

Public Funding Policy

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1. Abbreviations and definitions

Abbreviations

Electoral Commission	New South Wales Electoral Commission (three-member statutory authority)
EF Act	<i>Electoral Funding Act 2018 (NSW)</i>
EF Regulation	Electoral Funding Regulation 2018 (NSW)
Electoral Act	<i>Electoral Act 2017 (NSW)</i>

Definitions

Candidate – in relation to an election, means a person nominated as a candidate at the election in accordance with the Electoral Act and includes a person applying for registration as, or registered as, a candidate in the Register of Candidates for the election to be kept by the Electoral Commission under Part 7 of the EF Act.

Claimant/s – means a party, candidate, or independent elected member eligible for public funding.

Independent elected member – means a member of Parliament who was not endorsed by any party when they were elected and is not a member or representative of any party.

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

State election – means a Legislative Assembly general election, a Legislative Council election or a by- election for the Legislative Assembly.

2. Introduction

- 2.1. The Electoral Commission is responsible for effectively administering public funding to eligible parties, candidates, and independent elected members.
- 2.2. The EF Act establishes three schemes of public funding:
 1. the Election Campaigns Fund - to reimburse the electoral expenditure of eligible State election parties and candidates
 2. the Administration Fund – to reimburse the administrative expenditure of eligible parties and independent elected members and
 3. the New Parties Fund - to reimburse the policy development expenditure of eligible parties that are not eligible for payments from the Administration Fund.
- 2.3. The above schemes are administrated under Part 4 (Public funding of State election campaigns) and Part 5 (Administrative and New Party policy development funding) of the EF Act

3. Purpose

- 3.1. The purpose of this policy is to set out the overarching principles and aims of the public funding schemes.
 - 3.2. This policy aims to summarise why the schemes of public funding are in place in New South Wales and sets out the Electoral Commission's approach to administering public funding.
 - 3.3. Information specific to a fund, including eligible criteria and entitlement calculations, can be found in the supporting procedure document for each Fund.
 - 3.4. This document is not a guideline within the meaning of section 152 of the EF Act.
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4. Scope

- 4.1. This policy applies to:
 - all claims for payment and payments made from the Election Campaigns Fund, the Administration Fund, and the New Parties Fund and
 - officers of the Electoral Commission, including contractors and third-party consultants, who are involved in the administration of these public schemes.
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5. Policy details

Public funding objectives

- 5.1. The objectives of the three public funding schemes were outlined by the NSW Government in the second reading speeches for the bills that introduced the specific rules. These objectives are:

Assisting with increased compliance costs

One aim of the public funding schemes is to help eligible parties, candidates, and elected members with costs of compliance with electoral funding laws¹.

Fair distribution of public funding

The EF Act commenced on 1 July 2018, repealing and replacing the former *Electoral Funding, Expenditure and Disclosures Act 1981*. The EF Act implemented a range of reforms, including the “dollar per vote” model of campaign funding (first applied for the 2015 State election under special provisions) on the basis that this model is a fairer way of distributing public funding, as entitlements are directly related to electoral results.²

Compensating for losses in political donation revenue

The public funding schemes also make up for losses in the revenue of political parties and others as a result of caps on political donations. Since 2011, political donations at State elections have been capped.

Supporting political communication

Public funding of election campaigns allows parties and candidates to communicate their messages to the electorate despite there being caps on political donations.

Promoting active government

Public funding of the administrative and operating expenses of eligible parties and elected members promotes their active participation in the government of New South Wales.

Supporting political diversity

The New Parties Fund aims to support new and emerging parties, thereby promoting political diversity.

Approach to administering public funding

- 5.2. In its administration of the public funding schemes under the EF Act, the Electoral Commission aims to ensure that:

- payments from each Fund are administered in accordance with the EF Act
- public money is used appropriately
- the expenses that are reimbursed are reasonable in the circumstances and
- value for money for the people of New South Wales is achieved.

¹ Second Reading Speech, Election Funding and Disclosures Amendment (Administrative Funding) Bill 2013, Parliament of New South Wales Hansard, 14 March 2013, describing the purpose of introducing administrative funding in 2010.

² Second Reading Speech, Electoral Funding Bill 2018, Parliament of New South Wales Hansard, 17 May 2018.

