

NSW Electoral Commission

Report to the NSW Parliament

2022-23

The Hon. Benjamin Cameron Franklin, MLC
President, Legislative Council
Parliament House
Macquarie Street
Sydney NSW 2000

The Hon. Greg Piper MP
Speaker Legislative Assembly
Parliament House
Macquarie Street
Sydney NSW 2000

Dear Mr President and Mr Speaker

In accordance with section 154 of the *Electoral Funding Act 2018*, I am pleased to present the Report of the NSW Electoral Commission with respect to its work and activities under the *Electoral Funding Act 2018* for the year 2022-23, including statistical information on the use of enforcement powers.

I recommend that the Report be laid before the Council and the Assembly as soon as practicable.

Yours sincerely,



The Hon Arthur Emmett, AO KC
Chairperson, NSW Electoral Commission

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The NSW Electoral Commission acknowledges the Traditional Owners of Country throughout New South Wales and their continuing connection to the land, sea and community. Our head office is located on Gadigal land. We pay our respects to Elders past and present.

Foreword by the Chairperson of the Electoral Commission

I am pleased to provide to the NSW Parliament this report on the work and activities of the NSW Electoral Commission (Electoral Commission) for 2022-23. This report has been prepared in accordance with section 154 of the *Electoral Funding Act 2018* and includes statistical information on the use of enforcement powers under the Act. This is my second annual report under the Act as Chairperson of the NSW Electoral Commission. This report is distinct from the NSW Electoral Commission's agency annual report under the Government Sector *Finance Act 2018* and highlights the independent role of the Electoral Commission in regulating participants in New South Wales electoral and political processes.

My second full year as Chairperson of the Electoral Commission was eventful and included a State general election; the first year the Regulatory Priorities guided the Electoral Commission's efforts, particularly in relation to the State general election; and the first time we have exercised the statutory power to provide a Special Report to the NSW Parliament on the public funding and regulation of the 2023 NSW State election (tabled by the Presiding Officers on 17 October 2023 and published on the Electoral Commission's website).

With the scheduled 2020 NSW Local Government ordinary elections delayed by the COVID-19 pandemic for more than one year to December 2021, there was only a 15-month runway to the 2023 NSW State election. The usual gap of two years between state-wide elections is important because each such election is followed by a long tail of electoral funding regulation, compliance, investigation and litigation for which the Electoral Commission has responsibility. Due to the pandemic deferral, during 2022-23 the Electoral Commission was administering the regulatory requirements arising from the December 2021 Local Government elections and the numerous February 2022 by-elections, while simultaneously preparing for and delivering the 2023 State election. I wish to acknowledge the staff of the Electoral Commission staff agency for their efforts in regulating these elections in such quick succession. It was a remarkable effort.

At the start of the 2022-23 financial year, the Electoral Commission published its first set of annual Regulatory priorities. Many focussed on preparations for the 2023 NSW State election and, informed by our experience, following that election we refreshed our Regulatory priorities for 2023-24. The current priorities are focussed on enforcement of compliance with disclosure obligations arising from the 2023 NSW State election, strengthening transparency through publication of data about electoral funding and disclosure compliance and enforcement activities, and preparations for the 2024 Local Government ordinary elections.

We released new and enhanced features on our *Funding and Disclosure Online* system (FD Online), and for the first time at a State general election, election participants were able to register, update their registered details, appoint an official agent and lodge disclosures of political donations online. We have provided 4,032 political participants with a *Funding and Disclosure Online* login and close to half our transactions are now being conducted online.

We also updated the online training and testing program to assist new party and official agents learn about their obligations under the law. This is integrated with the *Funding and Disclosure Online* system providing an improved experience for prospective agents required to complete the training and pass the test as part of the appointment process.

During 2022-23 the Electoral Commission issued four new guidelines. The first was in relation to identifying the dominant purpose of expenditure by third-party campaigners. The second was in relation to payments made to the NSW branch of a party from another state, territory or the federal branch of the party. A third was in relation to extension of due date for making disclosures. The final dealt with what constitutes a 'proper reason' for the granting of an extension of time under section 153 of the Act.

The Electoral Commission continued its education and information program to educate political participants regarding their legislative obligations, including developing new video animations (including translated versions) about political donation rules and who can lawfully make political donations, among other topics.

In the lead-up to the 2023 NSW State election, the Parliament of NSW passed the *Electoral Legislation Amendment Act 2022* and *Electoral Legislation Amendment Act (No 2) 2022* and the Electoral Commission worked quickly to implement the changes and communicate these to political participants across the state. We also implemented amendments that limited donations involving registered clubs. Throughout the year we continued to administer the Register of Third-Party Lobbyists, deploying considerable effort towards lobbyists' obligations to keep their registration details current to support transparency.

The Electoral Commission has again delivered trusted and independent oversight, processes, systems, and engagement that supports democracy in New South Wales, and plays a central role in enhancing transparency and integrity in NSW democracy. I thank the staff of the Electoral Commission staff agency for their work in maintaining trust in the integrity of elections and government decision-making through the regulation of elections and lobbying and administration of the public funding scheme. I particularly thank the Electoral Commissioner for New South Wales for his advice and for his leadership of the staff agency.



The Hon Arthur Emmett, AO KC
Chairperson

Constitution and members of the Electoral Commission

The Electoral Commission for NSW (Electoral Commission) was constituted on 1 December 2014 under the Electoral Act as a statutory body representing the Crown.

The Electoral Commission consists of three members:

- a former Judge appointed by the NSW Governor as Chairperson
- the Electoral Commissioner for NSW, ex officio
- a person appointed by the NSW Governor who has financial or audit skills and qualifications relevant to the functions of the Electoral Commission.

The Hon. Arthur Emmett AO KC was appointed Chairperson on 1 December 2021.

Mr John Schmidt as Electoral Commissioner for NSW is the ex officio member.

Ms Sandie Boswell was appointed as member on 11 May 2022.

The Hon. Alan Robertson SC was appointed as deputy Chairperson of the Electoral Commission on 1 December 2021.

The appointed members and deputy Chairperson of the Electoral Commission have been appointed for a seven-year term which for the Chairperson and deputy commenced on 1 December 2021 and will expire 30 November 2028; and for the member commenced on 11 May 2022 and will expire 10 May 2029.



Hon. Arthur Emmett AO KC
Chairperson

The Hon Arthur Emmett AO KC graduated from the University of Sydney with a Bachelor of Arts (1964), Bachelor of Laws (1967) and Master of Laws with honours (1976). Arthur has been Challis Lecturer in Roman Law at the University of Sydney since 1990. In 2009, the University conferred on him the degree of Doctor of Laws (honoris causa). In 2016 Arthur was appointed as an Officer of the Order of Australia.

In 1967 Arthur was admitted as a solicitor in New South Wales, in 1978 he was admitted as a barrister in New South Wales and in 1985 he was appointed Queen's Counsel. Arthur was a judge of the Federal Court of Australia from 1997 until 2013, a Judge of Appeal of the Supreme Court of New South Wales from 2013 to 2015, and for six years from October 2015, was an Acting Judge of Appeal, also sitting in the Commercial and Real Property Lists of the Equity Division.

From October 2007 to March 2011, Arthur was the President of the Copyright Tribunal of Australia. Since 1990, he has been Challis Lecturer in Roman Law in the University of Sydney.

Prior to commencing as Chair of the NSW Electoral Commission, Arthur served as Chair of the Electoral Districts Redistribution Panel to determine the 2021 redistribution of names and boundaries of NSW electoral districts.



John Schmidt
Electoral Commissioner for NSW

John Schmidt was appointed NSW Electoral Commissioner on 8 August 2016. From 2009 to 2014 John was the Chief Executive Officer of the Australian Transactions Reports & Analysis Centre (AUSTRAC), after serving in senior NSW Government positions within the Department of Premier and Cabinet and the Department of Fair Trading. John holds a Bachelor of Arts (1977 – Australian National University), Bachelor of Laws (1979 – Australian National University) and Master of Arts (1986 – University of Sydney).



Sandie Boswell
Member

Ms Sandra (Sandie) Boswell graduated from the University of Sydney with a Bachelor of Economics and a Graduate Diploma of Education and has over 25 years' experience in professional services.

Sandie is a partner of Grant Thornton Australia. Prior to this, Sandie was a partner for 15 years with PwC Australia and was also a member of the Australian Governance Board of Partners. Sandie chaired the Finance and Operations (Audit) Committee while on the board and was a member of several other committees. In 2017 Sandie was appointed as a member of the PwC Asia Pacific Board.

Sandie is also a non-executive director of the Global Legal Identity Foundation (GLEIF) based in Switzerland, where she is currently a member of the audit committee having been Chair of that committee from 2019 to 2021. Sandie has held several other board appointments including board member and Chair of the audit committee for the Sisters of Charity Foundation as well as a board member of the Heart Research Institute where she was Chair of the commercialisation committee.



