

# Procedures for Party Registration

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## 1. Abbreviations and definitions

### Abbreviations

<b>Electoral Act</b>	<i>Electoral Act 2017 (NSW)</i>
<b>Electoral Commission</b>	New South Wales Electoral Commission staff agency
<b>Electoral Commissioner</b>	Electoral Commissioner for New South Wales
<b>Electoral Funding Act</b>	<i>Electoral Funding Act 2018 (NSW)</i>
<b>Local Government Act</b>	<i>Local Government Act 1993 (NSW)</i>
<b>NSW Electoral Commission</b>	New South Wales Electoral Commission statutory body
<b>PPIP Act</b>	<i>Privacy and Personal Information Protection Act 1998 (NSW)</i>
<b>PPRS</b>	Political Party Registration System
<b>RMANS</b>	Roll Management System (AEC)

## Definitions

**Address** – The residential address of an individual as it appears on the electoral roll.

**Constitution** – The written document on the basis of which an eligible party is established. For a party registered under the *Local Government Act*, the constitution must set out its platforms or objectives.

**Deputy registered officer** – Of a registered party, means the person shown in a party register as the deputy registered officer of the party.

**Electoral Commission** – The NSW Public Service agency where staff are employed to enable the NSW Electoral Commission and Electoral Commissioner to exercise their statutory functions.

The NSW Electoral Commission and Electoral Commissioner may delegate functions to members of staff of the Electoral Commission agency.

**Electoral Commissioner** – Appointed by the NSW Governor and is responsible for, amongst other things, the conduct of NSW State elections, dealing with the enrolment of electors and the maintenance of the Electoral Information Register and preparing authorised rolls of electors for elections.

**Electoral Information Register** – The Electoral Commissioner is to keep and maintain records of all persons enrolled under the Electoral Act in a register, the Electoral Information Register (also known as the electoral roll). The register is to include the details of each enrolled person, their electoral district, whether the person is a silent elector, among other details.

**Eligible Party** – In relation to the *Electoral Act*, a party that has at least 750 members and that is established on the basis of a written constitution (however expressed).

In relation to the *Local Government Act*, a party that has at least 100 members and that is established on the basis of a written constitution (however expressed) that sets out the platform or objectives of the party.

**Local Government Register of Political Parties** – The register kept by the Electoral Commissioner in accordance with section 319 of the *Local Government Act*.

**Member** – Of a party, means a member of the party who is enrolled under the Electoral Act.

**Membership declaration form** – The form approved by the Electoral Commissioner in accordance with section 59(j) of the *Electoral Act* and published on the Electoral Commission website.

**NSW Electoral Commission** – The statutory body consisting of three members who are appointed by the NSW Governor: a former judge as Chairperson, the Electoral Commissioner and a person with financial and audit skills and qualifications.

The Electoral Commission is responsible for enforcing electoral, electoral funding and lobbying laws in NSW.

**Party** – A body or organisation, whether or not incorporated, having as one of its objects or activities the promotion of the election to the Parliament of NSW, or to the council of a local government area in NSW, of a candidate or candidates endorsed by it or a body or organisation of which it forms a part. A party can be either registered in accordance with Part 6 of the *Electoral Act* or Part 10 of the *Local Government Act*, or can be unregistered.

**Party register(s)** – The Register of Parties and/or the Local Government Register of Political Parties (where applicable).

**Party secretary** – Of a party or registered party, means the person who holds the office (however expressed) the duties of which involve responsibility for the carrying out of the administration, and for the conduct of the correspondence, of the party and/or the person listed on the Register of Parties or the Local Government Register of Political Parties as the party secretary.

**Register of Parties** – The register kept by the Electoral Commissioner in accordance with section 58 of the *Electoral Act*.

**Registered officer** – Of a registered party, means the person shown in a party register as the registered officer of the party.

**Registered Party** – A party registered in accordance with Part 6 of the *Electoral Act* or Part 10 of the *Local Government Act*.

**Secretary** – Of a party, means the person who holds the office (however expressed) the duties of which involve responsibility for the carrying out of the administration, and for the conduct of correspondence, of the party.

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## 2. Introduction

- 2.1. The responsibilities of the Electoral Commissioner under the *Electoral Act* and the *Local Government Act* include functions related to the following:
    - Applications for the registration of parties.
    - The Register of Parties and the Local Government Register of Political Parties.
    - Annual returns of registered parties as to their continued eligibility for registration.
    - Amendments to the relevant party registers.
    - Refusal to register or cancellation of registration.
  - 2.2. Members of staff of the Electoral Commission support the Electoral Commissioner in the exercise of statutory functions. The Electoral Commissioner may delegate statutory functions to members of staff of the Electoral Commission.
  - 2.3. These procedures should be read alongside the *Party Registration Policy*, which outlines the broader principles and objectives of the matters for which these procedures provide further detail.
  - 2.4. The Local Government Act provides that matters related to the registration of parties under that Act are to be dealt with in accordance with the procedures outlined in the Electoral Act (with certain modifications), and legislative references and terms used in these procedures are to be read in this context.
  - 2.5. There is no fixed timeframe for the processing of applications for party registration. The procedures to assess applications and gain approvals at various stages, as well as external factors such as periods during which action cannot be taken, mean that the time it takes to finalise applications will vary. However, the Electoral Commission will process applications for party registration as expeditiously as practicable in the given circumstances and communicates with applicants during the process.
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### 3. Purpose

- 3.1. These procedures support and guide the operational processes of the Electoral Commission and the Electoral Commissioner in the administration of the *Electoral Act* and the *Local Government Act* in relation to:
    - Applications for the registration of parties.
    - Applications to amend the Register of Parties and the Local Government Register of Political Parties.
    - Annual returns of registered parties as to their continued eligibility for registration.
  - 3.2. These procedures provide a clear and structured framework for these processes for the following purposes:
    - To protect the integrity of representative government in NSW by ensuring that only eligible parties receive the benefits of registration.
    - To enable the participation of eligible parties in a fair and transparent electoral process.
    - To ensure the functions of the Electoral Commissioner with regard to the registration of parties are exercised in a manner that is not unfairly biased against or in favour of any particular parties, groups, candidates or other persons, bodies or organisations.
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### 4. Scope

- 4.1. These procedures apply to officers of the Electoral Commission, including contractors and third-party consultants, who are involved in the administration of the processes outlined in these procedures.
  - 4.2. These procedures are to be implemented consistently but do not prevent the Electoral Commissioner taking a different approach when the merits of a particular case justify it.
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## 5. Processing applications for registration

### Overview of process

- 5.1. This is a guide to the processes the Electoral Commission and the Electoral Commissioner follow when a political party that is not yet registered under the *Electoral Act* or the *Local Government Act* seeks registration in NSW.

