

Party Registration Policy

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1. Abbreviations and definitions

Abbreviations

Commissioner	Electoral Commissioner for New South Wales
Electoral Act	<i>Electoral Act 2017</i> (NSW)
Electoral Commission agency	NSW Electoral Commission staff agency
Electoral Funding Act	<i>Electoral Funding Act 2018</i> (NSW)
Local Government Act	<i>Local Government Act 1993</i> (NSW)
NSW Electoral Commission	New South Wales Electoral Commission statutory body

Definitions

Address – the residential address of a registered officer, deputy registered officer or party secretary and the street address of a party’s headquarters.

Deputy registered officer – of a registered party, means the person shown in the Register of Parties or the Local Government Register of Political Parties as the deputy registered officer of the party.

Eligible party – means a party that has at least 750 members (or at least 100 members for registration under the Local Government Act) and that is established on the basis of a written constitution (however expressed).

Local government election – means an election under the Local Government Act for the office of councillor or mayor of a local government area in NSW.

Local Government Register of Political Parties – means the register kept by the 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.

Party – means 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 by a body or organisation of which it forms part.

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

Registered officer – of a registered party, means the person shown in the Register of Parties or the Local Government Register of Political Parties as the registered officer of the party.

Registered party – means a party registered in accordance with Part 6 of the Electoral Act or Part 7 of Chapter 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 the correspondence, of the party.

State election – means an election under the Electoral Act of any member or members of the Parliament of NSW.

2. Introduction

- 2.1. The Electoral Commissioner for New South Wales ('the Commissioner') is responsible for the registration of parties for State elections and local government elections.
- 2.2. Officers of the NSW Electoral Commission staff agency ('the Electoral Commission agency') undertake certain processes for the Commissioner in relation to the registration of parties. Responsibilities of the Commissioner in relation to party registration under the *Electoral Act 2017* ('the Electoral Act') and the *Local Government Act 1993* ('the Local Government Act') are delegated to members of staff of the Electoral Commission agency as appropriate.
- 2.3. Parties registered for State elections are registered in accordance with the Electoral Act. Parties registered for local government elections are registered in accordance with the Local Government Act. Parties registered for State elections under the Electoral Act are also registered under the Local Government Act for local government elections.
- 2.4. The Commissioner must keep the following Registers:
 - the Register of Parties (for State elections), kept and maintained under Part 6 of the Electoral Act; and
 - the Local Government Register of Political Parties (for local government elections), kept and maintained under Part 7 of Chapter 10 of the Local Government Act.
- 2.5. Registered parties have a number of entitlements including:
 - the name of the party may be included on the ballot paper for an election next to the name of the party's endorsed candidate;
 - a party registered under the Electoral Act may be eligible to receive public funding under the *Electoral Funding Act 2018* ('the Electoral Funding Act'); and
 - for the purposes of State elections, a party registered under the Electoral Act is provided a list of enrolled electors, and after an election may be provided information about the electors who voted, the methods used, and the places at which they voted.
- 2.6. Parties, whether or not registered, must comply with the requirements of parties under the Electoral Funding Act.

3. Purpose

- 3.1. The purpose of this policy is to provide a guide as to the principles and objectives of party registration, including how the Commissioner may make decisions about certain registration matters.
 - 3.2. This document is not a guideline within the meaning of section 152 of the Electoral Funding Act.
 - 3.3. This policy is supported by the Procedures for Party Registration.
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4. Scope and application

- 4.1. This policy applies to:
- the registration of parties under the Electoral Act and Local Government Act;
 - registered officers, deputy registered officers, and secretaries of parties; and
 - officers of the Electoral Commission agency, including contractors and third-party consultants, involved in party registration processes.
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5. Principles and Objectives of Registration

Principles

- 5.1. To register political parties in accordance with the Electoral Act and Local Government Act, and maintain the Registers so as to provide an accurate account of registered parties;
- 5.2. The registers must provide a true and faithful record of each registered party including each party's eligibility to be registered, as registration determines a party's entitlements;
- 5.3. The registers are public documents, available for inspection by appointment during ordinary office hours and published on the NSW Electoral Commission's [website](#).