The Hon. Alan Robertson SC
Deputy Chairperson

The Hon Alan Robertson SC graduated from the Australian National University with a Bachelor of Arts (Hons) (1972) and Bachelor of Laws (Hons) (1980). Alan was admitted in 1980 as a Legal Practitioner of the Supreme Court of the Australian Capital Territory.

After working in the Commonwealth Attorney General's Department from 1980 to 1983, Alan moved to the New South Wales Bar and, in 1995, was appointed Senior Counsel.

Alan was a part-time member of the Administrative Review Council between 1992 and 1997 and was appointed a judge of the Federal Court in April 2011, retiring from that court in 2020. While a judge of the court, Alan was a Deputy President of the Administrative Appeals Tribunal and a Deputy President of the Australian Competition Tribunal. Alan is an Honorary Professor at the Australian National University and President of the Australian Academy of Law.

Meetings of the NSW Electoral Commission

The Electoral Commission meets on the second Wednesday of every alternate month and as agreed by the members. The quorum for a meeting is two members (one of whom is the Chairperson or the deputy of the Chairperson).

The Chairperson (or, in Chairperson's absence, the deputy of the Chairperson) presides at each meeting. The presiding member has a vote and, in the event of an equality of votes, has a second or casting vote.

A decision of the Electoral Commission is one that is supported by a majority of the votes cast at a meeting of the Electoral Commission at which a quorum is present.

Table 1. Scheduled meetings of the Electoral Commission during 2022-23

Date	Attendees
Wednesday, 10 August 2022	<ul style="list-style-type: none"> • Arthur Emmett • Sandie Boswell • John Schmidt • Alan Robertson
Wednesday, 26 October 2022	<ul style="list-style-type: none"> • Arthur Emmett • Sandie Boswell • John Schmidt
Wednesday, 7 December 2022	<ul style="list-style-type: none"> • Arthur Emmett • Sandie Boswell • John Schmidt • Alan Robertson
Wednesday, 8 February 2023	<ul style="list-style-type: none"> • Arthur Emmett • Sandie Boswell • John Schmidt
Wednesday, 12 April 2023	<ul style="list-style-type: none"> • Arthur Emmett • Sandie Boswell • John Schmidt • Alan Robertson
Wednesday, 14 June 2023	<ul style="list-style-type: none"> • Arthur Emmett • Sandie Boswell • John Schmidt • Alan Robertson

Between scheduled meetings, some matters that required attention by the Electoral Commission were dealt with 'out-of-session' by circulating the relevant papers electronically. Votes on decisions are cast by email, are recorded, and are then confirmed at the following scheduled meeting. 'Out-of-session' decisions are generally in relation to the approval of public funding payments of more than a delegated amount that have a statutory deadline. During 2022-23, the members voted on 24 matters out-of-session.

From time to time the Electoral Commission will schedule an ad hoc meeting to address a specific matter. In 2022-23 one out-of-session meeting of the Electoral Commission was held to consider the Electoral Commission's Regulatory priorities for the following year.

Table 2. Out-of-session meetings of the Electoral Commission during 2022-23

Date	Attendees
Tuesday, 5 June 2023	<ul style="list-style-type: none"> • Arthur Emmett • Sandie Boswell • John Schmidt • Alan Robertson

Highlights from 2022-23



Funding and Disclosure Online
used for the first time during
a State general election

Regulatory
priorities
introduced
for the first
time in 2022-23



4,032

users of *Funding and
Disclosure Online*



1,003

candidates, groups, and third-party
campaigners registered for elections



12,756

disclosures
submitted

10,166

Compliance audits
finalised



\$47 million
paid in public
funding

Functions of the Electoral Commission

The functions of the Electoral Commission are set out in the *Electoral Act 2017* (Electoral Act). The Electoral Commission has a duty to exercise its functions in a way that is not unfairly biased against or in favour of any party, group, candidate or other person, body, or organisation.

Staff employed in the NSW Electoral Commission Public Service agency (staff agency) support the Electoral Commission in the exercise of its functions, those that are exercised as part of the day-to-day operations of the agency.

The Electoral Commission has the functions conferred or imposed on it under several acts, including the:

- *Electoral Act 2017*
- *Electoral Funding Act 2018*
- *Lobbying of Government Officials Act 2011*
- electoral provisions of the *Local Government Act 1993*.

In addition, functions of the Electoral Commission include:

- instituting proceedings for offences under NSW electoral and lobbying laws
- assisting the Electoral Commissioner with the conduct of elections
- conducting, promoting, and publishing research into electoral and other matters that relate to its functions
- promoting public awareness of electoral matters that are in the public interest by means of education and information programs.

Delegations

The Electoral Commission is authorised under the Electoral Act to delegate any of its functions to:

- the Electoral Commissioner
- a member of staff of the Electoral Commission Public Service agency, casual, or contracted.
- an officer or member of staff of an electoral commission or electoral office of the commonwealth or of a state or territory
- any person, or any class of persons, authorised by the Electoral Regulation.

During 2022-23, the Electoral Commission delegated several of its functions to the Electoral Commissioner and members of staff of the Electoral Commission Public Service agency. Details of these delegations are set out in Annexure 1. Those delegations exercised by the Executive Director, Funding, Disclosure, Compliance and General Counsel (FDC&GC) (or in some cases, the Director Compliance) under the Lobbying of Government

Officials Act and the Electoral Funding Act are reported to the Electoral Commission at each scheduled meeting. Delegations from the Electoral Commission are made in accordance with the Delegations Policy published on the Electoral Commission's website.

At the 7 December 2022 Electoral Commission meeting, the Members approved refreshed instruments of delegation to ensure all delegated functions were accurately recorded and maintained and to provide consolidated schedules for each Act. New instruments of delegation were drafted reflecting up-to-date Electoral Commission staff agency division and staff position names, and a new delegation in relation to an amendment to the Electoral Funding Act was made on the passing of the *Electoral Legislation Amendment Act 2022*.

COVID-related delegations

Delegations from the Electoral Commission to the Electoral Commissioner in respect of sections 73(2), 86(2), and 92(2) of the Electoral Funding Act, which pertain to payments made from the Elections Campaign, New Parties and Administration Funds, were made for business continuity purposes in the context of COVID-19. These expired on 9 February 2023, 12 months from execution of the delegation instrument. This was considered a reasonable timeframe to cover payments made in relation to the March 2023 State general election.

Government Sector Finance Act delegations

The Electoral Legislation Amendment Act (No. 2) 2022 was passed in late 2022. It included an amendment to the Government Sector *Finance Act 2018* (GSF Act) that designated the Electoral Commissioner, rather than the members of the Electoral Commission, as the "accountable authority" under the GSF Act. The previous delegations and sub-delegations of "accountable authority" functions by the Electoral Commission to the Electoral Commissioner, including authorising expenditure and sub-delegation, now have no effect. Notwithstanding this change, the May 2021 instrument of delegation under the GSF Act signed by the former Premier and Special Minister of State authorising the expenditure of funds appropriated to the Premier for the functions of the NSW Electoral Commission continues to operate. The instrument remains effective as it was expressed to be a delegation to "the accountable authority" not to the Electoral Commission. The consequent sub-delegation to incur expenditure signed on 7 June 2021 by the Electoral Commissioner to staff (at various levels) also continues to have effect.

New delegated function under Electoral Funding Act

One new delegation was made in the reporting year. The *Electoral Legislation Amendment Act 2022* introduced a change pertaining to section 14A of the Electoral Funding Act, deals with disclosures of political donations and electoral expenditure where a candidate in a State election has been dis-endorsed by a registered party. The change allows a party agent to notify the Electoral Commission in writing that the party has dis-endorsed the candidate. Upon receipt of the notice by the Electoral Commission, the person responsible for making a disclosure for the dis-endorsed candidate is the candidate, and not the party agent. The form of that written notice is to be approved by the Electoral Commission and the delegation relates to this approval.

Guidelines

The Electoral Commission is authorised under the Electoral Funding Act to determine and issue guidelines, consistent with the Electoral Funding Act and regulations, for or in relation to any matters dealt with under the Electoral Funding Act. The Electoral Commission is required to have regard to its guidelines in the operation, application and enforcement of the Electoral Funding Act including dealing with any applications, claims or disclosures.

Four new guidelines were issued during 2022-23:

- At the October 2022 meeting, the Electoral Commission issued two new guidelines. The first was in relation to identifying the dominant purpose of expenditure by third-party campaigners. The second was in relation to payments made to the NSW branch of a party from another state, territory or the federal branch of the party.
- At the February 2023 meeting, the Electoral Commission issued one new guideline in relation to the extension of the due date for making disclosures.
- At the June 2023 meeting, the Electoral Commission issued one new guideline in relation to what constitutes a 'proper reason' for the granting of an extension under section 153 of the Electoral Funding Act.

The guidelines are published on the website.