### Pre-application phase

- 5.2. The **pre-application phase** is where a party expresses an interest in being registered and provides certain documents and information to the Electoral Commission in preparation for submitting an application for registration.
- 5.3. The party should, at this point, have a secretary and its headquarters must be in NSW. It is a matter for the party to choose a secretary in accordance with the party's rules. The Electoral Commission will liaise with the secretary through the pre-application phase.

- 5.4. The Electoral Commission can provide the secretary with guidance on the requirements of an application for registration including the requirements for a valid party constitution.
- 5.5. The party can be advised that a valid constitution should include the following information in:
  - the party's objects;
  - the procedures for amending the party's constitution;
  - the rules for membership of the party, including the procedure for accepting a person as a member and ending a person's membership;
  - a description of the party's structure and of how the party manages its internal affairs;
  - the procedure for selecting a person to hold an office in the party and for removing a person from office.
- 5.6. Additionally, the party is to provide the names of the officers or members of the party responsible for ensuring the party complies with the Electoral Act and the Electoral Funding Act.
- 5.7. The party secretary is to provide the Electoral Commission with the proposed registered name and abbreviated name (if any) of the party and a copy of the party's constitution. Information about the rules that apply to the registered name or abbreviated name of a party and the constitution of a registered party can be found on the Electoral Commission's [website](#).
- 5.8. After reviewing the information and documents provided by the secretary, staff of the Electoral Commission will make a preliminary assessment about whether the proposed name(s) and constitution meet the requirements for the party's registration to be considered. If the preliminary assessment is that the proposed name and/or constitution do not comply with legislation, staff of the Electoral Commission will notify the secretary accordingly so that the party can consider making changes, as required.
- 5.9. If no changes would be required to the proposed name(s) and/or constitution for a future application to comply with legislation, or once any changes have been made, staff of the Electoral Commission will provide the secretary with online access to the Electoral Commission's party registration system (PPRS) so they may create the list of members the party intends to rely on for registration.
- 5.10. To create the list of members the party must have, for each member, the person's enrolled name, address and date of birth. This information should be included in the member declaration forms returned to the party by each of its members.
- 5.11. The Electoral Commission's system does not display a member's enrolled details but instead confirms whether the details entered by the party match the person's enrolled details.
- 5.12. If the details entered do not match the enrolled details of a member it is up to the party to confirm with the member the correct enrolment details.
- 5.13. There could be technical and other reasons why the member's enrolment details do not return a match in the system. For example, if a member has recently updated their enrolment there could be a period of time before the update occurs in the system. In these cases, the secretary should contact the Electoral Commission for assistance.
- 5.14. If a member is a silent elector, meaning their enrolled address is not displayed on any electoral roll or list of electors, the member's details will not be matched when entered into the system. The member may still be included on the list. Only members who are silent electors may be entered into the Electoral Commission's system without an address and without an indication of a match to the Electoral Information Register. The member declaration forms of members who are silent electors do not need to specify the address of the member.

- 5.15. The list of party members, indicating a match to the Electoral Information Register, must be at least the number of members required by the party for registration (750 members for State elections and 100 members for local government elections). The party can include additional members in the list of members. Including additional members is encouraged so the party's total number of members does not fall below the minimum required, if enrolment details cannot be confirmed.
- 5.16. The first 100 or 750 members in the list of members (as applicable) are taken to be the list of members the party intends to rely on for registration and any additional members included in the list may be relied on by the party for registration should there be members who cannot be relied on.
- 5.17. It is the responsibility of the party to ensure, prior to submitting the application, that the list of the names and addresses of members the party intends to rely on for registration and any additional members have been entered into the Electoral Commission's system and enrolment details confirmed. It is also the responsibility of the party to ensure there is a completed and signed member declaration form for each member on the member list, prior to submitting an application.
- 5.18. The secretary is to notify the Electoral Commission when the list has been completed and confirm that the number of members on the list with confirmed enrolment is at least the number required for the party's registration.
- 5.19. The Electoral Commission is to review the list of members to confirm the number of members whose enrolment details have been matched is at least the number required for the party's registration. The Electoral Commission is to notify the secretary if additional members need to be added to the list. The secretary will be provided with a copy of the completed list to be lodged with their application. The party secretary must ensure that each of the members on the list is supported with a valid member declaration form before lodging the application.
- 5.20. The party should, at this point, decide the people who will be the party's senior office holders, including those who will occupy the following roles:
  - The registered officer, who is primarily responsible for the party's compliance with the requirements of the Electoral Act or the Local Government Act, and who may nominate candidates for the party at elections. The registered officer also acts as a back up to the party agent for compliance with the requirements of the Electoral Funding Act under certain circumstances.
  - The deputy registered officer, who acts as a back up to the registered officer for compliance with the requirements of the Electoral Act or the Local Government Act under certain circumstances, and who may nominate candidates for the party at elections.
  - The party secretary, who lodges the party's application for registration and acts as a back up to the deputy registered officer under certain circumstances for compliance with the requirements of the Electoral Act or the Local Government Act.
  - The party agent, who manages the party's compliance with the requirements of the Electoral Funding Act.

Each of these roles has certain responsibilities in relation to the party's registration (once registered) and/or meeting the party's electoral funding and disclosure obligations. It is a matter for the party to ensure the people who will occupy these roles have been chosen by the party in accordance with its constitution and appointed in accordance with the legislation.