Objectives

- 5.4. **Transparency:** To enable the public to see which parties are registered and have the benefits of party registration. With greater transparency comes increased accountability;
- 5.5. **Accountability:** A registered party has obligations and entitlements under the Electoral Funding Act with respect to political donations and electoral expenditure. A registered party must comply with its obligations under the Electoral Funding Act and support the transparency of electoral funding in NSW;
- 5.6. **Democracy:** Parties are registered by the Commissioner in an open and impartial way thereby contributing to a fair and democratic electoral system in NSW;
- 5.7. **Service:** The Electoral Commission agency aims to make the registration process accessible and provides guidance to parties to support greater participation in the democratic process.
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6. Party registration administration and procedures

- 6.1. This policy provides guidance about how party registration is administered in NSW. The policy should be read in conjunction with the Procedures for Party Registration.

Registration of parties

- 6.2. Registration of political parties is not compulsory, but a party wanting to receive the entitlements of party registration must be registered in accordance with the legislation.
- 6.3. To be registered a party must be eligible for registration by having a written constitution, a certain number of members and must make an application with the Commissioner using the approved form on the NSW Electoral Commission's [website](#). All criteria set out in the legislation must be met in order for a party to be registered.

- 6.4. If a party is eligible to be registered and has made a valid application, the Commissioner must, subject to the requirements set out in the legislation, register the party by inserting the name of the party in the Register of Parties or the Local Government Register of Political Parties, as applicable.
- 6.5. A party's registered particulars includes the following details and documents:
- the information provided in the party's application for registration;
 - a copy of the party's constitution;
 - declarations of membership of the party completed and signed by the members on whom the party relies for registration; and
 - 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..

Registration benefits and entitlements on anniversary of registration

- 6.6. A registered party gains certain benefits and entitlements on the first anniversary of its registration.
- 6.7. Registration benefits a party by allowing the party:
- through its registered officer or deputy registered officer, to nominate candidates for an election;
 - to have its name included on a ballot paper next to the names of candidates nominated by the party; and
 - to claim public funding under the Electoral Funding Act where all other essential criteria is met (applicable only to parties registered for State elections).

Eligibility for registration

- 6.8. Before a party can be registered it must be eligible for registration. Under the Electoral Act and the Local Government Act, a party is eligible for registration if:
- In the case of a party registered under the Electoral Act – it has at least 750 members who are enrolled to vote in NSW and is established on the basis of a written constitution; and
 - In the case of a party registered under the Local Government Act – it has at least 100 members who are enrolled to vote in NSW and is established on the basis of a written constitution that sets out the platforms and objectives of the party.
- 6.9. Two parties cannot rely on the same member for the purposes of qualifying as, or remaining to be qualified as, an eligible party. If a person is relied on by two or more parties the person will be given an opportunity by the Commissioner to nominate which party is entitled to rely on the member. If as a result, of the person's nomination, a party does not qualify as an eligible party, the party will be given an opportunity to provide information and documents of another member.

Application for registration

- 6.10. An application for the registration of a party must be made to the Commissioner by the secretary of the party using the approved form on the NSW Electoral Commission website. The NSW Electoral Commission's website has detailed information about the registration process.
- 6.11. An application for registration must set out a number of details, including the name and address of the registered officer and deputy registered officer, the address of the party's headquarters in NSW, and the names, addresses and signed declarations of the requisite number of members of the party.
- 6.12. A fee of \$2,000 applies to an application to register a party (this does not apply to applications for registration for local government election).

6.13. The following table compares the registration requirements and legislation for State and local government:

Term/ requirement	Registration under the Electoral Act	Registration under the Local Government Act
Definition of party	“Party” means a body or organisation, incorporated or unincorporated, having as one of its objects or activities the promotion of the election to the Legislative Assembly or the Legislative Council of a candidate or candidates endorsed by it or by a body or organisation of which it forms a part.	“Political party” means a body or organisation, whether or not incorporated, having as one of its objects or activities the promotion of the election to Parliament or to a council of a candidate or candidates endorsed by it or by a body or organisation of which it forms part.
Registration	State and local government elections	Local government elections
Eligibility for registration	At least 750 members, and must be established on the basis of a written constitution.	At least 100 members, and must be established on the basis of a written constitution that sets out the platform or objectives of the party.
Application for registration	To the Commissioner in the form and manner approved by the Commissioner, by the party secretary.	To the Commissioner in the form and manner approved by the Commissioner, by the party secretary.
Application fee	\$2,000	Not applicable