Policies

The Electoral Commission has policies and procedures that set out frameworks for how the various administrative and enforcement functions are carried out in accordance with the relevant legislation. The policies are reviewed and updated every three years, or earlier if required.

During 2022-23 the Electoral Commission published no new policies but did review and update all policies and procedures as part of a triennial review of policies and in response to legislative change introduced by the *Electoral Legislation Amendment Act 2022* and *Electoral Legislation Amendment Act (No 2) 2022*, and the *Electoral Funding Amendment (Registered Clubs) Act 2023*. The Electoral Commission's policies are set out below and can also be found on the website:

- Administration Fund Procedures
- Compliance Audit Policy
- Compliance and Enforcement Policy
- Compliance and Enforcement Procedures
- Compliance and Enforcement Publication Policy
- Disclosure Policy and Procedures
- Election Campaigns Fund Procedures
- Electoral Participants and Agents Registration Policy
- Identification of Potential Political Donors Policy and Procedures
- New Parties Fund Procedures
- Public Funding Policy
- Penalty Notice Caution Procedures
- Potential Political Donors Policy and Procedures
- Prosecution Policy
- Registration of Political Participants Policy.

Extensions of time

The Electoral Commission is authorised under the Electoral Funding Act to extend the time for doing anything under the Act, if satisfied that proper reasons exist justifying the extension. Express provision is also made under the Act for the Electoral Commission to extend the due date for the making of disclosures.

During 2022-23, the Electoral Commission granted one extension request under section 153(1) of the Electoral Funding Act to extend the time for lodging a claim from the Administration Fund.

Functions of the Electoral Commission

continued

Determination by the Electoral Commission that a person is not a prohibited donor

Under section 56 of the Electoral Funding Act, a person may apply to the Electoral Commission for a determination they or another person or entity are not a prohibited donor. A person is a prohibited donor in New South Wales if that person is, or is a close associate of, a property developer, a tobacco industry business entity or a liquor or gambling industry entity. The Electoral Commission is to make its determination solely based on the information provided by the applicant.

During the 2022-23 period the Electoral Commission did not make such a determination, and one determination of a non-prohibited donor expired. The Register of non-prohibited donors is published on the website.

Act of grace payments

On 5 April 2022 the Supreme Court of NSW made orders, which took effect from 3 May 2022, voiding the local government councillor elections in Kempsey, Singleton and Shellharbour Ward A held on 4 December 2021 due to a failure of the iVote electronic voting system. Those orders were sought by the Electoral Commissioner in the public interest, to support the integrity of the electoral system. The three voided local government ordinary elections were re-run on 30 July 2022.

To address the financial impact on candidates, and political parties that endorsed candidates in the voided elections, delegated authority was sought to offer act of grace payments to affected candidates and parties. These 41 candidates and three parties were offered reimbursement for electoral expenditure that was legally incurred campaigning for the voided.

Applications for payments were made by 25 candidates and two parties with all 27 applications approved and a total amount paid of \$97,616.95. While 26 of the 27 applicants were paid during the 2021-22 financial year, a final payment of \$580.50 was made to one candidate during the 2022-23 financial year.

In accordance with requirements of the Government Sector *Finance Act 2018*, the Electoral Commission created an internal register of act of grace payments made, with particular information recorded and retained by the agency for five years from the date of payment. A copy of the register was published on the Electoral Commission's website.

Regulatory priorities 2022-23

The Regulatory priorities statement, adopted on 15 June 2022, sets out the Electoral Commission's strategic regulatory focus for 2022-23. This was the Electoral Commission's first annual Regulatory priorities statement, and the period included the 2023 NSW State election and a number of local government by-elections.

Informed by a risk-based assessment of legislated regulatory functions and anticipated events, the Regulatory priorities support the Electoral Commission to optimise the efficiency and value of its regulatory effort and ensure responses to non-compliance are targeted and proportionate. The Electoral Commission developed and also published complementary Regulatory Priorities Procedures on its website.

Regulatory priorities for the period 1 June 2022 to 30 June 2023

Regulatory priority 1: Electoral material and other election-related material does not mislead electors about the electoral process

Key actions

The Electoral Commission supported integrity in election campaigning by focusing on:

- electoral and other election-related material published online being clearly attributable to a political party or candidate or a third-party campaigner, where election law requires this
- electoral and other election-related material (such as participant-generated postal vote applications) being designed in a way that does not mislead voters that it is official information issued or collected by the Electoral Commission, and
- engagement with online platforms to embed protocols for responding to notifications about unlawful material or election-related content that may be contrary to the platforms' terms and conditions.

Highlights

- contact with social media platforms ahead of the regulated period established protocols to request removal of material online, understand their community guidelines, explain legislative requirements and identify tools to monitor paid advertisements
- communication with registered parties and candidates about electoral material rules, before the regulated period. Electoral Commission staff provided feedback on proposed postal vote application templates of parties and independents

- dedicated staff proactively monitored social media platforms for known candidates and parties in the lead-up to and during the regulated period to inform them of the authorisation requirements, including name and address of authorisers of paid internet advertisements
- the Electoral Commission was closely involved in the development of the 2022 Electoral Council of Australia and New Zealand (ECANZ) Statement of Intent concerning election management arrangements with social media and digital services companies for Australian elections, which formed the basis of interactions with some social media organisations prior to the 2023 election. It sets out how Australian electoral commissions will work with online platforms to address breaches of electoral law in the online environment. The Statement is published on the ECANZ website
- legislation was further clarified in relation to the manner and circumstances in which authorisation details must be displayed for paid or unpaid social media posts, online videos/ animations, SMS text messages. Authorisation rules were also updated for certain electoral material, including unpaid social media posts, SMS messages and automated 'robocall' telephone calls.

Regulatory priority 2: Voting in person at NSW elections is free of interference

Key actions

The Electoral Commission supported voting in person without interference by focusing on:

- persons appointed by a voter to assist them to vote acting transparently and leaving a voting centre immediately after providing assistance
- electoral material being distributed or displayed so as not to obstruct access to a voting centre.

Highlights

- communication with parties and candidates about voting centre requirements and information for candidate/party workers and scrutineers
- information for voting centre managers updated to address active monitoring of electoral material at the voting centres and provide escalation pathway for more complex matters
- a Guideline, issued by the Electoral Commissioner, which a voting centre manager or election official was required to consider before enforcing the "6-metre" rules outside the entrance to a voting centre

Regulatory priorities 2022-23 continued

- translated stakeholder packs in seven languages (Arabic, Simplified Chinese, Traditional Chinese, Greek, Italian, Korean, Vietnamese) collated in-language resources, key messages and assistance available to voters and packs were distributed to target community organisations
- the online Disinformation Register was established to track and rebut significant false and misleading statements. The Disinformation Register is published on the Electoral Commission's website.

Regulatory priority 3: State registered political party membership information is accurate in the lead-up to the 2023 NSW State election

Key actions

The Electoral Commission supported integrity in election participation by focusing on accurate membership information, including assessing the currency of party membership claims. The Electoral Commissioner registers eligible parties in accordance with the Electoral Act.

Highlights

- party registration policy updated and Procedures for party registration developed and published on the Electoral Commission's website
- registered parties lodged annual returns by 30 June 2023, to confirm eligibility to remain registered. Registration of 15 parties registered for state elections was confirmed and one cancelled. Registration of 26 parties registered for local government elections was confirmed and one cancelled
- two parties were not required to lodge annual returns as they were newly registered in February 2022. These parties had their party members surveyed to test membership and the eligibility to remain registered was confirmed by the Electoral Commissioner in November 2022 for both parties. Further information about the Electoral Commissioner's registration of parties and associated activities is reported in the NSW Electoral Commission's Annual report 2022-23.

Regulatory priority 4: Election participants meet their political donation disclosure obligations for the 2023 NSW State election pre-election period

Key action

The Electoral Commission supported enhanced transparency in the pre-election period for the 2023 NSW State election by focusing on activities that promoted compliance with the 21-day period for reporting political donations from 1 October 2022 until election day.

Highlights

- information and education campaign for political participants commenced in the lead up to (as well as during) the pre-election disclosure period 1 October 2022 to election day, 25 March 2023
- more than \$6.5 million in reportable political donations was disclosed in 1,039 pre-election disclosures for the 2023 NSW State election by political parties, elected members, candidates and third-party campaigners. Over 90 per cent of pre-election donation disclosures were lodged using the *Funding and Disclosure Online* system
- pre-election donation disclosures and amendments were published on the Electoral Commission's website.

Regulatory priority 5: Regular recipients of enrolment information – such as registered political parties and candidates – handle this personal information securely

Key actions

The Electoral Commission supported privacy protection for NSW electors' personal details by focusing on:

- raising awareness about the proper handling of enrolment information provided under statute to political parties and candidates, and
- updating arrangements with other authorised users of enrolment information.