It is recommended that a different person occupy each of these roles. Each role has its own responsibilities, and some roles take on additional responsibilities under certain circumstances. For example, a person cannot be both the party's registered officer and deputy registered officer due to the deputy registered officer's role being a back up to the registered officer for compliance with the Electoral Act and the Local Government Act if the registered officer is dead or otherwise unavailable. Other factors include the following:

- The party secretary acts as a back up to the deputy registered officer under certain circumstances for compliance with the requirements of the Electoral Act or the Local Government Act.
- The registered officer acts as a back up to the party agent for compliance with the requirements of the Electoral Funding Act under certain circumstances.

More information about senior office holders can be found on the Electoral Commission's [website](#).

- 5.21. Once the party appears to have the required information and documents to make a complete application, the Electoral Commission will confirm the party can proceed to the **application submission phase**.

### Application submission phase

- 5.22. The **application submission phase** commences when the secretary makes an application to register the party.
- 5.23. The party must ensure before the application is made that it has a completed and signed membership declaration form for each of the members it intends to rely on for registration. The party should also ensure that any additional members listed are supported by a member declaration form. After creating the list in the PPRS, the party secretary should ask each member it intends to rely on for registration to complete and return to the party a [member declaration form](#). All the completed forms must be provided by the party to the Electoral Commission with the application for registration as part of the **application submission phase**.
- 5.24. The relied-upon party members can also use the Electoral Commission's [online enrolment verification tool](#) to confirm their enrolment.
- 5.25. Each party member must also complete and sign their own member declaration form. Digital images of the member's actual signature on a form are acceptable but software-generated images of the member's name in generic fonts are not. To support integrity further, the party must also not pre-fill information about any member on their declaration form. Only the name of the party may be pre-filled on the form.
- 5.26. The application for registration is made using the approved *Application for Party Registration* form published on the Electoral Commission [website](#). The secretary, registered officer, and deputy registered officer must each sign the application form. The following documents must be provided:
- The application form completed in full, setting out the particulars required by the Electoral Act including the following:
    - The name and (if applicable) the abbreviated name of the party.
    - The name and addresses of the registered officer, deputy registered officer, and party secretary.
    - The address of the party headquarters in NSW.

- The list of the names and addresses of members the party intends to rely on for registration (at least 750 for a party applying to be registered for State elections, and at least 100 for a party applying to be registered for local government elections) produced using the Electoral Commission's system.
- Membership declaration forms completed and signed by each member the party intends to rely on for registration.
- A current copy of the party's constitution.
- If not included in the constitution, the following information set out separately:
  - the party's objects;
  - the procedures for amending the party's constitution;
  - the rules for membership of the party, including the procedure for accepting a person as a member and ending a person's membership;
  - a description of the party's structure and of how the party manages its internal affairs;
  - the procedure for selecting a person to hold an office in the party and for removing a person from office;
  - the names of the officers or members of the party responsible for ensuring the party complies with the Electoral Act and the Electoral Funding Act.
- The form and accompanying documents must be submitted to the Electoral Commission in one of the following ways:
  - by email to [fdc@elections.nsw.gov.au](mailto:fdc@elections.nsw.gov.au);
  - by post to NSW Electoral Commission, GPO Box 4046, Sydney NSW 2001;

5.27. An application for registration under the Electoral Act is to include the payment of a \$2,000 fee. The Electoral Commission provides applicants with the payment details.

5.28. The Electoral Commission is to confirm receipt of the party's application, provide the secretary with information on the following phases and an estimate of the timeframe for dealing with the application. If the application is submitted during an election period, the secretary is to be advised that the next phase will not commence until the election period has ended.

### Tests and inquiries phase

5.29. The **tests and inquiries phase** starts after the application for registration has been received by the Electoral Commission for the purpose of determining whether the party is an eligible party, and the application is duly made. Tests and inquiries are generally undertaken by the Electoral Commissioner prior to the Electoral Commissioner publishing the public notice of the application. The Electoral Commissioner may consider it necessary to make other inquiries about the party, the members of the party or its application for registration.

5.30. If the application is made during an election period, this phase commences after the completion of the election period.

- 5.31. The Electoral Commission is to review the party's application to ensure that it appears to have been duly made, including the following:
- The information provided in the application appears to be complete and correct.
  - The party's constitution has been provided and includes the required information (or the required information is provided separately as part of the application).
  - The list of members of the party is at least the number required for the party to be eligible for registration.
  - There is a completed and signed member declaration for each of those members.
- 5.32. The application cannot be amended unless the Electoral Commissioner refuses a party's application for registration, in which case the party may then lodge an amended application (see [5.71](#)). Adjustments to the list of party members in accordance with [5.40](#) must be confirmed with the relevant party officeholder.
- 5.33. The Electoral Commission is to review the party's constitution to confirm:
- the name of the party (and the abbreviated name, if any) in the application are the same as the party's name (and abbreviated name, if any) in its constitution;
  - if the party is an incorporated entity, the name of the party in the constitution is the same as its name as an incorporated entity;
  - the party is established on the basis of the constitution (however expressed);
  - it includes:
    - the party's objects;
    - the procedures for amending the party's constitution;
    - the rules for membership of the party, including the procedure for accepting a person as a member and ending a person's membership;
    - a description of the party's structure and of how the party manages its internal affairs;
    - the procedure for selecting a person to hold an office in the party and for removing a person from office;
- If the party's constitution does not contain the information set out above, the Electoral Commission is to confirm that it is set out separately in the party's application for registration.
- 5.34. Additionally, the names of the officers or members of the party responsible for ensuring the party complies with the Electoral Act and the Electoral Funding Act is information that is required to be included in the application, and this can be set out separately to the constitution.
- 5.35. The Electoral Commission is to review the list of members relied on by the party to verify the members that can be relied on by the party. For each member, confirming they:
- are enrolled to vote in NSW;
  - are not relied on by any other registered party; and
  - have completed and signed a member declaration form.
- 5.36. Any member on the list who is not enrolled to vote in NSW is to be marked by the Electoral Commission as not a valid member. The Electoral Commission may use the electoral roll to confirm each member's enrolment.

