annual report about the non-compliance that includes details of the above matters (NB, a template for this statement is provided in the Guidelines and is available on OLG's website in Word format for use by councils and joint organisations).
- Councils and joint organisations are no longer required to seek the prior approval of OLG to be exempt as previously foreshadowed in the draft Guidelines. They will automatically be exempt if they satisfy all the above requirements.