Highlight

Improvements to roll security included revising the Undertakings required to be signed by bodies who are provided access to enrolment data. The revised Undertakings reflect increased expectations around system security in the Electoral Act.

Regulatory priority 6: Third-party lobbyists comply with their Code of Conduct obligations around meeting disclosures

- the Electoral Commission administers the NSW third-party lobbyists registration scheme and enforces lobbying laws
- for 2022-23 any options for expansion (within existing limited powers) of the Electoral Commission's regulatory efforts in relation to lobbying were deferred to allow for a NSW Government response to the ICAC's recommendations for changes to lobbying regulation, such as a new lobbying regulator. To date, however, there has been no NSW Government response.

Highlights

- the Electoral Commission registered third-party lobbyists in accordance with its responsibilities under NSW lobbying laws, including online compliance training for responsible officers of third-party lobbyists, which must be completed for registration, and then annually
- the Electoral Commission administered three confirmation periods during the year, which is the statutory timeframe third-party lobbyists are required to confirm their registered details are up to date. Following each confirmation period, compliance action can suspend or cancel a lobbyist registration, for failure to confirm the information on the register
- third-party lobbyists were reminded of their obligations to confirm their details twice before the confirmation period and, failing to do this, were issued a warning of imminent suspension within a week following the due date resulting in the vast majority complying and only one suspension for failure to confirm details in the financial year. The Lobbyists Register continued to be updated and published on the Electoral Commission's website. Published information includes the details of third-party lobbyist business owners, employees, clients and information about clients who are foreign principals.

Regulatory priority 7: Electors who vote more than once are considered for enforcement action

Key action

The Electoral Commission supported the integrity of election results by applying fair and robust investigation and enforcement procedures to any cases of identified multiple voting.

Highlights

- electors whose names have been marked off the role more than once were sent written notification and reminded that electors are prohibited from voting more than once
- analysis of voting data confirmed that no instances of multiple/double voting had an impact on the 2023 State election result. The scale of apparent double voting at the 2023 State election significantly declined to 1,023 from the 2019 State election, where 2,197 voters appeared to have voted twice.
- declared special electors were contacted ahead of the election event to remind them of the additional steps they needed to take to cast their vote.

Regulatory priority 8: Regulated participants in NSW elections have access to useful and timely information about their key obligations

Key action

The Electoral Commission supported compliance by participants in the 2023 State election (candidates, parties, donors and third-party campaigners) and any other state or local government by-elections through initiatives that raise awareness about the main regulatory obligations that apply to elections in NSW.

Highlights

- a helpdesk for candidates, parties, third-party campaigners responded to over 7,000 calls and more than 3,000 email inquiries, during January to April 2023
- 14 election bulletins were published from August 2022 to April 2023
- nine online webinars and a series of informal online 'drop-in sessions' provided candidates and other participants with information about the election operation, their obligations; as well as the opportunity to ask questions of Electoral Commission subject matter experts. Webinars and the questions-and-answer write-ups were published on the website
- state-wide advertising and education campaign about political donation laws, including information in multiple languages across digital platforms.

For more information about the Regulatory priorities actions and highlights, please refer to the Electoral Commission's Special Report on the public funding and regulation of the 2023 NSW State election, and the Electoral Commissioner's Report on the administration of the 2023 NSW State election, available on the website at Election reports – NSW Electoral Commission.

Regulatory priorities statement 2023-24

As the reporting year drew to a close, the Electoral Commission reviewed the Regulatory priorities with a view to developing an appropriate focus for the year ahead which would include preparation for the 2024 Local Government ordinary elections. The Regulatory Priorities were renewed for 2023-24 and include two new and six existing, though refocused, actions now published on the Electoral Commission website.



Enforce compliance with disclosure obligations, particularly those arising from the 2023 NSW State election



Strengthen transparency through publication of data about compliance and enforcement activities concerning electoral funding and disclosures



Provide regulated participants in upcoming NSW elections with access to useful and timely information about their key obligations



Raise awareness among election participants about prohibited donors



Maintain accuracy of registered political party membership information in the lead-up to the 2024 Local Government elections



Respond to material that misleads electors about the electoral process and undermines integrity



Support voting in person at NSW elections to be safe and free of interference, including for election officials working at polling places



To support privacy, educate authorised recipients of enrolment information about handling personal data securely

Funding and Disclosure Online

Funding and Disclosure Online was enhanced during the reporting year, now allowing all political participants to register for elections, appoint a party or official agent, update their respective details and disclose political donations and electoral expenditure. At the time of publication further improvements were being finalised that would allow eligible candidates and parties to apply for and track public funding online.

There are now 4,032 active users of the *Funding and Disclosure Online* portal, which was developed in response to several reviews about improving electoral funding regulation in New South Wales through technology. Across the year, the Electoral Commission delivered webinars showing users how to complete online processes, created explainer videos, and provided extensive call centre support, particularly in the lead-up to the 2023 NSW State election as political participants registered for the general election. The Electoral Commission continues to offer individual support and guidance by telephone and email to all political participants.

A key benefit of *Funding and Disclosure Online* is that political participants are guided by the system to comply with their legal obligations and so reduces unintentional non-compliance. The Electoral Commission is measuring the transition from the manual paper-based system to the online system and particularly monitors the critical success factors detailed below, including tracking improvements in compliance.

Success measures: Adoption and use of online functions

Total portal users

During the 2022-23 reporting year, 899 new individual portal users were granted access to *Funding and Disclosure Online* with a total of 4,032 users now approved to view and comply with their registration, political donations and electoral expenditure disclosure obligations online. Of these, 2,285 or 57 per cent are candidates, 828 or 20 per cent are elected members and 483 or 12 per cent are donors. The breakdown of other portal users includes 76 party agent and official agent duty holders responsible for making disclosures; and more than 220 authorised administrative staff who assist political participants to comply (bookkeepers, compliance managers and administrators); as well as political party officials (party secretaries, registered officers, deputy registered officers).

Disclosures submitted online versus manually

During the reporting year, the number of online submissions of political donation and electoral expenditure disclosures came close to matching the number of disclosures submitted using the manual paper process, with 6,477 or 47 per cent of disclosures submitted online compared with 7,442 or 53 per cent submitted manually.

Reduced invalid disclosures

There was a significant reduction (to less than one per cent) in invalid disclosures submitted online compared with disclosures submitted manually, with 13 disclosures submitted online being invalid compared with 365 disclosures submitted manually being invalid.

Registrations made online versus manually

Approximately 21 per cent of candidate registrations and 25 per cent of group registrations for elections held during the financial year were completed using *Funding and Disclosure Online*, with 198 candidate and group registrations completed online and 741 completed using a paper form.

In the next reporting period the Electoral Commission will continue building adoption of *Funding and Disclosure Online*, supporting all recipients of public funding to make online claims. The Electoral Commission expects 2027 State election participants to use the online system for registrations and disclosures.

Education and information for stakeholders

The Electoral Funding Act provides that the Electoral Commission may undertake education and information programs to inform parties, elected members, candidates, groups, third-party campaigners, party agents, official agents, donors and associated entities of their obligations under the Act. The Electoral Commission undertook a range of such educational activities during 2022-23.

2023 NSW State election

For participants in the 2023 NSW State election, the Electoral Commission provided extensive direct support and guidance by phone, email and in person. Information about the Electoral Commission's support, education and guidance for participants in the 2023 NSW State election is set out on pages 33 and 34 of the Electoral Commission's Special Report on the 2023 NSW State Election.

Additionally, the Electoral Commission provided education and information to political participants at the 2023 NSW State election including:

- website content about registration, the management and disclosure of political donations and electoral expenditure and changes to the law
- instructional video animations about key aspects of electoral funding laws are made available on the website and via social media, and translated into multiple community languages
- webinars explaining all aspects of the regulatory and administrative requirements of the 2023 NSW State election
- election bulletins communicating legal and administrative requirements ahead of due dates and providing key information about the election
- online handbook for candidates, political parties and scrutineers
- fact sheets that bring together the key requirements for the 2023 NSW State election for each stakeholder type, published and distributed in the leadup to the election
- social media and other advertising mediums, used to convey information to political participants who might not receive direct communications.

State by-elections

No state by-elections were conducted during the 2022-23 financial year.

Local government ordinary elections

The three 2021 local government ordinary elections voided due to the failure of the iVote electronic voting system were re-run on 30 July 2022 for the following councils:

1. Kempsey Shire Council election
2. Shellharbour City Council (Ward A) election
3. Singleton Council election.

To address the financial impact on candidates, and political parties that endorsed candidates in the voided elections, delegated authority was sought to offer act of grace payments to affected candidates and parties, with a total amount of \$97,616.95 ultimately being paid.

Local government by-elections

Two local government by-elections were held during the 2022-2023 financial year.

1. Lachlan Shire Council D Ward 2023 (20 May 2023)
2. Ryde City Council West Ward 2022 (15 October 2022).

For each of these local government by-elections, one by-election bulletin was issued, and the Electoral Commission's website was progressively updated to provide key information including key dates and information for electoral participants. Social media was also used to promote the by-elections.