- 5.37. If a member is also relied on by another registered party, Electoral Commission staff will contact the member to ask them to nominate which party is entitled to rely on the member for registration. A response is sought within 30 days of receiving the request.
- If the member does not nominate the party that has submitted the application, Electoral Commission staff will exclude that member from the list of members, as not a valid member.
  - If the member does nominate the party that has submitted the application, Electoral Commission staff will exclude the member from the other party's list of members, as that member is no longer a valid member and the party will be notified. If it results in that party not having the requisite number of members to remain eligible for registration that party is to be asked to amend its registered details by providing details of another member and provide a completed and signed member declaration form.
  - If the member does not nominate either party, the member is excluded from both party member lists.
- 5.38. Any member where there is not a completed and signed member declaration form is to be marked on the list as not a valid member and is not counted in the number of party members.
- 5.39. If these procedures result in the party not being able to rely on one or more members included in the list of members, Electoral Commission staff will advise the party secretary of the members that may not be relied upon.
- 5.40. If additional members were provided by the party to replace the members who cannot be relied upon, one or more of the additional members (as required) may be verified as valid and used to substitute members who are identified as invalid. The revised list becomes the final list which forms part of the application that proceeds to the **member confirmation phase**.
- 5.41. If an insufficient number of additional members have been provided by the party to replace those who cannot be relied upon, Electoral Commission staff will recommend that the Electoral Commissioner refuse to register the party because its application has not been duly made and the party does not appear to be eligible for registration. The application is to proceed to the **application decision phase**.

### Member confirmation phase

- 5.42. The Electoral Commissioner carries out tests and inquiries to determine whether the party is an eligible party, and the application is duly made. The Electoral Commissioner may carry out tests to verify membership of the party or make other inquiries about members of the party.
- 5.43. The member confirmation phase generally consists of contacting a sample of members from the list of members to verify they are members of the party, to confirm the party is eligible for registration. This phase generally takes place before the Electoral Commissioner publishes a notice of the party's application, but it can occur at other times.
- 5.44. Once the Electoral Commission commences contacting a sample of members, only general information is provided to the party about the test or inquiry or application, that is, general information about how the phase or application is progressing and information contained in policy documents or available on the Electoral Commission's website.
- 5.45. The Electoral Commission does not provide specific information about this phase, such as:
- the names of the members in the sample who are asked to confirm their membership of the party;
  - information about members who have or have not confirmed their membership of the party or advised they are not members of the party; and
  - numbers or statistics about member responses.

- 5.46. For the testing and confirming membership, the following sample of members is randomly selected from the list of party members:
- a random sample of 150 members in the case of a party applying for registration for State elections, or
  - a random sample of 20 members in the case of a party applying for registration for Local Government elections.
- 5.47. Each person selected randomly from the list is to be sent an email (if an email address has been provided on the member's declaration form) or letter addressed to their enrolled address, including a prepaid reply envelope, asking the member to confirm:
- the member signed the membership declaration form; and
  - they are a member of the party.

Additionally, the correspondence may request that the member provide their phone number and email address if not already provided on their member declaration, so the Electoral Commission can contact the member if further inquiries need to be made with them.

- 5.48. Each member is to be given 28 days from the date of the email or letter to reply to the Electoral Commission. The reply may be sent to the Electoral Commission by post, email or fax. If the member is contacted by email, the member may provide a response in the body of an email they send in reply.
- 5.49. After the 28-day reply period the responses are collated. Responses are categorised as one of the following:
- Affirmative responses
  - Negative responses
  - Ambiguous responses
  - Refusal or failure to respond
- 5.50. An ambiguous response is one where it is not reasonably clear what the member's intended response is. In such cases, Electoral Commission staff will attempt to contact the member (by phone or email) to confirm the member's response, if contact details have been provided by the member. If contacted, the member's response is to be recorded and the response is counted as either affirmative or negative. If a member cannot be contacted the response remains categorised as an ambiguous response.
- 5.51. Refusal or failure to respond include letters that are "returned to sender" or bounced/undelivered emails.
- 5.52. Electoral Commission staff will assess if a response is affirmative, negative, ambiguous, or a refusal/failure to respond.
- 5.53. If a member incorrectly completes or inadvertently disposes of the letter, the member may write to the Electoral Commissioner to confirm they signed the declaration form and are a member of the party.
- 5.54. If either of the following circumstances occur the application must be subject to a **further member confirmation phase**:
- Affirmative responses received are less than 75 for a party applying to be registered for State elections or less than 10 for a party applying to be registered for Local Government elections.
  - Negative responses received are more than 5 for a party applying to be registered for State election or more than 2 for a party applying to be registered for Local Government elections.

- 5.55. If neither of the circumstances set out above apply and the application appears otherwise to be duly made, including that there are still potentially the minimum number of members excluding those claimed members from whom responses were not received or who denied being members at all, a recommendation is to be made to the Electoral Commissioner that the party *may be* an eligible party and its application *may have been* duly made and the application should progress to the **public notice phase**. Additionally, it is recommended that if no objections are received following the publication of notice, the Electoral Commissioner be satisfied that the party is eligible for registration and the application duly made, and that the application proceed to the **application decision phase**.

