

## Fact sheet

# Third-party campaigners at the 2023 NSW State election

The following information is for third-party campaigners at the 2023 NSW State election. 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 a third-party campaigner?

A [third-party campaigner](#) at the 2023 NSW State election is an individual or entity that incurs more than \$2,000 in electoral expenditure during the [capped expenditure period](#) for the election but does not stand as a candidate or group, and is not a political party, associated entity or an elected member.

A person or entity becomes a [third-party campaigner](#) when they [register](#) with the NSW Electoral Commission (Electoral Commission) as a [third-party campaigner](#) for the election or when they incur more than \$2,000 in [electoral expenditure](#) during the capped expenditure period for the election.

Electoral expenditure of a third-party campaigner is expenditure that has the [dominant purpose](#) of promoting or opposing a party or candidate/s or influencing voting at the election.

The capped expenditure period for the 2023 NSW State election is from 1 October 2022 to election day, 25 March 2023.

### Register as a third-party campaigner and appoint an official agent

A third-party campaigner must [register](#) for the 2023 NSW State election before making payments of more than \$2,000 for electoral expenditure when more than \$2,000 of expenditure is incurred during the capped expenditure period. Making payments without being registered when more than \$2,000 is incurred is an offence under NSW electoral funding law.

A third-party campaigner must also appoint an [official agent](#) who is required to comply with [disclosure](#) and [campaign account](#) legal requirements on behalf of the [third-party campaigner](#). To be [appointed as an official agent](#), a person must meet the requirements for appointment including successfully completing the Electoral Commission's [agent training program](#) (unless exempt).

Apply to be registered as a third-party campaigner and appoint an official agent using [Funding and Disclosure Online](#). Alternatively, you may [contact](#) the Electoral Commission and request a form.

Registration applies for one election only and the registers of official agents and [third-party campaigners](#) are published on the [NSW Electoral Commission website](#). If registered details of a third-party campaigner or their official agent change, the official agent must notify the NSW Electoral Commission within 30 days using agent using [Funding and Disclosure Online](#).

The Electoral Commission's [Third-party campaigner registration video](#) provides further information on the registration process.

## Managing political donations and electoral expenditure

The official agent of a third-party campaigner must keep and retain accounting [records](#) for at least three years in accordance with NSW electoral funding law.

### Campaign accounts

Third-party campaigners are required to keep a [campaign account](#) for the 2023 NSW State election to make payments for electoral expenditure incurred during the capped expenditure period and to deposit political donations received that are used to make payments for expenditure incurred.

The campaign account is required to be a separate account held in Australian dollars with a financial institution and be operated by the official agent or by a person appointed by the official agent.

Funds of the third-party campaigner may be paid into the campaign account to pay for electoral expenditure. A political donation made to a third-party campaigner that exceeds the applicable cap on political donations must not be paid into the campaign account. Payments for expenditure, other than electoral expenditure, can be paid from the campaign account.

### Political donations

Political donations must be disclosed in New South Wales and the *Electoral Funding Act 2018* sets out requirements regarding who can make and accept political donations. Only people enrolled to vote in NSW, entities with a business number, or those who have supplied the NSW Electoral Commission with acceptable identification can lawfully make donations.

A political donation made to a third-party campaigner, is a gift intended (in whole or part) to:

- enable the entity or person to make (directly or indirectly) a political donation or to incur electoral expenditure
- to reimburse the entity or person for making (directly or indirectly) a political donation or incurring electoral expenditure.

Political donations that are used by a third-party campaigner or associated entity to make payments for electoral expenditure that is incurred during the capped expenditure period for an election, cannot be accepted unless the associated entity or third-party campaigner:

- is registered with the Electoral Commission
- has an official agent
- the donations are made to the official agent.

If a political donation is used to make payments for electoral expenditure, the donation must first be paid into the campaign account by the official agent. The official agent may appoint a person in writing to accept political donations and/or make payments for electoral expenditure from a campaign account. The official agent must issue receipts or acknowledgements for all reportable political donations received by the third-party campaigner.

Political donations are subject to specific [caps](#) in New South Wales. The cap on political donations for third-party campaigners for the 2022-23 financial year is \$3,300. This means that a third-party campaigner can only accept up to \$3,300 from each donor during this financial year.

### Electoral Expenditure

[Electoral expenditure](#) of a third-party campaigner includes only expenditure which is incurred for the [dominant purpose](#) of promoting or opposing a party or the election of a candidate or candidates or influencing the voting at an election.

Electoral expenditure incurred by, or on behalf of, a third-party campaigner during the capped expenditure period for the 2023 NSW State election must be disclosed to the Electoral Commission. Payments for electoral expenditure must be made by the official agent, or a person appointed by the agent, from the third-party campaigner's campaign account.

Information about what is included in the definition of [electoral expenditure](#) is provided on the Electoral Commission website. The Electoral Commission has issued a [guideline](#) on the dominant purpose.

## Caps on electoral expenditure for the 2023 NSW State election

Third-party campaigner electoral expenditure is subject to [caps](#) within the capped expenditure period for the 2023 NSW State election, which is from 1 October 2022 to election day on 25 March 2023. During this period, third-party campaigner electoral expenditure is capped at:

- \$1,288,500, if the third-party campaigner was registered before the start of the capped expenditure period (1 October 2022) or
- \$644,300, in any other case.

Within a third-party campaigner's overall expenditure cap, the third-party campaigner can incur up to \$26,700 in electoral expenditure for a particular electoral district for the purposes of material that:

- explicitly mentions the name of a candidate in the election in that electoral district or the name of the electoral district, and
- is communicated to electors in that electoral district, and
- is not mainly communicated to electors outside that electoral district.

## Disclosing political donations and electoral expenditure

The official agent for each third-party campaigner must disclose:

- all reportable political donations received from 1 October 2022 to election day, must be disclosed within 21 days in a [pre-election period disclosure](#)
- political donations received every six months in a [half-yearly donation disclosure](#)
- all electoral expenditure incurred during the [capped expenditure period](#) for an election in an [annual electoral expenditure disclosure](#).

A reportable political donation is a donation that is valued at \$1,000 or more. This includes multiple donations made by the same donor to the same recipient in the current financial year (starting 1 July 2022) that in aggregate are valued at \$1,000 or more.

Third-party campaigners are only required to disclose reportable political donations received, however if a reportable political donation is made by an entity or person, it must be reported in a Major Political Donor disclosure. The Electoral Commission will accept disclosure of a reportable political donation made by a person or entity that is a third-party campaigner either as part of the third-party campaigner political donations disclosure or as part of a major political donor disclosure.

Disclosures can be submitted using [Funding and Disclosure Online](#). Alternatively, PDF forms are available on our [website](#). The Electoral Commission's [Disclosing political donations and electoral expenditure video](#) provides further information on submitting disclosures. Disclosures are published on the NSW Electoral Commission [website](#).

## Electoral material

Electoral material produced, published, distributed or displayed during the regulated period for an election must comply with the rules. Electoral material that is to be distributed on election day must be registered with the Electoral Commission.

Breaking electoral material laws during the regulated period for an election is a criminal offence, and the Electoral Commission monitors and enforces compliance.

More information on the rules and regulations that apply to electoral material are available at the 'Electoral material rules and registration information' [webpage](#).

## More information

Rules that apply to third-party campaigners are determined in the *Electoral Funding Act 2018*, available in full at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au). Penalties apply for non-compliance.

More information for third-party campaigners can be found on the NSW Electoral Commission [website](#).

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