Educating candidates about their electoral funding obligations

The Electoral Commission provides direct education about electoral funding obligations of candidates via an email or letter sent to every candidate who registers for an election in NSW, including all candidates deemed to be registered after nomination day. Comprehensive information is provided about candidates' obligations under the Electoral Funding Act, including information about the resources available to help candidates understand and comply with the law.

Complying with the electoral funding rules video animations

During 2022-23, the Electoral Commission created five additional general educational video animations to add to the suite explaining to electoral participants and the public the rules regarding electoral funding obligations on the following topics:

1. Fundraisers, donations and the rules
2. Make sure your political donations comply with the law
3. Political donations, gifts and the rules
4. Who can make political donations
5. Electoral material rules.

This video content is applicable to both state and local elections, making them a useful resource for all electoral participants. The videos are published on our website and YouTube channel, and are translated into key languages, to support engagement with members of culturally and linguistically diverse communities. The videos are used in promotion campaigns in the lead-up to state and local government elections as well as at key points during the electoral funding regulatory cycle such as during disclosure lodgement periods.

Raising awareness of political donation and electoral expenditure obligations

As part of its information and education programs, the Electoral Commission used multiple channels to promote awareness and compliance with the disclosure obligation requirements of the Electoral Funding Act prior to, during, and following each of the disclosure lodgement periods.

Email and SMS reminders

Emails were sent to elected members, candidates, lead candidates of groups, party agents, third-party campaigners, associated entities and major political donors to remind them of their disclosure obligations. These emails informed electoral participants about when and how to submit their disclosures and where to find more information and assistance. The emails were sent prior to and at the beginning of, each disclosure lodgement period. Follow-up emails and SMS messages were sent to stakeholders who were late submitting their disclosures.

Website updates

The website was updated in the lead-up to each disclosure lodgement period to promote the disclosure requirements. These updates included banner notifications on the website, information about how to make using *Funding and Disclosure Online*, as well as publication of the forms and fact sheets to assist stakeholders to understand their disclosure obligations. The following fact sheets were published on the Electoral Commission's website:

- Disclosing political donations (Half-yearly period 1 July to 31 December 2022)
- Pre-election period political donation disclosures (1 October 2022 to 25 March 2023)
- Disclosing political donations (Half-yearly period 1 January to 30 June 2023)
- Disclosing electoral expenditure 2022-23
- Disclosures by major political donors 2022-23
- Timeline: Disclosure reporting periods and due dates 2022-23.

Social media

The disclosure lodgement periods were promoted more broadly on our social media platforms prior to and during each disclosure lodgement period.

Education and information for stakeholders continued

Political donations education campaign

Campaign approach

The NSW Electoral Commission has run several political donation public awareness campaigns to educate people in New South Wales about political donations laws and specific changes that make cash donations over \$100 to political participants unlawful. The campaign was also run during the 2023 NSW State election period across digital and social media.

Messaging

The campaign let donors and potential donors know that important rules apply when making a political donation. It focussed on the following key pieces of information and encouraged people to find out more on the NSW Electoral Commission website:

- political donations paid in cash must not exceed \$100
- buying tickets or other items for a fundraiser could be a political donation
- giving free or discounted goods and services could be a political donation
- there are limits to the amount any political participant can accept from a donor in a financial year.

Campaign results

Table 3. Results of the political donations public awareness campaign

Channel	Result
Digital advertising	Digital advertising delivered more than 15,150,546 impressions.
Social media	Paid social media advertising delivered cost-efficient results, to targeted audiences with 5,751,925 impressions delivered overall across Meta, WeChat and Weibo.

Regulatory guidance services

The Electoral Commission provides direct support and assistance to existing and prospective political participants by answering their enquiries made by telephone and in writing, Monday to Friday during business hours. Additional staff are assigned to provide stakeholder support during busy periods. While staff cannot provide legal advice in relation to stakeholders' questions, they can provide guidance and information about the provisions of the Electoral Funding Act.

Direct support by telephone and in writing

During 2022-23, the Electoral Commission responded to more than 4,000 telephone inquiries from political participants. Our staff provided a further 1,425 responses in writing to stakeholders on a range of matters. The subject of inquiries received was broad ranging and commonly included questions about:

- how to register a new political party at the NSW State or local government level
- the quantum and type of disclosures requiring lodgement by a political participant
- how to report specific items in declarations of disclosure, such as loans
- in-kind donations and contributions made by a candidate to their own campaign account
- the quantum and type of disclosures requiring lodgement by a political participant
- how to register a group of candidates or as a third-party campaigner
- how to register a new political party at the NSW State or local government level
- how to change registered particulars and information required by legislation to be kept by the NSW Electoral Commission in its registers
- how to seek an extension of time to lodge a disclosure
- how to make a claim from the election campaigns fund and what items of electoral expenditure can be claimed for reimbursement.

Communications sent by political participants

During 2022-23 the Electoral received 21,903 items of correspondence, including inquiries, paper-based party and election registration forms, disclosure forms and supporting documentation (such as receipts, invoices, financial statements), public funding claims and supporting documentation, notifications of appointment of agents and changes to registered details, and correspondence relating to the Electoral Commission's compliance audit functions.

Table 4. Registration, funding, disclosure and compliance communication processed during 2022-23

Communication type	Number
Emails received	20,047
Faxes received	68
Letters and hand deliveries received	1,788
Total	21,903

Implementing legislative amendments

During the 2022-23 year, a number of changes were made to the legislative framework under which the Electoral Commission operates. These changes largely reflected recommendations arising from the Joint Standing Committee on Electoral Matters (JSCEM) Inquiry into the Administration of the 2019 NSW State election. In the lead-up to the 2023 NSW State election, the Electoral Commission implemented these changes, including amending its forms, electronic systems and processes, and conducted an education campaign to raise awareness of the new laws. This included direct communications with electoral participants, website messaging, a social media campaign and information conveyed through election communications channels including bulletins and webinars as well as training agency staff to support political participants and administer the laws.

Those changes relevant to the 2023 NSW State election are set out on page 7 of the Electoral Commission's Special Report on the 2023 NSW State Election.

Further changes enacted during the reporting year by the *Electoral Legislation Amendment Act 2022* included:

- requests for extensions to the due date for submission of a disclosure may now be made up to and on the day the disclosure is due (instead of before)
- the Administration Fund:
 - unspent administration funding – a party or elected member may carry over any unspent administration funding entitlement to a subsequent quarter within the same calendar year
 - quarterly advance payments – a claim for quarterly advance payment can be made at least two weeks before the end of each quarter, and the quarterly advance payment is now equal to 100 per cent (rather than 50 per cent) of the quarterly entitlement of the party or elected member.
- the New Parties Fund:
 - this fund now makes reimbursements based on expenditure incurred in a financial year (rather than calendar year). As such, the annual amount payable to an eligible party is the amount of actual policy development expenditure incurred by the party during the financial year (up to a certain amount).

Additionally, the *Electoral Funding Amendment (Registered Clubs) Act 2023* was passed on 1 June 2023. From commencement on 1 July 2023, it was unlawful for certain donors to make a political donation or loan. The following legislative rules now apply to these donors:

- a registered club (as defined by the *Registered Clubs Act 1976*) is a prohibited donor if the business undertaken by the registered club includes wagering, betting or other gambling
- the secretary of the registered club, a member of the governing body of the registered club, the spouse of the secretary or member of the governing body, and close associates of the registered club, are also prohibited donors
- permitting the use of part of the premises of a registered club is not a prohibited political donation, as long as goods or services are not provided in association with the use of the premises, such as:
 - food
 - beverages
 - use of staff or contractors
 - use of IT or audio visual facilities.
- registered club premises cannot be used for electoral fundraising purposes or an electoral campaign office.

Electoral funding registrations

The Electoral Commission is responsible for the registration of electoral participants under the Electoral Funding Act. The Act prescribes that, for campaign funding purposes, candidates, groups of candidates and third-party campaigners register for each election they contest. It also provides the rules for the management and disclosure of political donations and electoral expenditure, including the registration of associated entities, the appointment and registration of party agents for political parties and the appointment and registration of official agents for third-party campaigners and associated entities. Political parties are registered by the Electoral Commissioner under the Electoral Act and details of party registration are provided in the Electoral Commission staff agency annual report.

Registration enables a candidate, group or third-party campaigner to accept political donations and pay for electoral expenditure for the election in which they are registered. Associated entities, party agents and official agents are also registered under the Electoral Funding Act.

Candidates and groups were able to register for elections during 2022-23 using the *Funding and Disclosure Online* system or submitting the applicable form made available on the Electoral Commission's website.

Registration via *Funding and Disclosure Online* did not become available for third-party campaigners until November 2022 and so most third-party campaigner registrations during 2022-23, including for the 2023 NSW State election, were made using a form downloaded from the website.