#### Further member confirmation phase

- 5.56. The **further member confirmation phase** takes place if either of the circumstances under 5.54 occur.
- 5.57. Electoral Commission staff will notify the party secretary of the following:
- The party's application did not pass the member confirmation phase due to either or both of the following and that the application has now proceeded to the **further member confirmation phase**:
    - less than the required number of affirmative responses were received, or
    - more than the number of allowable negative responses were received, or
    - both.
  - Based on the results of the member confirmation phase, the Electoral Commissioner is not satisfied the party is eligible for registration and may refuse to register the party.
  - The party may provide, within 14 days, written evidence supporting its eligibility for registration for the Electoral Commissioner to consider in determining whether to refuse to register the party. This may include, but is not limited to the following:
    - a statutory declaration from the party secretary to verify the members included in the party's application (in addition to those surveyed) are members of the party.
    - Documents (for example internal party lists, records of membership fees paid) to verify the members included in the party's application (in addition to those surveyed) are members of the party.
  - The Electoral Commissioner will consider any response received from the party and may undertake further or other tests or inquiries to be satisfied that the party has the requisite number of members to be or remain eligible for registration.
- 5.58. The Electoral Commission is not to provide the party with information about persons who have or have not provided responses in the initial member confirmation phase, or the nature of any responses.
- 5.59. If no response is received from the party within the 14-day timeframe a recommendation is to be made to the Electoral Commissioner to refuse to register the party on the basis it is not eligible for registration and the application is to progress to the **application decision phase**.

- 5.60. If the party secretary provides information or documents in response to the letter from the Electoral Commissioner, the information and documents are to be reviewed and attached to a recommendation that either the Electoral Commissioner:
- refuse to register the party in the **application decision phase** because it is not eligible for registration, or
  - be satisfied that the party *may be* eligible for registration and its application *may have been* duly made, with the application proceeding to the **public notice phase** subject to any further tests or inquiries that may be carried out beforehand that the Electoral Commissioner thinks necessary. Additionally, it is recommended that if no objections are received following the publication of notice, that the Electoral Commissioner be satisfied that the party is eligible for registration and the application duly made, and that the application proceed to the **application decision phase**.

### Public notice phase

- 5.61. The **public notice phase** commences when the Electoral Commissioner is satisfied that the party *may be* eligible for registration and its application *may have been* duly made.
- 5.62. The Electoral Commissioner is to publish a notice stating that an application for registration has been received from the party, that the application can be inspected in the office of the Electoral Commission, and that any objections to the application may be lodged with the Electoral Commissioner within 14 days.
- 5.63. The notice is to set out the following details that are included in the application:
- The name and (if applicable) the abbreviated name of the party.
  - The names and addresses of the registered officer, deputy registered officer, and party secretary.
  - The address of the party headquarters in NSW.
- 5.64. The notice is to be published in one or more newspapers circulating throughout New South Wales and on the Electoral Commission's website on the same day. It is removed from the website after the 14-day objection period.
- 5.65. Where reasonably practicable, the Electoral Commission will also publish information on social media to direct interested parties towards the notice on the website.
- 5.66. After the 14-day objection period, the Electoral Commissioner is to consider any objections received in order to determine:
- whether the party is eligible for registration, and
  - whether the application was duly made, and
  - whether the Electoral Commissioner should refuse to register the party.
- 5.67. If one or more objections are received, they are reviewed and are to be considered by the Electoral Commissioner. The objections are to be included as attachments to a recommendation made to the Electoral Commissioner to either refuse to register the party because it is not eligible for registration or be satisfied that the party is eligible for registration and its application duly made, proceeding to the **application decision phase**.
- 5.68. If one or more objections are received, the Electoral Commissioner may make further inquiries of the party. The Electoral Commissioner may ask the party secretary, or any member the party is relying on for registration, to verify by way of statutory declaration, information contained in the application or information about the person's membership of the party.

## Application decision phase

- 5.69. If the Electoral Commissioner is satisfied at the completion of the public notice phase that the application has been duly made and the party is eligible for registration, the application progresses to the **registration phase**.
- 5.70. If the Electoral Commissioner is satisfied that the party is not eligible for registration or its application is not duly made and refuses to register the party, the party secretary is notified in writing of the refusal, the reasons for the refusal, and that the application may be amended within 30 days of the notice. The party secretary is to be notified as soon as is reasonably practicable after the Electoral Commissioner's decision. Following the notification:
- if an amended application is received within the 30-day timeframe, the application progresses to the **amended application phase**, or
  - if no amended application is received within the 30-day timeframe, no further action is required.

## Amended application phase

- 5.71. The amended application phase commences when the party secretary prepares to submit an amended application for registration.
- 5.72. The amended application can be made by amending information on a copy of the application form that was originally submitted. The party secretary may use the Electoral Commission's system to provide additional members or a new list of members. The procedures set out in the **pre-application phase** apply prior to the amended application being submitted.
- 5.73. An amended application for registration that is submitted within 30 days following a refusal by the Electoral Commissioner to register the party may be dealt with by the Electoral Commission according to procedures set out in the **application submission phase, tests and inquiries phase, member confirmation phase** and **further member confirmation phase** but only to the extent of the information that has been amended in the application.
- 5.74. If the Electoral Commission refuses to deal with an amended application, the party secretary is to be notified of this in writing. Examples of reasons for refusing to deal with an amended application include the following:
- The party has not made amendments to the application that appear to address the reasons for which the Electoral Commissioner refused to register the party.
  - The party has already lodged an amended application which was not dealt with, or on the basis of which the Electoral Commissioner again refused to register the party, and to deal with further amended applications would present an unreasonable administrative burden.
- 5.75. If an application was refused following the original **public notice phase** and the party has amended the application, subsequent public notice is not required if the amendments are minor. In circumstances where the amendment is minor in nature, the application is to proceed to the **application decision phase** and a recommendation is to be made to the Electoral Commissioner that either:
- the amendments are of a minor nature only and the party *may be* eligible for registration and that its application appears to have been duly made; or
  - the amendments are of a minor nature only but either the party is not eligible for registration or its application is not duly made.

- 5.76. If the Electoral Commissioner is of the opinion that the amendments are not of a minor nature, subsequent public notice is required, and the **public notice phase** is repeated. In such circumstances a recommendation is to be made to the Electoral Commissioner that the amendments are not of a minor nature and the party *may be* an eligible party and its application *may be* duly made. If the Electoral Commissioner accepts this recommendation, the application proceeds to the **public notice phase**. Additionally, it is recommended that if no objections are received following the publication of notice, that the Electoral Commissioner be satisfied that the party is eligible for registration and the application duly made, and the application proceeds to the **application decision phase**.

