

## Fact sheet

# Public funding for NSW State election campaigns

The following information is for political participants that are registered for NSW State elections. Information in this fact sheet is based on the provisions of the *Electoral Funding Act 2018* and the *Electoral Funding Regulation 2018*. Refer to the [NSW Legislation website](#) for the full requirements and/or be guided by independent legal advice.

## The Election Campaigns Fund

The purpose of the [Election Campaigns Fund](#) is to reimburse eligible political parties and candidates for electoral expenditure incurred in connection with a NSW State election. The fund is administered and regulated by the NSW Electoral Commission (Electoral Commission). To receive a payment from the fund a party or candidate must meet certain criteria and then make a claim for payment with the Electoral Commission. Payments from the fund are made in accordance with the legislation and the Electoral Commission's [Public Funding Policy](#).

## Eligibility for payment

### Party

A political party is eligible to receive a payment from the Election Campaigns Fund for a NSW State election, other than a NSW State by-election, if it:

- is registered for NSW State elections for at least 12 months on election day,
- endorses nominated candidates for the election, and
- satisfies at least one of the following criteria:
  - for a Legislative Assembly general election, the total number of first preference votes received by the party's endorsed candidates is at least four per cent of the total number of first preference votes received by all candidates in electoral districts in which the party's endorsed candidates were nominated, or
  - for a Legislative Council election, the total number of first preference votes received by the party's endorsed candidates (and by all other candidates included in the same group) is at least four per cent of the total number of first preference votes in that election, or
  - at least one endorsed candidate of the party is elected at the NSW State election.

### Candidate

A candidate who has been duly nominated for a NSW State election is eligible to receive a payment from the Election Campaigns Fund if:

- the candidate is not endorsed by a registered party that is eligible for payments from the Election Campaigns Fund for that NSW State election, and
- the candidate is registered, on election day, as a candidate for the election, and
- at a Legislative Council election, the candidate was not included in a group, or if included in a group, none of the group's members were endorsed by a party, and

- the candidate satisfies at least one of the following criteria:
  - for a Legislative Assembly election, the candidate receives at least four per cent of the first preference votes received by all candidates in the electoral district for which the candidate was nominated, or
  - for the Legislative Council election, the total number of first preference votes received by the candidate (and, if included in a group, by all other candidates included in the same group) is at least four per cent of all first preference votes received by candidates in that election.

## Amounts payable

The amount payable to an eligible party or candidate is the lesser of the following:

- for an eligible party, certain amounts ('dollar per vote') for each first preference vote received by the endorsed candidates of the party, or for an eligible candidate, a certain amount ('dollar per vote') for each first preference vote received by the candidate, or
- the total amount of the actual campaign expenditure<sup>11</sup> incurred by the eligible party and its endorsed candidates or incurred by the eligible candidate.

The 'dollar per vote' amounts for each NSW State election held in the four-year period up to and including the 2023 NSW State election are:

Four-year period to the 2023 State election	Criteria
<p><b>Category A (party):</b> an eligible party that has at least one Legislative Assembly candidate elected, or the party's endorsed candidates in the Legislative Assembly received, in total, at least four per cent of the total first preference votes in the electoral districts for which the candidates were nominated; or</p> <p><b>Category B (party):</b> an eligible party that does not satisfy Category 'A' but that has ten or more endorsed candidates in the Legislative Assembly election</p>	
\$4.66	per first preference vote received by the endorsed candidates of the party in the Legislative Assembly, plus
\$3.50	per first preference vote received by the endorsed candidates of the party in the Legislative Council
<p><b>Category C (party):</b> an eligible party that does not satisfy category 'A' or 'B' that has less than 10 (including zero) endorsed candidates in the Legislative Assembly election</p>	
\$5.25	per first preference vote received by the endorsed candidates of the party in the Legislative Council
<b>Eligible candidates</b>	
\$4.66	per first preference vote received by a candidate for a Legislative Assembly election
\$5.25	per first preference vote received by a candidate for a Legislative Council election

<sup>1</sup> **Actual Campaign expenditure** is electoral expenditure incurred in connection with a NSW State election that is within a party or candidate's expenditure cap and:

- for a NSW State general election is incurred by a party or candidate between 1 July in the year before the election, to the end of election day, or
- for a NSW State by-election is incurred by a candidate during the three-month period leading up to, and including election day.

## Payments

An **eligible candidate** can only receive a single payment once a claim for payment has been lodged and the claim has been audited and approved by the Electoral Commission. Candidates are not entitled to advance or preliminary payments.