Members of Parliament seeking re-election do not need to register before accepting political donations or making payments for electoral expenditure.

The Electoral Commission maintains registers for each type of electoral participant and information contained in the registers is published on the Electoral Commission's website.

Political participant registration requirements

Candidates – a person must be registered as a candidate before accepting a gift or making a payment for electoral expenditure for their proposed candidacy at a future election. A person nominated as a candidate for the purpose of having their name included on the ballot paper is deemed to be registered as a candidate from the time of nomination.

Group of candidates – two or more individuals must be registered as a group of candidates before accepting a gift or making a payment for electoral expenditure for the proposed candidacy of the individuals at a future election. Nominated candidates who comprise a group for the purpose of a ballot paper are deemed to be registered as a group of candidates from the time of nomination.

Third-party campaigners – an entity or person must be registered as a third-party campaigner before paying for more than \$2,000 in electoral expenditure incurred in the capped expenditure period for an election.

Associated entities – a corporation or other entity that operates solely for the benefit of one or more registered parties or elected members must be registered as an associated entity.

Party agents and official agents – each party must appoint a party agent and each third-party campaigner and associated entity must appoint an official agent. Agents are responsible for disclosing political donations and electoral expenditure on behalf of parties, third-party campaigners, associated entities and, in certain cases, candidates, groups, and elected members.

Registrations for elections held in NSW during 2022-23

During 2022-23, the Electoral Commission registered 912 candidates, 27 groups of candidates and 63 third-party campaigners for five local government elections and the 2023 NSW State general election. Registration details are provided in the tables below:

Table 5. Kempsey Shire Council re-run local government ordinary election

Kempsey Shire Council election 30 July 2022	Number
Registered candidates prior to nomination	4
Candidates that registered via FDC Online	0
Registered groups of candidates prior to nomination	0
Groups of candidates that registered via FDC Online	0
Deemed registered groups upon nomination	3
Deemed registered candidates upon nomination	17
Candidate registration cancelled	0
Third-party campaigners registered	0
Third-party campaigner registration cancelled	0

Table 6. Shellharbour City Council (Ward A) re-run local government ordinary election

Shellharbour City Council (Ward A) election 30 July 2022	Number
Registered candidates prior to nomination	2
Candidates that registered via FDC Online	2
Registered groups of candidates prior to nomination	1
Groups of candidates that registered via FDC Online	1
Deemed registered groups upon nomination	2
Deemed registered candidates upon nomination	4
Candidate registration cancelled	0
Third-party campaigners registered	1
Third-party campaigner registration cancelled	0

Electoral funding registrations continued

Table 7. Singleton Council re-run local government ordinary election

Singleton Council election 30 July 2022	Number
Registered candidates prior to nomination	8
Candidates that registered via FDC Online	6
Registered groups of candidates prior to nomination	0
Groups of candidates that registered via FDC Online	0
Deemed registered groups upon nomination	0
Deemed registered candidates upon nomination	5
Candidate registration cancelled	0
Third-party campaigners registered	1
Third-party campaigner registration cancelled	0

Table 8. Lachlan Shire Council D Ward 2023 local government by-election

Lachlan Shire Council D Ward by-election 20 May 2023	Number
Registered candidates prior to nomination	0
Candidates that registered via FDC Online	0
Registered groups of candidates prior to nomination	0
Groups of candidates that registered via FDC Online	0
Deemed registered groups upon nomination	0
Deemed registered candidates upon nomination	2
Candidate registration cancelled	0
Third-party campaigners registered	0
Third-party campaigner registration cancelled	0

Only two candidates and no groups or third-party campaigners contested the Lachlan Shire Council D Ward local government election. Neither candidate registered before nomination, and both were deemed registered upon nomination.

Table 9. Ryde City Council West Ward 2022 local government by-election

Ryde City Council West Ward by-election 15 October 2022	Number
Registered candidates prior to nomination	2
Candidates that registered via FDC Online	2
Registered groups of candidates prior to nomination	0
Groups of candidates that registered via FDC Online	0
Deemed registered groups upon nomination	0
Deemed registered candidates upon nomination	3
Candidate registration cancelled	0
Third-party campaigners registered	0
Third-party campaigner registration cancelled	0

Table 10. 2023 NSW State general election

2023 NSW State election	Number
Registered candidates prior to nomination	272
Candidates that registered via FDC Online	181
Groups of candidates	7
Groups of candidates that registered via FDC Online	6
Deemed registered candidates upon nomination	592
Deemed registered groups upon nomination	14
Candidate registration cancelled	12
Third-party campaigners registered	61
Third-party campaigners registered via FDC Online	9
Third-party campaigner registration cancelled	1

At the 2023 State general election, 67 per cent of candidates and 86 per cent of groups registered using Funding and Disclosure online. *Funding and Disclosure Online* was not available for the start of the third-party campaigner registration period on 1 October 2022, but became available in November 2022. With most third-party campaigners registered prior to this, only 15 per cent registered online.

Electoral funding registrations continued

Table 11. Total candidate, group and third-party campaigner registered during 2022-23

Election event	Candidates	Groups	TPCs	Cancelled
Kempsey Shire Council re-run local government election (30 July 2022)	21	3	0	0
Shellharbour City Council re-run (A ward) local government election (30 July 2022)	6	3	1	0
Singleton Council election re-run local government election (30 July 2022)	13	0	1	0
Lachlan Shire Council D Ward local government election (20 May 2023)	2	0	0	0
Ryde City council West Ward local government election (15 October 2022)	5	0	0	0
2023 NSW State election (25 March 2023)	865	21	61	12
Total	912	27	63	12

During 2022-23 candidates successfully elected at 12 countback elections administered by the Electoral Commissioner have elected member disclosure obligations and must comply with electoral funding laws. Candidates are not registered for countback elections but are contacted once they are elected and provided with information about their obligations under electoral funding laws.

Local government countback elections

- Lithgow City Council – 21 June 2023
- Northern Beaches Council (Pittwater Ward) – 20 June 2023
- City of Sydney Council – 9 May 2023
- North Sydney Council (St Leonards Ward) – 21 February 2023
- Queanbeyan-Palerang Regional Council – 7 February 2023
- Upper Hunter Shire Council – 6 December 2022
- Georges River Council (Peakhurst Ward) – 16 November 2022
- Snowy Monaro Regional Council – 26 October 2022
- Georges River Council (Mortdale Ward) – 21 September 2022
- Snowy Monaro Regional Council – 26 August 2022
- Hay Shire Council – 26 August 2022
- Wentworth Shire Council – 27 July 2022

Agents responsible for complying with electoral funding laws in 2022-23

At 30 June 2023, 130 appointed agents were registered by the Electoral Commission to be legally responsible for the campaign finances and disclosure of political donations and electoral expenditure of 62 political parties, four associated entities and 64 third-party campaigners, being 62 party agents and 68 official agents. The registers of state and local government party agents, associated entities and third-party campaigners for each election are published on the Electoral Commission's website.

Party agents

A party agent is the person appointed to be legally responsible for the campaign finances, including the management and disclosure of political donations and electoral expenditure, for a political party. Party agents appointed by registered political parties are also responsible for elected members of the NSW Parliament, groups and candidates for State elections that are members of the party, and local government elected members, groups and candidates that are members of the party (but only if section 14A of the Electoral Funding Act applies and the Electoral Commission has been notified in writing).

At 30 June 2023, there were 15 political parties registered for State elections and 27 political parties registered for Local Government elections. Each had an appointed party agent. A further 20 (six state and 14 local government) political parties that were not registered at 30 June 2023, had an appointed party agent.

Official agents

An official agent is the person who is legally responsible for the management and disclosure of political donations and electoral expenditure for an associated entity or third-party campaigner.

At 30 June 2023, 64 official agents appointed by third-party campaigners and one official agent appointed by four associated entities were registered by the Electoral Commission.

If, at any time, a third-party campaigner or associated entity does not have an appointed official agent the Electoral Commission may designate a person as official agent. During this year, the Electoral Commission did not designate any person to be an official agent. No registrations of official agents were cancelled.

Online compliance training for party and official agents

To be eligible to be appointed as a party agent or official agent a person must satisfy several criteria including successfully completing an agent training program provided by the Electoral Commission. Individuals who hold any of the following accounting memberships are not required to complete the agent training program:

- a Certified Practising Accountant member of CPA Australia, New South Wales Division
- a member of, and holding a Certificate of Public Practice issued by, the Institute of Chartered Accountants in Australia, New South Wales region, or
- a member of, and holding a Professional Practice Certificate issued by, the Institute of Public Accountants.

The Electoral Commission authorises an online training program for party agents and official agents, as a requirement of the Electoral Funding Act. The online training and testing program was updated and enhanced to assist new party and official agents learn about their obligations under the law. The online agent training is integrated with the *Funding and Disclosure Online* system providing a better user experience for prospective agents required to complete the training and pass the test as part of the appointment process.