### Registration phase

- 5.77. The registration phase commences when the Electoral Commissioner is satisfied that the party is eligible for registration and its application is duly made.
- 5.78. The registration of the party is effected by inserting the name of the party in the Register of Parties or the Local Government Register of Political Parties.
- 5.79. The Electoral Commission [website](#) is to be updated with the registered details of the party.
- 5.80. The party is to appoint a person as the party agent of the party and is to notify the Electoral Commission within 30 days of the party agent's appointment.
- 5.81. If the party is registered for State elections, the party must provide the Electoral Commission with a list of the party's senior office holders.
- 5.82. The Electoral Commission is to notify the party secretary, registered officer, and deputy registered officer of the party's registration and provide information about the party's obligations and entitlements and the date of the 12-month anniversary of the party.
- 5.83. A copy of the list of members the party relies on for registration is to be provided to the registered officer.

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## 6. Processing applications to amend the party registers

### Overview of process

- 6.1. This section outlines the processes undertaken when a registered party applies to amend its registered details. This should be read alongside existing policies and relevant legislation.

### Amendment preparation phase

- 6.2. The **amendment preparation phase** starts when a registered party commences the process to amend its registered details either because of a legislative requirement to make an application to amend the party's registered details within 21 days or because of any other change to the party's registered details.
- 6.3. Electoral Commission staff may provide guidance and information to the registered officer of the party, or the party secretary or deputy registered officer, if the registered officer is unavailable.

- 6.4. Information and guidance can include information and/or documents that a party must provide as part of an application to amend the party's registered details, including:
- information about the party that must be included in the party's written constitution, or if not included in the constitution, in a separate statement outlining such information about the party;
  - if the registered name or abbreviated name of the party is being changed, a tentative indication of whether the name or abbreviated name is compliant;
  - access to and/or assistance with using the Electoral Commission's PPRS to add or remove the names and addresses of members the party relies on to remain eligible for registration; and
  - any other general support and guidance with regard to making the application.
- 6.5. Depending on the registered details to be amended, information and/or documents to the same effect as those for a new application for registration may need to be submitted with the application for amendment.
- 6.6. If the application is to amend the list of members on whom the party relies for registration, the party officer making the application is to request from the Electoral Commission a current copy of the list of members the party relies on for registration or refer to the list of members in the Electoral Commission's system. The application for amendment is to include a list of members that the party no longer relies on for registration and a list of the names and enrolled addresses of any new members the party intends to rely on for registration.
- 6.7. If the party intends to rely on new members, the party must obtain completed and signed membership declaration forms from each of the new members in the same way as outlined in the pre-application phase for an application to register a party.

#### **Amendment application phase**

- 6.8. The **amendment application phase** commences when an application to amend a party register is lodged:
- by the registered officer of the party, or
  - if the application is to change the registered officer of the party and the registered officer has died or is otherwise unavailable, by the deputy registered officer (or, if there is no deputy registered officer, the secretary of the party).
- 6.9. The application for amendment must be made using:
- the *Application to amend the party register(s)* form published on the Electoral Commission's [website](#) that:
    - has been completed legibly and in full;
    - has been signed by the relevant party office holder; and
    - is accompanied by the information and/or documents that must be included depending on the registered details to be amended.
- 6.10. If the application is made using the form published on the Electoral Commission's website, the form and any accompanying documents or information may be lodged by:
- email to [fdc@elections.nsw.gov.au](mailto:fdc@elections.nsw.gov.au);
  - mail to GPO Box 4046, Sydney NSW 2001.

### Amendment application assessment phase

- 6.11. The amendment application assessment phase commences after the application has been made.
- 6.12. The application is to be assessed in the same way as an application to register a party with modifications to the procedures dependent on the registered details proposed for amendment:
- The Electoral Commission is to liaise with the party office holder who made the application; and
  - New members proposed to be added to the list of members the party relies on to remain eligible for registration are generally not asked to confirm their membership of the party;
  - The procedure where a member is relied on by 2 or more parties generally does not commence until the completion of the process for dealing with the application for amendment.
- 6.13. If the application appears to have been made in the approved form and manner by the relevant office holder, a recommendation of either of the following may be made:
- The Electoral Commissioner may be satisfied that the application is duly made by the party and, if the Electoral Commissioner agrees with the recommendation, the application progresses to the **amendment public notice phase**. Additionally, it is recommended that if no objections are received during the objection period outlined in the **amendment public notice phase**, the Electoral Commissioner may be satisfied that the application has been duly made by a party that remains eligible for registration and the application proceeds to the **amendment decision phase**.
  - If the Electoral Commissioner is of the opinion that the amendment is of a minor nature only, be satisfied that the application has been duly made and the party remains eligible for registration. The application proceeds to the **amendment decision phase**.
- 6.14. If the application appears not to have been made in the approved form and manner by the relevant office holder of a party, the application is to proceed to the **application decision phase**.
- 6.15. The application cannot be amended after it has been made. Adjustments to the list of party members must be confirmed with the relevant party officeholder before the application proceeds to either the **amendment public notice phase** or the **amendment decision phase**.

### Amendment public notice phase

- 6.16. The **amendment public notice phase** commences when the Electoral Commissioner is satisfied that the application to amend the party register *is* duly made and the party *is* eligible for registration.
- 6.17. A notice is to be published stating that an application to amend the Register of Parties or the Local Government Register of Political Parties has been received and requesting that any objections to the application be lodged with the Electoral Commissioner within 14 days. The notice sets out certain details that are to be included in the application, such as the name and address of the party's office holders and the address of the party's headquarters in NSW, and states that the application can be inspected in the office of the Electoral Commission.
- 6.18. The notice is published in one or more newspapers circulating throughout New South Wales and on the Electoral Commission's [website](#) on the same day. It is removed from the website after the 14-day objection period.

