

Registration of Electoral Participants Policy

Contents

1. Abbreviations and definitions	2
Abbreviations	2
Definitions	2
2. Introduction	3
3. Purpose	4
4. Scope	4
5. Principles and objectives of registration	5
Principles	5
Objectives	5
6. Policy details	6
Registration requirements and administration	6
Registration of candidates, groups and third-party campaigners	7
Registration of associated entities	8
Refusal to register a candidate, group, associated entity or third-party campaigner	8
Registration of official agents	9
Registration of party agents	9
Refusal to register an official agent or party agent	10
Public access to the registers	10
7. Relevant legislation	10
8. Roles and responsibilities	11
9. Monitoring, evaluation and review of this policy	11
10. Associated documents	11
11. Document control	12
Document management	12
Publication details	12
Review record	12

1. Abbreviations and definitions

Abbreviations

Electoral Act	<i>Electoral Act 2017</i> NSW
Electoral Commission agency	NSW Electoral Commission staff agency
EF Act	Electoral Funding Act 2018 NSW
EF Regulation	<i>Electoral Funding Regulation 2018</i> NSW
Electoral Regulation	Electoral Regulation 2018 NSW
FDC	Funding, Disclosure and Compliance Division of the NSW Electoral Commission
LG Act	<i>Local Government Act 1993</i> NSW
NSW Electoral Commission	New South Wales Electoral Commission
NSW Electoral Commissioner	New South Wales Electoral Commissioner

Definitions

Associated Entity - a corporation or other entity that operates solely for the benefit of one or more registered parties or elected members.

Candidate - in relation to an election, a candidate is a person nominated as a candidate at the election in accordance with the EF Act, or in accordance with the LG Act (as the case requires) and includes a person applying for registration as, or registered as, a candidate in the Register of Candidates for the election. For the purposes of the EF Act, a candidate includes an individual who accepts a gift for use solely or substantially for a purpose related to the proposed candidacy of the individual at a future election and a person that makes a payment for electoral expenditure for the election of the person at a future election.

Capped expenditure period - in the case of a State general election, is the period from and including 1 October in the year before which the election is to be held to the end of election day for the election; in the case of a State by-election, is the period from and including the day of the issue of the writ for the election to the end of polling day for the election; in the case of a local government general election, is the period from and including 1 July in that year to the end of polling day for the election; and for another other local government election, is the period from and including the day on which the date of the election is publicly notified by the person conducting the election to the end of polling day for the election.

Disclosure - means the disclosure of political donations and electoral expenditure as required by Part 3 of the EF Act; and includes the making of a declaration that political donations and electoral expenditure that are required to be disclosed have been disclosed.

Elected member - a member of Parliament, or a councillor (including the mayor) of the council of a local government area, and includes a person who, during any period after ceasing to be a member of Parliament or a councillor, is entitled to remuneration as such a member or councillor.

Election - a State election or a local government election in NSW.

Electoral expenditure - expenditure for or in connection with promoting or opposing, directly or indirectly, a party or the election of a candidate or candidates or for the purpose of influencing, directly or indirectly, the voting at an election, and which is expenditure of one of the kinds listed in [section 7\(1\) of the EF Act](#). Electoral expenditure of a third-party campaigner only includes expenditure that has the dominant purpose of promoting or opposing a party or candidate or influencing the vote at an election. Electoral expenditure does not include the kinds listed in [section 7\(2\) of the EF Act](#). Group - means, in relation to a State election means a group of candidates, or part of a group of candidates, for a Legislative Council election, or in relation to a

local government election, a group of candidates, or part of a group of candidates, for a local government election. For the purposes of the EF Act, a group includes a group of individuals who accept a gift for use solely or substantially for a purpose related to the proposed candidacy of the individuals at a future election and a group of individuals that makes a payment for electoral expenditure for the election of the individuals at a future election.

Local government election - an election under the LG Act for the office of councillor or mayor under that Act (other than an election of mayor by councillors).

Major political donor - an entity or other person (not being a party, elected member, group or candidate) who makes a reportable political donation.