Management of funds in accordance with the EF Act

- 5.3. Each fund is managed in accordance with the EF Act by ensuring that:
- proper records of each claimant claim and payment are kept
 - reliable sources of information are used in order to satisfy eligibility criteria
 - reasonable controls are in place to minimise errors or misstatements in relation to payments under each fund
 - claims are assessed by the Electoral Commission and claimants must provide documentation, information, and evidence requested by the Electoral Commission
 - claim payments are approved by the Electoral Commission
 - any amount/s received by a claimant which must be repaid within legislated timeframes, including amounts paid by the Electoral Commission to which a claimant is not eligible, will be recovered by the Electoral Commission.

Using public money appropriately

- 5.4. It is the Electoral Commission's duty, as the custodian of each of the funds, to ensure that the money available from each fund is used appropriately. This means that the Electoral Commission only reimburses expenditure that is:
- expenditure as described by the EF Act and EF Regulation
 - consistent with the guidelines under the EF Act
 - incurred by the claimant unless otherwise provided by the legislation
 - incurred in the relevant period
 - supported by invoices or receipts or other documentation
 - accompanied by a declaration to the effect that the expenditure included in a claim is entitled to be claimed
 - actual expenditure for which the candidate, elected member, or party has a legal liability to pay or has paid.
- 5.5. The Electoral Commission takes measures to prevent abuse of each fund in addition to assessing expenditure in accordance with the above points using a risk-based approach. These measures include:
- checking claims against other claims made by the claimant
 - assessing whether an expense is likely to be reimbursed from another government source (for example, as a GST Tax Credit, or from Parliamentary Allowances)
 - disallowing, wholly or in part, any items of expenditure included in a claim where the Electoral Commission is satisfied the expenditure is not covered by the fund
 - publishing claims for public funding on the Electoral Commission's website and
 - investigating suspected false statements made in a claim.

Guidelines about expenditure claimed from the funds

- 5.6. From time to time, the Electoral Commission determines and issues guidelines under the EF Act. These guidelines are rules that clarify or refine a legal requirement under the EF Act and must be followed by both the Electoral Commission and the stakeholders they affect. Some guidelines apply to the use of the funds. The Electoral Commission's guidelines can be found on the [NSW Electoral Commission website](#).

6. Roles and responsibilities

Who	How
NSW Electoral Commission	Approve the Public Funding policy and associated documents
Executive Director and Directors Funding, Disclosure and Compliance and General Counsel	<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 the Governance Unit and the Policy Coordinator
Policy Coordinator (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
Manager, Regulatory Education and Policy	<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

7. Monitoring, evaluation and review of this policy

- 7.1. The EPMO and Governance Unit monitors the administration of this policy instrument and related documents. This policy will be reviewed every three years, or whenever it becomes apparent that a revision is needed.

8. Associated documents

- 8.1. Election Campaigns Fund Procedures
- 8.2. Administration Fund Procedures
- 8.3. New Parties Fund Procedures

9. Relevant legislation

- 9.1. The public funding schemes are administrated under Part 4 (public funding of State elections campaigns) and Part 5 (Administrative and New Party policy development funding) of the *Electoral Funding Act 2018*.

10. References

- 10.1. Parliament of NSW's Second Reading Speech for consideration of the Election Funding and Disclosures Amendment (Administrative Funding) Bill 2013 ('the 2013 amendment bill'), on 26 March 2013.
- 10.2. Parliament of NSW's Second Reading Speech for consideration of the Electoral Funding Bill 2018, 17 May 2018

11. Document control

Document management

Approved by:	Signature:
The NSW Electoral Commission	Date approved: 9 August 2023
Executive Director Review:	Signature:
Rachel McCallum Executive Director, Funding, Disclosure and Compliance, and General Counsel	
Director Review:	Signature:
Emma Keene Director, Client Experience Regulatory Services	

Publication details

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Revision record

Date	Version	Revision description
1 January 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
13 February 2019	V 1.2	Legislative change- <i>Electoral Funding Act 2018</i>
11 December 2019	V 1.3	Clarification of actual expenditure
12 April 2023	V 1.4	Periodic review
9 August 2023	V.1.5	Date approved by The NSW Electoral Commission