Notification of party agent agreement

At local government elections each candidate is responsible for the management and disclosure of their political donations and electoral expenditure. The lead candidate of each group is responsible for the management and disclosure of the group's political donations and electoral expenditure. Each local government elected member is responsible for the management and disclosure of their political donations and electoral expenditure.

If a candidate or elected member is a member of a registered party, or group members are members of a registered party, the candidate, group, or elected member can enter into an agreement with the party agent of the party for the party agent to be responsible for the management and disclosure of the candidate, group or elected member's political donations and electoral expenditure. Such an agreement is only of effect if the Electoral Commission has been notified that the party agent has consented to such an agreement.

During the 2022-23 year, the Electoral Commission received no notifications from party agents who had decided to become responsible for the management and disclosure of political donations and electoral expenditure on behalf of local government elected members, candidates or groups of candidates.

Registration of third-party lobbyists

Third-party lobbyists and individuals engaged to undertake lobbying on behalf of a third-party lobbyist must be included in the Lobbyist Register, which is kept and maintained by the Electoral Commission under the Lobbying of Government Officials Act. The Lobbyist Register is published on the Electoral Commission's website.

Thirty-five new third-party lobbyists were registered by the Electoral Commission during 2022-23 and there were 179 third-party lobbyists registered at 30 June 2023. Each registered third-party lobbyist is required to appoint a person as the officer responsible for the lobbyist's compliance with NSW lobbying laws. Such officers are responsible for completing the Electoral Commission's online training on an annual basis.

Registered third-party lobbyists are responsible for updating the Lobbyist Register within 10 days of any change to the information on the register including the details of their clients and details of foreign principals whose interests the lobbyist is representing. Eleven third-party lobbyists had been declared in the Lobbyists Register that at 30 June 2023, 16 clients met the legislated definition of foreign principal.

Registered third-party lobbyists are also required to provide the Electoral Commission with confirmation that their registered details are up to date, three times annually: 31 January, 31 May and 30 September. Third-party lobbyists were reminded of their obligations to confirm their details twice before the confirmation period and, failing to do this, were issued a warning of imminent suspension within a week following the due date resulting in the vast majority complying and only one suspension for failure to confirm details in the financial year.

Failure to comply with the requirements of the Lobbying of Government Officials Act or the Lobbyists Code of Conduct can result in the suspension or cancellation of a lobbyist's registration. One lobbyist had their registration suspended for failure to confirm their details when required during 2022-23. The Electoral Commission cancelled the registration of 18 third-party lobbyists at their request as they were no longer carrying on the business of lobbying. Details of the decisions made by the Electoral Commission in relation to the registration of third-party lobbyists and the reasons for those decisions are published on the Electoral Commission's website.



27/065

GENERAL ELECTION, 1938.

ELECTORAL DISTRICT OF MONARO
Summary of Cost.

Number of 76

Returning Officer

Counting Officer

Including Counters and preparation of certified rolls)

Returning Officers

5	@ £3: 0: 0	12	-	-	-
84	@ £2: 10: 0	189	10	-	-
88	@ £2: 5: 0	132	-	0	-
	@ £1: 10: 0				
	@ £1: 0: 0				

Family Allowance

Cost of Conveyance, Fares, &c.

Fares, &c.

333

6 15

2 7

2 18 2

12 5 5

5 13 6

42

Adjustment of monetary amounts

The Electoral Funding Act requires the caps on political donations, indirect campaign contributions, electoral expenditure, and public funding amounts to be adjusted for inflation periodically. The Electoral Commission is required to publish notice of adjusted amounts on its website and on the NSW legislation website.

Political donations and indirect campaign contributions

Political donations and indirect campaign contributions are subject to caps that are adjusted for inflation annually. The caps on political donations apply to:

- political parties (registered and unregistered)
- groups of candidates
- candidates
- elected members
- third-party campaigners
- associated entities.

The caps on indirect campaign contributions apply to:

- political parties (registered and unregistered)
- groups of candidates
- candidates
- elected members.

During 2022-23, the caps on political donations and indirect campaign contributions were adjusted for inflation for the 2023-24 financial year and are now published on the Electoral Commission's website.

Table 12. Caps on political donations and indirect campaign contributions 2022-23

Political participant type	2022/23	2023/24
Registered political parties	\$7,000	\$7,600
Unregistered political parties	\$3,300	\$3,600
Groups of candidates	\$7,000	\$7,600
Candidates	\$3,300	\$3,600
Elected members	\$3,300	\$3,600
Third-party campaigners	\$3,300	\$3,600
Associated entities	\$3,300	\$3,600

The amounts for exemptions to the donation caps were also adjusted for inflation for 2023-24.

Table 13. Exemptions to the donation caps 2022-23

Category	2022/23	2023/24
A candidate for a Legislative Assembly election, can donate to their party up to a certain amount, during the financial year in which the election is held: <ul style="list-style-type: none"> • for state elections held during the four-year period up to, and including, the financial year in which the 2023 NSW State election is held. 	\$66,400	\$75,500
Donations made to a party by a candidate in a Legislative Council election who is a member of the party	\$55,800	\$59,900
Donations made to a group of candidates by a candidate in Legislative Council election who is a member of the group but is not a member of a party	\$55,800	\$59,900

Electoral expenditure

Electoral expenditure is subject to caps at state and local government elections. At state elections the caps on electoral expenditure apply to:

- political parties (registered and unregistered)
- independent groups for a Legislative Council election
- candidates
- third-party campaigners.

Expenditure caps that apply to state elections are adjusted for inflation every four years after each NSW state general election. Following the 2023 NSW State general election held on 25 March, the expenditure caps were adjusted for inflation for the four-year period leading up to the 2027 NSW State general election.

In the lead-up to the 2023 NSW State election, provisions for the caps on electoral expenditure at state elections were altered by the *Electoral Legislation Amendment Act 2022*. The Act removed the cap on expenditure incurred for office accommodation for a single campaign office for a candidate or party engaged in an election campaign up to an amount of \$20,000 (adjusted for inflation each year) for each capped expenditure period. It also re-introduced electoral expenditure caps for third-party campaigners at state general elections set to \$1,288,500 or \$644,300 depending on the registration date. At the time of publication, no caps for third-party campaigners at state by-elections were in place but a revised cap was being considered by the NSW Parliament.

The expenditure caps that apply at all state general and by-elections during this period are listed in Table 14.

Table 14. Caps on electoral expenditure incurred for the state elections

Political participant	Applicable expenditure cap 2019-23	Applicable expenditure cap 2023-27
Party with more than 10 endorsed Legislative Assembly candidates at a general election	\$132,600 multiplied by the number of electoral districts in which a candidate is endorsed by the party	\$150,700 multiplied by the number of electoral districts in which a candidate is endorsed by the party
Party that endorses candidates in a group for the Legislative Council but does not endorse any candidates for election to the Legislative Assembly or does not endorse candidates in more than 10 electoral districts	\$1,389,900	\$1,579,400
Independent Legislative Council group at a general election	\$1,389,900	\$1,579,400
Endorsed Legislative Assembly candidate at a general election	\$132,600	\$150,700
Independent Legislative Assembly candidate at a general election	\$198,700	\$225,800
Ungrouped Legislative Council candidate at a general election	\$198,700	\$225,800
Candidate at a Legislative Assembly by-election	\$265,000	\$301,200
Third-party campaigner at a general election	\$1,288,500 if the third-party campaigner was registered before the commencement of the capped state expenditure period for the election \$644,300 in all other cases	\$1,464,200 if the third-party campaigner was registered before the commencement of the capped state expenditure period for the election \$732,200 in all other cases
Third-party campaigner at a state by-election	\$21,600	n/a
Electoral district cap for a party	\$66,400 within the party's overall expenditure cap	\$75,500 within the party's overall expenditure cap
Electoral district cap for a third-party campaigner	\$26,700	\$30,400 within the third-party campaigner's overall expenditure cap
Maximum amount for expenditure incurred for campaign office accommodation that is not included in the electoral expenditure cap	\$21,600 within the third-party campaigner's overall expenditure cap	\$22,800

Adjustment of monetary amounts continued

The caps for state elections are published on the Electoral Commission's website.

At local government elections the expenditure caps apply to:

- political parties (registered and unregistered)
- groups of candidates
- ungrouped candidates
- third-party campaigners.

Determination of number of enrolled electors

The expenditure caps applicable to each local government area or ward are based on the number of enrolled residential electors in that area or ward¹.

Local government expenditure caps are adjusted a year ahead of the local government ordinary elections. With the next local government ordinary elections scheduled for September 2024, the expenditure caps were not adjusted during 2022-23 and will next be adjusted during the 2023-24 financial year.

The NSW Electoral Commission is required to publish on its website the details of the enrolled electors and applicable caps for each area or ward and notify registered candidates, groups and third-party campaigners of the applicable caps.