Official agent - in relation to a third-party campaigner or associated entity, a person appointed as an official agent who is registered in the Register of Official Agents; and in any other case, a person designated by the NSW Electoral Commission as an official agent for a third-party campaigner or associated entity.

Party - a body or organisation, incorporated or unincorporated, having as one of its objects or activities the promotion of the election to the NSW Parliament or a local Council of a candidate or candidates endorsed by it or by a body or organisation of which it forms a part.

Party agent - a person appointed as a party agent by a political party.

Political Donor - a person who makes a gift.

Political donation - a gift made to, or for the benefit of, a political party, elected member, candidate, group of candidates, or other person or entity including an associated entity or third-party campaigner in New South Wales, as defined in section 5 of the [EF Act](#).

Registered party - a party registered under the Electoral Act or LG Act.

Third-party campaigner - in the case of a State election, is an entity or other person (not being an associated entity, party, elected member, group or candidate) who incurs electoral expenditure for a State election during the capped State expenditure period that exceeds \$2,000 in total; in the case of a local government election, is an entity or other person (not being an associated entity, party, elected member, group or candidate) who incurs electoral expenditure for a local government election during the capped local government expenditure period that exceeds \$2,000 in total; and includes an individual or entity that is registered as a third-party campaigner in accordance with Part 7 of the EF Act.

2. Introduction

2.1. The NSW Electoral Commission is responsible for registering political participants in New South Wales, and:

- keeping and maintaining the registers of political participants
- publishing a copy of the registers on the NSW Electoral Commission's website
- making a copy of the registers available for public inspection.

2.2. Registration of political participants is required to enable the objects of the EF Act, particularly to raise awareness of political donations and to promote compliance by political participants with the requirements of the electoral funding, expenditure and disclosure scheme.

2.3. The Registration of Political Participants Policy sets out the:

- purpose of the policy
 - scope of applicable stakeholders
 - principles and objectives of registration
 - registration requirements and administration
 - registration procedures
 - roles and responsibilities
 - monitoring, evaluation and review
 - further reference details.
-

3. Purpose

3.1. The policy provides:

- information about the registration of candidates, groups of candidates, associated entities, third-party campaigners and agents in accordance with the [*EF Act*](#)
- information about the administration, maintenance and publication of the registers kept in accordance with the [*EF Act*](#)
- guidance on decisions the NSW Electoral Commission may make about registration matters.

3.2. This policy is not a guideline within the meaning of section 152 of the *EF Act*.

4. Scope

4.1. This policy applies to:

- the NSW Electoral Commission and its responsibility to keep, maintain and publish registers under the EF Act
 - officers of the NSW Electoral Commission agency, including contractors and third-party consultants, who are involved in the registration of political participants
 - political participants in New South Wales including: candidates, groups of candidates, elected members, third-party campaigners, associated entities, official agents and party agents.
-

5. Principles and objectives of registration

Principles

- 5.1. To register candidates, groups of candidates, associated entities, third-party campaigners and agents in accordance with the EF Act.
- 5.2. To maintain the registers to provide an accurate account of registrations for State and local government elections and the registration of associated entities and party agents.
- 5.3. The registers must provide a true and faithful record, as they demonstrate the entitlement of a candidate, group of candidates, associated entity or third-party campaigner to accept political donations and make payments for electoral expenditure.
- 5.4. The registers of official agents show the agents appointed by third-party campaigners and associated entities.
- 5.5. The register of party agents shows the agents appointed by political parties.
- 5.6. The registers are kept by the NSW Electoral Commission are public documents. Copies of the registers are made available for public inspection at the office of the NSW Electoral Commission during ordinary office hours and are published on the [NSW Electoral Commission's website](#).