- 6.19. After the 14-day objection period, the Electoral Commissioner will consider any objections received (before the application may proceed) in order to determine:
- whether the party referred to in the application is eligible for registration, and
  - whether the application was duly made, and
  - whether the Electoral Commissioner should refuse to approve the application.
- 6.20. If one or more objections are received, these are to be included as attachments to a briefing note requesting the Electoral Commissioner either refuse to approve the application or be satisfied that the application is duly made, and the party remains eligible for registration and it proceeds to the **amendment decision phase**.
- 6.21. If no objections are received the application progresses to the amendment decision phase, the recommendation having already been made.

### Amendment decision phase

- 6.22. If the Electoral Commissioner is satisfied that an application to amend a party register is duly made by a party that remains eligible for registration the application progresses to the **register amendment phase**.
- 6.23. If the Electoral Commissioner does not approve the application, the relevant party office holder is to be notified of the refusal, the reasons for the refusal, and that the application may be amended within 30 days of the notice and may be dealt with. The applicant is to be notified as soon as is reasonably practicable after the Electoral Commissioner's decision. Following the notification:
- if an amended application is received within the 30-day timeframe, the Electoral Commission may deal with the application by processing it in accordance with the **amendment application phase**, or
  - if no amended application is received within the 30-day timeframe, no further action is required.

### Register amendment phase

- 6.24. The **register amendment phase** commences when the Electoral Commissioner is satisfied that an application to amend a party register has been duly made by a party that remains eligible for registration.
- 6.25. Electoral Commission staff will amend the Register of Parties or the Local Government Register of Political Parties in accordance with the amendments approved by the Electoral Commissioner. If the change relates to a senior office holder of the party, the party may also need to update its Senior Office Holder's list and information provided for compliance with the Electoral Funding Act.
- 6.26. The registered details of the party on the Electoral Commission website are to be updated.
- 6.27. The party officer who made the application, and the registered officer unless unavailable, are to be notified of the approval of the amendment.



## 7. Procedures for the annual return check of continued eligibility for registration

### Overview of process

- 7.1. This section outlines the annual process undertaken to confirm the continuing eligibility of a party to remain registered. That is, that a party is established on the basis of a written constitution and has the requisite number of members to be eligible for registration.

### Pre-return phase

- 7.2. Each year, at least 28 days before the start of June, the registered officer of each registered party is notified of the requirement to provide the Electoral Commissioner with a return as to its continued eligibility for registration.

This notification includes the following guidance about:

- how and when the registered officer can complete the party's annual return.
  - if the return amends the party's registered details the application will be processed according to the procedures for dealing with an application for amendment.
  - information about members who can no longer be relied on by the party.
  - instructions for updating the party's member list and other particulars or documents on the party register so these are complete, accurate, and support the party's continued eligibility for registration.
- 7.3. If a party lodges documents intended as an annual return before June, the registered officer is to be advised that the return cannot be dealt with and should be resubmitted between 1 June and 30 June.

### Annual Return lodgement phase

- 7.4. The return lodgement phase commences each year on 1 June.
- 7.5. A party's annual return is required to be lodged between 1 June and 30 June by the registered officer in the approved form and manner.
- 7.6. The approved form is:
- the *Party Annual Return* form published on the Electoral Commission website that:
    - has been completed legibly and in full,
    - is signed by the registered officer, and
    - is accompanied by all documents to be included in a party's annual return, if required, including membership declaration forms for individuals being added to the party's list of members, the party's updated written constitution, and a statement containing the required party information if not included in the constitution.
- 7.7. The return documents should be lodged by email to [fdc@elections.nsw.gov.au](mailto:fdc@elections.nsw.gov.au) or by mail to GPO Box 4046, Sydney NSW 2001.

### Annual Return assessment phase

- 7.8. In processing the return, the Electoral Commission checks to ensure the return has been made by the registered officer of the party in the approved form and manner and that the requisite documents, if any, have been provided.
- 7.9. If the party is amending any of its registered particulars with its annual return (including its list of party members) the return is also an application to amend the party register and is processed accordingly.

- 7.10. If, after any amendments to the list of members or written constitution are made in respect of the party, the party's annual return appears to support its continued eligibility for registration a recommendation is to be made that the Electoral Commissioner be satisfied that the party has lodged an annual return that supports its continued eligibility for registration and the return progresses to the **annual return decision phase**.
- 7.11. If, after any amendment to the list of members are made in respect of a party, it is identified that a member is relied on by 2 or more parties the following is to occur:
- The person is asked to nominate in writing, within 30 days, the party entitled to rely on the member.
  - Advise the parties that the request has been made.
  - If, as a result of a nomination made by the person or a failure by the person to make a nomination, a party ceases to qualify as an eligible party, the party is to be advised in writing and the party is to be given at least 60 days in which to provide the requisite particulars and declarations of party membership of the necessary number of additional members of the party that it requires to qualify as an eligible party.
  - The processing of the annual return of the party may need to be put on hold until the member nominates the party or until the party submits an application to amend the list of members.
- 7.12. If by the end of June a party has not lodged an annual return that supports its continued eligibility for registration the registered officer is to be advised of the following:
- The requirements for the annual return have not been met;
  - The Electoral Commissioner may cancel the party's registration;
  - The registered officer may lodge an annual return that supports the party's continued eligibility for registration within 14 days of the notice and the Electoral Commissioner may decide not to cancel the party's registration despite the registered officer's failure to lodge a return that supports the party's continued registration by the end of June.

If the registered officer lodges a late annual return within 14 days of the notice it is to be processed as though it had been lodged by the end of June, except the recommendation to the Electoral Commissioner is to note the late lodgement of the annual return.

If the registered officer does not lodge a late annual return within 14 days of the notice a recommendation is to be made that the Electoral Commissioner cancel the registration of the party in the **annual return decision phase** due to a failure by the party to confirm its continued eligibility for registration.

### Annual Return decision phase

- 7.13. If the Electoral Commissioner is satisfied that the party has lodged an annual return that supports its continued eligibility for registration the return progresses to the **annual return finalisation phase**.
- 7.14. If the Electoral Commissioner is satisfied that the party is no longer eligible for registration, or the party's registered officer has not complied with the requirement to lodge an annual return that supports the party's continued eligibility for registration, the Electoral Commissioner may cancel the registration of the party and must:
- Give notice of the cancellation and the reasons for the cancellation to the person who was the registered officer of the party immediately before the cancellation and cause notice of the cancellation to be published:
    - in the Gazette, and
    - on the Electoral Commission's [website](#).

