

Fact sheet

Appointment, registrations and responsibilities of official agents

The following information is for third-party campaigners, associated entities and their official agents in New South Wales. 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.

What is an official agent?

An [official agent](#) is a person who is responsible for managing and disclosing a [third-party campaigner](#) or [associated entity](#)'s political donations and electoral expenditure. This includes operating a campaign account for the third-party campaigner or associated entity.

Requirements to appoint an official agent

Each third-party campaigner and associated entity is required to have an official agent. At the time of applying to be registered as a third-party campaigner or associated entity, an official agent must also be appointed. An official agent can be appointed by the authorised person of the third-party campaigner or associated entity using [Funding and Disclosure Online](#). The prospective official agent can accept or decline the appointment online. PDF forms are available [on request](#). If, at any time, a third-party campaigner or associated entity does not have an official agent, the NSW Electoral Commission (Electoral Commission) may designate a person to be the official agent.

How to appoint an official agent

To be appointed as an official agent, a person must:

- be enrolled to vote at NSW elections
- successfully complete the Electoral Commission's online training for prospective agents
- not have been sentenced to a term of imprisonment of 30 months or more
- not have been convicted of an indictable offence, an offence against the *Electoral Funding Act 2018* or an electoral offence
- not have been convicted of an offence committed as an adult involving fraud or dishonesty in the last ten years
- not have been determined, by the Electoral Commission, to not be a fit and proper person to be appointed as a party agent or official agent.

A person that meets the above criteria is eligible to be appointed by a third-party campaigner or associated entity as an official agent. If the third-party campaigner is an individual, the individual is responsible for appointing the official agent. For associated entities and third-party campaigners that are entities, one or more persons who have legal responsibility for the entity are responsible for appointing the official agent. A record should be kept by the third-party campaigner or associated entity of the decision to appoint the person as official agent.

Do all prospective official agents need to undertake the online training?

No. If a person has any one of the following accounting qualifications, they do not need to complete the Electoral Commission's online training for prospective agents:

- a Certified Practising Accountant member of CPA Australia, New South Wales Division
- a member of the Institute of Chartered Accountants in Australia, New South Wales Region, who holds a Certificate of Public Practice issued by that Institute
- a member of the Institute of Public Accountants who holds a Professional Practice Certificate issued by that Institute.
- We encourage official agents to complete the NSW Electoral Commission's online training even if they are exempt or have completed the training previously. The training provides information on the legal obligations of an official agent.

Register of appointed official agents

When an official agent is appointed, the Electoral Commission will assess the appointment form to confirm it has been correctly lodged.

This includes confirming that:

- the notice has been submitted by a person responsible for appointing the official agent
- the person is eligible to be appointed as an official agent and
- the person has consented to being appointed as the official agent.

If the notice has not been correctly lodged, it will be rejected by the Electoral Commission. The person who started the form will be notified by email and will have the opportunity to submit the appointment form again. The Electoral Commission may cancel the registration of an official agent if the person is no longer eligible to be appointed.

The official agent's name, address and occupation are included in a [Register of official agents](#). A copy of the register is published on the Electoral Commission's website without the address of the official agent. A copy of the register is made available for public inspection at the office of the Electoral Commission without the addresses of official agents who are silent electors. If an official agent is, or becomes, a silent elector they should contact us to ensure their address is not made publicly available.

Updating the registered details of an official agent

An official agent can update their registered details and the registered details of the associated entity or third-party campaigner using [Funding and Disclosure Online](#). Details must be updated within 30 days of the change occurring. The Electoral Commission will amend the Register of official agents if the name, address or occupation of the official agent changes. It is important that official agents contact the Electoral Commission if their email or postal address change, to ensure that they receive important correspondence about their legislative obligations.

What if the official agent resigns, dies or the third-party campaigner or associated entity revokes the official agent's appointment?

If a registered official agent resigns, dies or the official agent's appointment is revoked, the third-party campaigner or associated entity must notify the Electoral Commission within 30 days and must appoint a new official agent within that period. A notice of resignation, death or revocation of the appointment of an agent can be submitted using [Funding and Disclosure Online](#). A new official agent can also be appointed using Funding and Disclosure Online. PDF forms are available [on request](#).

Can a person be an official agent for more than one third-party campaigner or associated entity?

Yes, a person can be appointed as an official agent for more than one third-party campaigner or associated entity. A party agent of a political party can also be appointed as an official agent by a third-party campaigner or associated entity.

What are the legal responsibilities of an official agent?

The legal responsibilities of an official agent include:

- accepting political donations made to or for the benefit of the third-party campaigner or associated entity
- depositing political donations into the third-party campaigner or associated entity's campaign account that are to be used to incur electoral expenditure
- issuing receipts and acknowledgements to those who make a reportable political donation to a third-party campaigner or associated entity ([contact us](#) to obtain receipt and acknowledgement books)
- making payments for electoral expenditure for the third-party campaigner or associated entity from the third-party campaigner or associated entity's campaign account
- disclosing the third-party campaigner or associated entity's political donations and electoral expenditure to the Electoral Commission in accordance with Part 3 of the *Electoral Funding Act 2018*
- providing the Electoral Commission with copies of the receipts and acknowledgements issued to those who make reportable political donations to the third-party campaigner or associated entity when disclosing political donations
- providing the Electoral Commission with copies of the invoices or receipts for electoral expenditure and copies of advertising material to which the expenditure relates when disclosing electoral expenditure
- keeping complete and accurate accounting records on behalf of a third-party campaigner or associated entity in accordance with the requirements set out in the *Electoral Funding Regulation 2018*
- notifying the Electoral Commission within 30 days of any change to the registered details of a third-party campaigner or associated entity
- making a request to the Electoral Commission to cancel the registration of a third-party campaigner or associated entity
- appointing a person using [Funding and Disclosure Online](#), or in writing, to enable them to make payments for electoral expenditure from the third-party campaigner or associated entity's campaign account and for accepting political donations
- assisting with enquiries or requests for information from the Electoral Commission in the conduct of audits of disclosures.

When making a declaration that all political donations and electoral expenditure that are required to be disclosed have been made and are true and correct, an official agent must use their best endeavours to ensure they are not making a false or misleading statement.

Offences under the *Electoral Funding Act 2018* and Regulations

It is an offence for an official agent to contravene the requirements of the *Electoral Funding Act 2018* in relation to managing, recording and disclosing political donations and electoral expenditure and operating a third-party campaigner or associated entity's campaign account.

The Electoral Commission can issue warnings, penalties or prosecute offences including for the unlawful use of a campaign account, failing to record or disclose political donations and electoral expenditure and accepting political donations or making payments for electoral expenditure unlawfully.

More information

Rules that apply to third-party campaigners, associated entities and their official agents are determined in the *Electoral Funding Act 2018*, available in full at legislation.nsw.gov.au. Penalties apply for non-compliance.

More information about official agents can be found on the [NSW Electoral Commission website](https://www.elections.nsw.gov.au).

For further information, contact us on 1300 022 011 or at fdc@elections.nsw.gov.au.