Objectives

- 5.7. **Transparency** - to enable the public to see who has registered for a State or local government election and agents who are responsible for the electoral finances of certain political participants. With greater transparency comes increased accountability.
 - 5.8. **Accountability** - as a result of registering with the NSW Electoral Commission, political participants have obligations and receive entitlements in relation to political donations and electoral expenditure under the EF Act, with the aim of creating fairness within the regime.
 - 5.9. **Democracy** - election participants are registered by the NSW Electoral Commission in an open and impartial way thereby contributing to a fair and democratic electoral system in New South Wales.
 - 5.10. **Service** - the NSW Electoral Commission aims to make the registration process accessible and simple for election participants to support greater participation in the democratic process.
-

6. Policy details

Registration requirements and administration

- 6.1. The registration of candidates, groups of candidates, associated entities, third-party campaigners, party agents and official agents is administered according to Part 7 of the EF Act.
- 6.2. Political parties are registered under the Electoral Act and the LG Act. Registration of political parties is not described in this document, but is separately described in the [Political Party Registration Policy](#).
- 6.3. The following political participants are registered for each State and local government election they contest or campaign in:
 - candidates
 - groups of candidates
 - third-party campaigners
 - official agents for third-party campaigners and associated entities.
- 6.4. The following political participants are registered continuously:
 - party agents
 - associated entities.
- 6.5. The NSW Electoral Commission keeps the following registers:
 - A State register of candidates for each general election and by election
 - A local government register of candidates for each general election and by election
 - A State register of third-party campaigners for each general election and by election
 - A local government register of third-party campaigners for each general election and by-election
 - A State register of official agents of third-party campaigners and associated entities for each general election and by-election
 - A local government register of official agents for each general election and by-election
 - A Register of associated entities
 - A State register of party agents
 - A local government register of party agents.
- 6.6. The NSW Electoral Commission maintains each register and makes copies of each register available for public inspection at its office during ordinary office hours. The copies made available for public inspection do not include the address of an individual where the NSW Electoral Commission is aware the individual is a silent elector. Copies of the registers are also published on the NSW Electoral Commission's website excluding the addresses of all individuals.

Registration of candidates, groups and third-party campaigners

- 6.7. The NSW Electoral Commission keeps a separate register of candidates and third-party campaigners in relation to each State and local government general and by election conducted in New South Wales.
- 6.8. A candidate, group or third-party campaigner must make an application to the NSW Electoral Commission to be registered. If an application has been validly lodged in the form and manner approved by the NSW Electoral Commission, the candidate, group or third-party campaigner's details are included in the register.
- 6.9. Candidates and groups of candidates contesting State or local government elections must not accept political donations or make payments for electoral expenditure before nomination day for an election unless they first register with the NSW Electoral Commission for that election. From nomination day, all nominated candidates and groups not previously registered are registered by the NSW Electoral Commission.
- 6.10. A third-party campaigner must be registered for an election before making payments for electoral expenditure after incurring more than \$2,000 for electoral expenditure during the capped expenditure period for an election. The registration of candidates, groups and third-party campaigners applies for one general election or by-election only. Those contesting or campaigning in multiple elections must register separately for each election or by-election.
- 6.11. The registration period for candidates, groups and third-party campaigners for a State general election starts after polling day for the previous State general election. For a State by-election, the registration period starts on the day the NSW Electoral Commissioner is formally notified of a vacancy in the Legislative Assembly.
- 6.12. The registration period for candidates, groups and third-party campaigners for a local government general election starts after polling day for the previous local government general election. For a local government by-election, the registration period starts on the day the NSW Electoral Commissioner is formally notified of a vacancy on a local government council and where it has been determined a by-election will be held to fill the vacancy.
- 6.13. The registration period for candidates and groups closes 12 noon on nomination day for the relevant election. Registration for third-party campaigners closes on the 8th day before election day.
- 6.14. Candidates and groups must **notify** the NSW Electoral Commission of any changes to the registered details of the candidate or group, within 30 days of the change occurring. A candidate or group's registration may be cancelled if the NSW Electoral Commission is not notified of these changes.

- 6.15. Official agents of third-party campaigners and associated entities must *notify* the NSW Electoral Commission of any changes to the registered details of the third-party campaigner or associated entity, within 30 days of the change occurring. A third-party campaigner or associated entity's registration may be cancelled if the NSW Electoral Commission is not notified of these changes.
- 6.16. The registration of a candidate under the EF Act is separate to a person being nominated as a candidate for an election for the purpose of having the candidate's name included on the ballot paper. The nomination process for candidates and groups is described on the [NSW Electoral Commission's website](#). A candidate or group may apply in writing to the NSW Electoral Commission to cancel the registration of the candidate or group.