An **eligible party** can receive up to three payments:

- An **advance payment** is paid before a NSW State general election to a party that received payments from the fund for the previous NSW State general election. The advance payment can be paid as a lump sum or by way of instalments and is deducted from the amount payable to the party after the general election.
  - A party may receive an advance payment equal to fifty per cent of the total amount the party was entitled to receive for the previous NSW State general election, after the commencement of the capped State expenditure period for the general election and before the issue of the writs for the general election.
  - A party may also receive a further twenty-five per cent of the total amount the party was entitled to receive for the previous NSW State general election, after the issue of the writs for the general election (for the 2023 NSW State election, the issue of writs is expected to be on 6 March 2023).
- A **preliminary payment** is paid after a NSW State general election to a party that has made a claim for payment. A preliminary payment applies where the Electoral Commission is unable to make a final payment within fourteen days after the party makes a claim for payment. The preliminary payment is ninety per cent of the estimated amount payable to the party, less any advance payment made for the election.
- A **final payment** is paid after a NSW State general election to a party once a claim for payment lodged by the party has been audited and approved by the Electoral Commission. The payment is the balance of the party's total amount payable after any previous payments (advance or preliminary payment, if any) have been deducted.

## Making a claim for payment

The Electoral Commission determines which parties and candidates meet the criteria to be eligible for a payment and advises all eligible parties and candidates of how and when to make a claim for payment. Forms are provided to the party agent of each eligible party and to each eligible candidate to enable them to make a claim for payment.

The party agent or candidate must make a claim for payment (except in the case of an advance payment) within one-hundred and twenty days after the day for the return of the writs for the election. The claim must be made on the form approved by the Electoral Commission. The Electoral Commission publishes copies of claims for payment and details of payments on its [website](#).

### Expenditure to include in a claim for payment:

An eligible candidate or party may include in a claim for payment, actual campaign expenditure that has been incurred by the eligible candidate, or by the eligible party and its endorsed candidates, in connection with a NSW State election. Expenditure is taken to be incurred if it has been paid for or if the party or candidate is liable to pay for the expense.

The recommended method for quantifying expenditure on travel for candidates and their staff who use their own vehicle for electoral campaigning is based on business kilometres travelled. Business kilometres are kilometres travelled in a candidate or staff member's own car in the course of electoral campaigning within a ten week period that includes election day. A candidate may make use of a log-book to establish and show the number of business kilometres travelled. A candidate may utilise the cents per kilometre method as set out by the Australian Tax Office in its D1 Work-related car expenses policy.

The GST component of expenditure is only to be included in a claim if the party or candidate considers it is not entitled to a tax credit for the expenditure. The Electoral Commission will only reimburse the GST component of expenditure where the claimant is not entitled to a tax credit.

#### **Documents and information to accompany the claim:**

- Bank details of the nominated account for which payment is to be made. A payment to a party will generally be made to an account held by the party. A payment to a candidate will be paid into the candidate's campaign account.
- If the claim for payment is lodged before the annual electoral expenditure disclosure form is lodged, the party agent or candidate is required to provide copies of the invoices or receipts of each item of expenditure included in the claim for payment.

#### **NSW Electoral Commission's Audit**

The Electoral Commission may audit a claim for payment. The party agent or candidate must assist the Electoral Commission by:

- giving full and free access at all reasonable times to all accounts, records, documents and papers of the party agent and of the party or candidate, as the case may require, relating directly or indirectly to the expenditure referred to in the claim, and
- giving all information and explanations that the Electoral Commission requires with respect to the expenditure referred to in the claim.

The Electoral Commission will determine the amount of expenditure to be paid to an eligible party or candidate. The Electoral Commission may refuse to reimburse items of expenditure for reasons including:

- there is no supporting documentation for the expenditure
- the expenditure is not actual campaign expenditure, for example, the expenditure is not electoral expenditure of the party or candidate or the expenditure has not been incurred in the relevant period
- the expenditure was incurred unlawfully, e.g., the expenditure is in excess of the party
  - or candidate's expenditure cap.

#### **Receiving a payment**

Once the amount payable has been determined and approved by the Electoral Commission, a payment will be made to the eligible party or candidate.

A party or candidate is not eligible to receive a payment if:

- a disclosure for political donations or electoral expenditure is outstanding for a past period
- (in the case of a party) audited annual financial statements of the party have not been provided to the Electoral Commission for a past period
- (in the case of a party) an up-to-date list of senior office holders has not been provided to the Electoral Commission.

The Electoral Commission may deduct from a payment any amount the Electoral Commission is authorised to recover under the legislation.

## **Offences under the *Electoral Funding Act 2018***

It is an offence to make a false or misleading statement in a claim for payment. It is an offence to fail to assist the Electoral Commission in the conduct of an audit.

The Electoral Commission can issue warnings and prosecute offences for contraventions of the requirements for a claim for payment.

### **More information**

Rules that apply to public funding for NSW State election campaigns are determined in the *Electoral Funding Act 2018*, available in full at [legislation.nsw.gov.au](http://legislation.nsw.gov.au). Penalties apply for non-compliance.

More information about public funding for NSW State election campaigns can be found on the [NSW Electoral Commission website](#).

For further information, contact us on 1300 022 011 or at [fdc@elections.nsw.gov.au](mailto:fdc@elections.nsw.gov.au).