- Remove from the Register of Parties or Local Government Register of Political Parties the name and other particulars or documents relating to the party.

### Annual Return finalisation phase

- 7.15. If the Electoral Commissioner is satisfied that a party remains eligible for registration, the party's annual return (and any associated amendments to the party register) are finalised when:
- Any necessary changes are made to the party registers.
  - The registered officer is notified to confirm the outcome of the party's annual return including any amendments to the party register.
  - The registered officer is provided a copy of the party's member list following the finalisation of the party's annual return.
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## 8. Testing party membership and inquiries about registration at other times

- 8.1. At any time, by notice in writing, the Electoral Commissioner may require an applicant for registration or the registered officer of a party to provide information for the purpose of dealing with an application or determining whether the party is an eligible party.
- 8.2. To determine if a registered party is still an eligible party, the Electoral Commissioner may carry out the following tests and inquiries:
- Require a written response from a number of the members relied on for registration of the party confirming that they are members of the party
  - Conduct any other tests to verify membership of the party
  - Check members are enrolled in NSW
  - Make other inquiries about the members of the party or the party to determine whether the party is an eligible party and the application for its registration is duly made.
- 8.3. After a party's annual return is finalised in the year prior to the year in which the party is eligible to endorse candidates for:
- a NSW local government general election (unless the party is also eligible to endorse candidates for a NSW State general election), or
  - a NSW State general election,

the Electoral Commissioner may test the party's list of members using the procedures above and to the same effect as those outlined for an application to register a party.

## 9. General

### Applications not to be processed during an election period

- 9.1. A party may not be registered or an amendment made to a relevant party register in the period commencing on the day of the issue of the writ for a State election, or the closing of the rolls for a local government election, and ending on and including the election day for the election. No action is to be taken during that period in relation to such an application.

## Privacy considerations

- 9.2. The Electoral Commissioner and staff of the Electoral Commission will collect or be provided with personal information in the course of processing applications for party registration and annual returns.
- 9.3. All staff of the Electoral Commission are required to understand and comply with NSW privacy laws when dealing with personal information. These requirements are discussed in general terms in the Electoral Commission's [Privacy Management Plan](#).
- 9.4. Privacy considerations in relation to processing applications for party registration and annual returns include the following:
- Personal information of party officeholders will be provided to the Electoral Commission by way of documents associated with an application to register a party and by correspondence.
  - Personal Information will be provided by party members by way of membership declaration forms.
  - Individuals contacted by the Electoral Commissioner with regard to their party membership will provide written responses of a personal nature.
  - Staff of the Electoral Commission must ensure that the information sought is not excessive and does not unreasonably intrude into the personal affairs of the individual.
  - The Electoral Commission must take reasonable steps to ensure that the information included in the letter is accurate. For example, the correct date of birth, name, and address of electors.
  - When answering telephone calls or responding to correspondence, staff of the Electoral Commission must take reasonable steps to verify that they are talking to or corresponding with the individual concerned.
  - All records kept by the Electoral Commission that contain personal information and/or health information of an elector must be protected by taking such security safeguards as are reasonable in the circumstances, against loss, unauthorised access, use, modification or disclosure, and against all other misuse.

## Record keeping

- 9.5. Records are to be saved and maintained in an approved records management system of the Electoral Commission in accordance with the *Records Management Policy*.

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## 10. Relevant legislation

Relevant legislation can be found on the [NSW legislation website](#) and includes:

- *Electoral Act 2017* (NSW)
- *Electoral Funding Act 2018 (NSW) and Electoral Funding Regulation 2018*
- *Government Information (Public Access) Act 2009* (NSW)
- *Local Government Act 1993* (NSW)
- *Ombudsman Act 1974* (NSW)
- *Privacy and Personal Information Protection Act 1998* (NSW)

## 11. Roles and responsibilities in relation to these procedures

Who	How
Electoral Commissioner	<ul style="list-style-type: none"><li>• Approves these procedures and associated documents</li></ul>
Executive Director, Funding, Disclosure and Compliance, and General Counsel Director, Legal Director, CERS	<ul style="list-style-type: none"><li>• Participates in the consultation process</li><li>• Determines policy instrument content and compliance with electoral laws</li></ul>
Manager, Governance	<ul style="list-style-type: none"><li>• Coordinates administration of the policy development and review process</li><li>• Manages the publication, amendment or archiving of approved policy instruments in the Policy Library</li></ul>
Manager, Regulatory Education and Policy Policy and Project Officer	<ul style="list-style-type: none"><li>• Develops and amends procedures as required</li><li>• Forwards approved procedures to the Policy Coordinator for registration and publication</li><li>• Forwards approved procedures to the Policy Implementer (if not also the Policy Author) for implementation</li></ul>

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## 12. Monitoring, evaluation and review of these procedures

These procedures must be reviewed every three years by the Client Experience Regulatory Services Business Unit, or whenever it becomes apparent that a revision is needed.

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## 13. Associated documents

Associated documents and additional resources are available [on our website](#) and include:

- *Records Management Policy*
  - *Party Registration Policy*
  - *Complaints Management Policy*
  - *Privacy Management Plan*
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## 14. Document control

### Document management

Approved by:	Signature:	Date approved:
John Schmidt Electoral Commissioner	By email	30 June 2022
<b>Executive Director Review:</b>	<b>Signature:</b>	<b>Date reviewed:</b>
Rachel McCallum Executive Director, Funding, Disclosure and Compliance, and General Counsel	By email	28 June 2022
<b>Director Review:</b>	<b>Signature:</b>	<b>Date reviewed:</b>
Emma Keene Director, Client Experience Regulatory Services	By email	24 June 2022

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### Review record

Date	Version	Revision description
30 June 2022	V 1.0	New procedures approved