Registration of associated entities

- 6.17. The NSW Electoral Commission keeps a Register of Associated Entities. The register is not kept in relation to an election, but rather it is kept on an ongoing basis.
- 6.18. An associated entity must make an application to the NSW Electoral Commission to be registered. If an application has been validly lodged in the form and manner approved by the NSW Electoral Commission, the associated entity's details will be included in the register.
- 6.19. An associated entity must be registered with the NSW Electoral Commission before making payments for electoral expenditure incurred during the capped expenditure period for an election.
- 6.20. The official agent of an associated entity must notify the NSW Electoral Commission of any changes to the registered details of an associated entity, within 30 days of the change occurring. An associated entity's registration may be cancelled if the NSW Electoral Commission is not notified of these changes.

Refusal to register a candidate, group, associated entity or third-party campaigner

- 6.21. The NSW Electoral Commission will refuse to register a candidate, group or third-party campaigner if an application for registration is received after the end of the relevant registration period.
- 6.22. The NSW Electoral Commission may refuse to register a group if the name of the group is obscene or offensive.
- 6.23. The NSW Electoral Commission may refuse to register a candidate, group, associated entity or third-party campaigner if there are reasonable grounds to believe the particulars in an application for registration are incomplete or incorrect.
- 6.24. The NSW Electoral Commission will notify a candidate or group or the official agent of an associated entity or third-party campaigner if a decision has been made to refuse to register the candidate, group, associated entity or third-party campaigner. The candidate, group or official agent may then, within 30 days of being notified of the refusal, amend the application for registration. If an amended application is made, it is taken to have been received when the original application was received.

Registration of official agents

- 6.25. The NSW Electoral Commission keeps a Register of Official Agents for each State and local government general election and by-election. Associated entities and third-party campaigners are required to have an official agent who is responsible for the management and disclosure of political donations and electoral expenditure.
- 6.26. Before applying for registration, a third-party campaigner or associated entity must appoint a person as *official agent*. The third-party campaigner or associated entity must notify the NSW Electoral Commission of the agent's appointment. Where the agent has been validly appointed and the NSW Electoral Commission has been notified of the appointment, the NSW Electoral Commission will include the official agent on the relevant register of official agents.
- 6.27. If a third-party campaigner or associated entity has revoked the appointment of its official agent, the associated entity or third-party campaigner must notify the NSW Electoral Commission of the revocation of the appointment.
- 6.28. If an appointed official agent dies or resigns, the third-party campaigner or associated entity that appointed the agent must notify the NSW Electoral Commission within 30 days.
- 6.29. Where a third-party campaigner or associated entity does not have an appointed official agent, the NSW Electoral Commission may designate a person as official agent for the third-party campaigner or associated entity. The official agent will be notified by the NSW Electoral Commission of the designation.

Registration of party agents

- 6.30. The NSW Electoral Commission keeps separate registers of party agents for State and local government elections called the State Register of Party Agents and Local Government Register of Party Agents. The registers are not kept in relation to an election, but rather they are kept on an ongoing basis.
- 6.31. A party must appoint a party agent and notify the NSW Electoral Commission of the agent's appointment. Where the agent has been validly appointed and the NSW Electoral Commission has been notified of the appointment, the NSW Electoral Commission will include the party agent on the relevant register of party agents.
- 6.32. A person must be a senior office holder of the party to be appointed as party agent.
- 6.33. If a party agent dies, resigns, or the agent's appointment is revoked, the party must notify the NSW Electoral Commission within 30 days, must appoint a new party agent within 30 days and must notify the NSW Electoral Commission of the new agent's appointment.

- 6.34. If, at any time, a party does not have an appointed party agent, the person who is the registered officer of the party under the Electoral Act or LG Act (as the case requires), is the party agent of the party.