Public notice of application for registration

- 6.14. If the Commissioner is satisfied that a party may be an eligible party and the application has been duly made, the Commissioner must notify the public of the party’s application for registration by publishing a notice in at least one newspaper circulating in NSW, and on the NSW Electoral Commission website.
- 6.15. The purpose of the notice is to state that the application has been received, and to request that any objections to the application be lodged with the Commissioner in writing within the 14 day notification period.
- 6.16. The notice sets out certain details that are included in the application, such as the name and address of the registered officer 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 agency.
- 6.17. The Commissioner must consider all objections received during the notification period (as well as any other relevant matters), to determine:
- whether the party is an eligible party;
 - whether the application was duly made; and
 - whether the Commissioner should refuse to register the party.

Refusal of registration

6.18. The Commissioner can refuse to register a party in certain circumstances, and must refuse to register a party in other circumstances.

Eligibility and application

6.19. The Commissioner may refuse to register a party if:

- it is not an eligible party;
- its application for registration was not duly made; or
- the Commissioner believes on reasonable grounds that the application or supporting documents are incomplete or incorrect.

6.20. The Commissioner can require further information from the party or carry out tests or inquiries to verify the members of the party that are being relied on to confirm the party's eligibility.

Party name

6.21. The Commissioner must refuse to register a party if the party's name or the abbreviation of the party's name, as stated in the application for registration, does not meet the criteria set out in section 64 of the Electoral Act. Some exceptions apply to parties that are already registered under the *Commonwealth Electoral Act 1918*. The criteria includes where:

- the name of the party is more than 6 words;
- the name of the party is obscene or offensive; or
- the name of the party is the same, or is similar to, the name of a party that is already registered.

Publishing of registers online

6.22. The following information and documents in relation to each registered party is published on the NSW Electoral Commission's [website](#):

- the registered name and abbreviated name (if any) of the party;
- the name of the secretary, registered officer and deputy registered officer of the party;
- the address of the party's headquarters in New South Wales; and
- a copy of the party's written constitution.

Amending a party's registered details

6.23. The registered officer of a party may apply to the Commissioner, in the form and manner approved by the Commissioner, to amend any of the party's particulars in the Register of Parties or the Local Government Register of Political Parties.

6.24. The approved form and detailed information about the amendment process is available on the NSW Electoral Commission's [website](#).

6.25. The registered officer of a party must make an application to amend the party's registered particulars within 21 days after any of the following:

- An amendment to the party's written constitution;
- A decision by the party to change its registered officer; or

- A change in any of the following (unless the change comprises an amendment to the party's written constitution):
 - The party's objects;
 - The procedure for amending the party's written constitution;
 - The rules for membership of the party, including the procedure for accepting a person as a member and ending a person's membership;
 - The 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; or
 - The names of the officers or members of the party responsible for ensuring the party complies with the Electoral Act (or the Local Government Act for a party registered under that Act) and the Electoral Funding Act.

- 6.26. If the application is to change the registered officer, and the registered officer is dead or otherwise unavailable, the deputy registered officer or, if there is no deputy registered officer, the secretary of the party must make the application as soon as reasonably practicable.
- 6.27. Applications to amend the registered particulars of a party other than those described above can be made at any time by the registered officer, as and when the changes occur. This includes a change in the members relied on by the party.
- 6.28. An application for amendment is assessed to ensure it meets the legislative requirements and if so the amendment is approved by the Commissioner and the change is made to the applicable register. There are exceptions to amending a register during an election period (see section 6.4).

Notice of application to amend register

- 6.29. The Commissioner is responsible for notifying the public of an application to amend the register. The Commissioner must publish a notice in at least one newspaper circulating throughout NSW, and on the NSW Electoral Commission's [website](#).
- 6.30. Members of the public who object to the proposed amendment to the register may submit a written objection to the Commissioner within the 14 day notification period.
- 6.31. If the Commissioner is of the opinion that the proposed amendment is of a minor nature a notice of the application to amend the register will not be published in a newspaper.
- 6.32. The following table shows the types of amendments that require public notice and those that are considered to be minor in nature and will generally not be subject to public notification:

Requires public notice	Does not require public notice
A decision by the party to change the party's name or abbreviated name.	A decision by the party to change its registered address in NSW.
An amendment to the party's written constitution.	A decision by the party to change its deputy registered officer.
A decision by the party to change its registered officer.	A change in the address of the registered officer, deputy registered officer or party secretary.