Refusal to register an official agent or party agent

- 6.35. The NSW Electoral Commission will refuse to register an appointed official agent or party agent if a notice of the agent's appointment is not made in the form and manner approved by the NSW Electoral Commission.
- 6.36. The NSW Electoral Commission will refuse to register an appointed official agent or party agent if the NSW Electoral Commission is aware the person is not qualified to be appointed as an official agent or party agent in accordance with [section 102 of the EF Act](#), or, in the case of a party agent, the person is not a senior office holder of the party.
- 6.37. The NSW Electoral Commission will refuse to register an appointed official agent or party agent if, on the notice of appointment, the agent has not signed an acceptance of the appointment.

Public access to the registers

- 6.38. Copies of all registers are to be made available for public inspection during ordinary office hours at the NSW Electoral Commission's office in Sydney and on the [NSW Electoral Commission's website](#).
- 6.39. Copies of registers made publicly available for inspection exclude the residential address of any person who is a silent elector where the NSW Electoral Commission is aware the person is a silent elector.
- 6.40. Copies of registers published on the NSW Electoral Commission website exclude the addresses of all individuals.

7. Relevant legislation

- 7.1. *Electoral Funding Act 2018* NSW.
- 7.2. *Electoral Funding Regulation 2018* NSW.
- 7.3. *Electoral Act 2017* NSW.
-

8. Roles and responsibilities

Who	How
NSW Electoral Commission	<ul style="list-style-type: none">• Approve this policy and associated documents
Executive Director and Directors Funding, Disclosure and Compliance	<ul style="list-style-type: none">• participate in the consultation process• determine policy instrument content and compliance with electoral funding laws• communicate policy development and revision with Legal and Governance and the Policy Coordinator
Policy Coordinator (Legal and Governance)	<ul style="list-style-type: none">• coordinates administration of the policy development and review process• manages the publication, amendment or archiving of approved policy instruments in the Policy Library
Senior Advisor Regulatory Advice and Analysis	<ul style="list-style-type: none">• develops or amends policy instruments as required• forwards approved policy instruments to the Policy Coordinator for registration and publication• forwards approved policy instruments to the Policy Implementer (if not also the Policy Author) for implementation

9. Monitoring, evaluation and review of this policy

- 9.1. This policy will be reviewed every three years, or whenever it becomes apparent that a revision is needed.

10. Associated documents

- 10.1. [Compliance and Enforcement Policy](#)
- 10.2. [Compliance and Enforcement Procedures](#)
- 10.3. [Compliance and Enforcement Publication Policy and Procedures](#)
- 10.4. [Party Registration Policy and Procedures](#)
- 10.5. [Penalty Notice and Caution Procedures](#)
- 10.6. [Prosecution Policy](#)

11. Document control

Document management

Approved by:	Signature:
The NSW Electoral Commission	Date approved: 10 April 2019
Executive Director Review:	Signature:
Hugo Bergeron Executive Director, Funding, Disclosure and Compliance	
Director Review:	Signature:
Emma Keene Director, Client Experience Regulatory Services	

Publication details

Document Type:	<input checked="" type="checkbox"/> Policy <input type="checkbox"/> Standard <input checked="" type="checkbox"/> Procedure <input type="checkbox"/> Guidelines	
Responsible Business Unit: Funding, Disclosure and Compliance	Author: Senior Advisor, Regulatory Advice and Analysis	Publication: <input type="checkbox"/> Not for publication <input type="checkbox"/> Internal catalogue <input type="checkbox"/> Intranet only <input checked="" type="checkbox"/> Intranet and website

Review record

Date	Version	Revision description
01 December 2014	V 1.0	Legislative change – <i>Electoral and Lobbying Legislation Amendment (Electoral Commission) Act 2014</i>
29 June 2016	V 1.1	Periodic review
11 October 2017	V 1.2	Legislative change – <i>Environmental Planning and Assessments and Electoral Legislation Amendment (Planning Panels and Enforcement) Act 2017</i> .
10 April 2019	V 1.3	Legislative change – <i>Electoral Act 2017 and Electoral Funding Act 2018</i> .