Requires public notice	Does not require public notice
An amendment to the party's structure, procedures, objects, membership rules etc. as set out in section 66(3)(c) of the Electoral Act , unless such information already forms part of the party's constitution.	A change in the members relied on by the party so as to continue to be qualified as an eligible party.

During an election period

- 6.33. During an election period registered parties may exercise certain entitlements such as nominating candidates and having the party's name included on the ballot paper for the election. The election period for a State election starts on the day the writs are issued and ends on election day. For a local government election, the election period starts 40 days before the election and ends on election day.
- 6.34. During an election period new parties cannot be registered and applications for party registration are not dealt with until the election period ends.
- 6.35. Registered parties can make applications to amend the register but the applications will not be dealt with until the election period ends. In addition, it is the Commissioner's discretion whether or not to make changes to the register during an election period.

Annual confirmation of eligibility to remain registered

- 6.36. To ensure the veracity and integrity of the registration process, the registered officer of each registered party must demonstrate to the Commissioner on an annual basis that the party continues to remain eligible to be a registered party. The annual return requires the registered officer of a party to confirm the party is established on the basis of a written constitution and has the requisite number of members to remain qualified to be a registered party.
- 6.37. Annual returns must be made between 1 June and 30 June each year. If the registered officer of a party fails to lodge an annual return or confirm the party's eligibility to remain registered the Commissioner may cancel the party's registration.

Commissioner may require information about a party's structure

- 6.38. The Commissioner may, at any time, require the registered officer of a party or any other officer of the party to provide a statement of any of the following:
- the objects of the party;
 - the procedure 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 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.
- 6.39. This does not apply where the information is included in the party's written constitution.
- 6.40. The Commissioner may make changes to the register in response to information provided by the registered officer or other officer.

Cancelling a party's registration

- 6.41. The Commissioner may cancel the registration of a party:
- at the written request of the party's registered officer; or
 - if the Commissioner is satisfied on reasonable grounds that:
 - the party no longer exists (for example, because it has merged with another party);
 - the party is no longer eligible to be a registered party;
 - the party did not endorse any candidates at a general election after becoming a registered party; or
 - the party's registration was obtained by fraud or misrepresentation.

Public notice of cancellation of registration

- 6.42. If the registration of a party is cancelled, the Commissioner must:
- notify the person who was the registered officer of the party of the cancellation and the reasons for the cancellation;
 - notify the public of the cancellation in the [NSW Government's Gazette](#) and on the NSW Electoral Commission [website](#); and
 - remove the party's name, details and documents from the register.

Inspecting the register

- 6.43. To ensure visibility and transparency, the party registers are public documents and are available for inspection, by appointment, at the office of the Electoral Commission agency during ordinary office hours. Information from the registers is also published on the Electoral Commission's [website](#). Inspection does not extend to making copies of, or taking photos of, the registers. This is because the registers contain personal information about the officers and members of parties.

Dealing with incidents of non-compliance

- 6.44. The objectives of transparency and accountability set out in this policy are supported by the legislation. Breaches of the legislation are unlawful and may constitute criminal offences. This includes:
- a failure to apply to amend the register when required (see section 6.3);
 - a failure by the registered officer or other officer of a party to comply with a notice issued by the Commissioner (see section 6.6);
 - making a false statement in an application for registration, application for amendment to the register or in a response to a notice issued by the Commissioner.
- 6.45. Any potential breaches are dealt with in accordance with the [NSW Electoral Commission's Compliance and Enforcement Policy](#).
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7. Associated documents

Associated documents and additional resources are available on our website and include:

- [Compliance and Enforcement Policy](#)
- [Compliance and Enforcement Procedures](#)
- [Procedures for Party Registration](#)
- [Prosecution Policy](#)

8. Document control

Approval authority

8.1. The approval authority for this document is the Commissioner.

Document management

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

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Revision record

Date	Version	Revision description
29 June 2016	V 1.0	New Policy and Procedures
10 July 2020	V 2.0	Legislative change – <i>Electoral Act 2017</i>
30 June 2022	V 3.0	Updated to reference new and separate procedures document

Review frequency

- 8.2. This document is to be reviewed by the Funding, Disclosure and Compliance and General Counsel Division of the Electoral Commission agency every 3 years following the anniversary date of approval or as required due to legislative change, whichever is the earliest.