For local government by-elections held after the previous local government ordinary elections, the number of enrolled electors was determined as at the date of those ordinary elections that is, 4 December 2021.

There are eight levels of expenditure caps based on the number of enrolled electors in a local government area or ward. These are set out in Table 15.

Caps for mayoral candidates in areas divided into wards

The cap for a candidate for mayor (or a group that includes a candidate for mayor) in a local government area that is divided into wards is equal to:

- 100 per cent of the cap for a non-mayoral candidate in a ward of the area plus 25 per cent of the non-mayoral candidate cap in each of the other wards of the area.

Example: if an area has four wards and the expenditure cap for a non-mayoral candidate in a ward is \$10,000, the expenditure cap for a mayoral candidate in that area is \$10,000 (ward 1) + \$2,500 (ward 2) + \$2,500 (ward 3) + \$2,500 (ward 4) = \$17,500.

Caps for candidates running for mayor and councillor at the same time

The cap for a candidate running for mayor and councillor at the same election is the applicable cap for a mayoral candidate.

Public funding adjustments

The maximum amount of applicable to payments from the Administration Fund and New Parties Fund are adjusted for inflation each year and are published on the Electoral Commission's website.

Table 15. Applicable caps that apply to electoral expenditure incurred for local government elections held from 1 July 2021

Number of enrolled electors for a local government area or ward	Non-mayoral candidates (and groups that do not include mayoral candidates)	Mayoral candidates in undivided areas (and groups that include mayoral candidates)	Third-party campaigners
1-5,000	\$6,000	\$7,500	\$2,000
5,001-10,000	\$10,000	\$12,500	\$3,340
10,001-20,000	\$18,000	\$22,500	\$6,000
20,001-30,000	\$25,000	\$31,250	\$8,340
30,001-50,000	\$36,000	\$45,000	\$12,000
50,001-75,000	\$46,000	\$57,500	\$15,340
75,001-125,000	\$63,500	\$79,375	\$21,170
125,001 or more	\$72,000	\$90,000	\$24,000

1. Prior to the commencement of the *City of Sydney Amendment Act 2023*, the City of Sydney also included non-residential electors such as owners, occupiers and rate-paying lessees as enrolled electors.

Administration Fund amounts adjusted

The maximum amounts payable from the Administration Fund to eligible parties and elected members are adjustable amounts that are to be adjusted for inflation on a calendar year basis.

The maximum amount an eligible party or elected member can receive from the Administration Fund in relation to a quarterly period is the lesser amount of the party or elected member's applicable cap or the amount of administrative and operating expenditure incurred in a quarterly period. The applicable maximum amounts for the Administration Fund for the 2023 calendar year are listed in Table 16.

Table 16. Caps applicable to quarterly payments from the Administration Fund for expenditure incurred in 2023

Category	Amounts for 2022	Amounts for 2023
If a Parliamentary party has one endorsed elected member	\$93,800	\$100,400
If a Parliamentary party has two endorsed elected members	\$160,600	\$171,900
If a Parliamentary party has three endorsed elected members	\$200,600	\$214,700
If a Parliamentary party has more than three endorsed elected members	\$200,600 + \$32,200 for each additional elected member up to 22 elected members	\$214,700 + \$34,500 for each additional elected member up to 22 elected members
An independent elected member	\$60,600	\$64,900

New Parties Fund amounts adjusted

The annual amount payable to an eligible party from the New Parties Fund is the amount of actual policy development expenditure incurred by or on behalf of the party during the year to which the payment relates, but not exceeding the relevant maximum amount applicable to the party.

The maximum amounts payable from the New Parties Fund for policy development expenditure are now adjusted for inflation each financial year. Prior to 1 July 2022, the New Parties Fund was calculated on a calendar year basis. In November 2022, the *Electoral Legislation Amendment Act 2022* amended the provisions of the New Parties Fund changing the administration from a calendar year to a financial year basis, allowing for a six-month transition period.

The relevant maximum amounts for the New Parties Fund for the 2023-24 financial year are shown in Table 17.

Table 17. Relevant annual maximum amounts payable from the New Parties Fund for expenditure incurred in 2022

Category	Amount for 2022	Amount for 2023-24
Per first preference vote received by each endorsed candidate of the party at the previous state general election	\$0.70	\$0.75
Maximum amount for a party that is registered less than eight years	\$13,300	\$14,300

Disclosures of political donations and electoral expenditure

The Electoral Funding Act requires political donations and electoral expenditure to be disclosed to the Electoral Commission by:

- political parties (registered and unregistered)
- elected members of the NSW Parliament and local councils
- associated entities of registered parties and elected members
- candidates, groups and third-party campaigners for NSW state and local government elections
- political donors who make reportable political donations.

The Electoral Commission is required by legislation to publish details of political donations and electoral expenditure disclosed and makes disclosures available on the Electoral Commission's website. The Electoral Commission is also responsible for enforcing the laws that apply to political donations and electoral expenditure.

Disclosures required to be made

Political participants may have been required to make one or more of the following disclosures during the 2022-23 financial year:

- pre-election disclosure of reportable political donations for the 2023 NSW State election
- half-yearly disclosure of political donations
- annual disclosure of electoral expenditure
- annual donor disclosure.

Pre-election period disclosures for the 2023 NSW State election

Reportable political donations made and received during the pre-election disclosure period, which coincides with the capped expenditure period for a State general election, must be submitted by parties, elected members, candidates, group of candidates, associated entities and third-party campaigners within 21 days of the donation being made or received. The pre-election disclosure period for the 2023 NSW State election started on 1 October 2022 and ended on election day, 25 March 2023. The last reporting day by which donations, received on election day, were due to be disclosed was 17 April 2023.

Information about pre-election disclosures for the 2023 NSW State election is detailed in the Electoral Commission's Special Report on the public funding and regulation of the 2023 NSW State election.

Half-yearly disclosure of political donations

Political donations made or received by, or on behalf of, political parties, elected members, candidates, groups of candidates and associated entities must be disclosed every six months in a half-yearly disclosure of political donations. Reportable political donations received by, or on behalf of, third-party campaigners for the purpose of incurring electoral expenditure during the capped expenditure period for an election must also be disclosed every six months in a half-yearly disclosure of political donations.

The half-yearly disclosure periods for the disclosure of political donations are 1 July to 31 December and 1 January to 30 June. Disclosures must be submitted within six weeks after the end of the disclosure period, by 11 February and 11 August, respectively. The lodgement time was changed during this financial year, from four to six weeks following the end of the disclosure period following commencement of the *Electoral Legislation Amendment Act 2022*.

Half-yearly disclosure of political donations

Electoral expenditure incurred by, or on behalf of, political parties, associated entities, elected members, candidates, groups, and third-party campaigners must be disclosed annually. The annual disclosure period is 1 July to 30 June with disclosures due by 22 September. Third-party campaigners are only required to disclose electoral expenditure incurred during the capped expenditure period for an election.

Annual donor disclosure

Political donors that make reportable political donations of \$1,000 or more are known as major political donors and are required to disclose those donations annually. Political donors include third-party campaigners that make reportable political donations. The annual disclosure period is 1 July to 30 June with disclosures due by 11 August.

Who is responsible for making disclosures?

The Electoral Funding Act sets out the rules that determine the person responsible for making disclosures that were due to be submitted to the Electoral Commission during 2022-23 as set out in Table 18.

Table 18. Person responsible to submit disclosures due during 2022-23

Category	Person responsible
Political party (registered and unregistered)	Party agent ¹
Member of Parliament (MP)	Party agent, if the MP is a member of a party that is registered for state elections MP in all other cases
State election candidate	Party agent, if the candidate is a member of a party that is registered for state elections State candidate in all other cases
State election group of candidates	Party agent of a party registered for state elections where all candidates in the group are members of the party Party agent of a party registered for state elections where the lead candidate is a member of the party and one or more other candidates in the group are members of another party that is registered for state elections Lead candidate ² of the group in all other cases
Councillor or mayor	Councillor or mayor Party agent of a registered party where the councillor or mayor is a member of the party and the party agent has consented, or made a decision, to be the person responsible ³
Local government election candidate	Candidate Party agent of a registered party where the candidate is a member of the party and the party agent has consented, or made a decision, to be the person responsible ³
Local government election group of candidates	Lead candidate ² of the group Party agent of a registered party where one or more of the candidates are members of the party and the party agent has consented, or made a decision, to be the person responsible ³
Associated entity	Official agent of associated entity
Third-party campaigner	Official agent of third-party campaigner
Major political donor	If the donor is an individual, the individual If the donor is an entity, the entity
Dis-endorsed candidate	Where a candidate in a state election is dis-endorsed by a registered party, a party agent may notify the NSW Electoral Commission that the party has dis-endorsed the candidate. On and from the receipt of the notice by the Electoral Commission, the person responsible for making a disclosure for the dis-endorsed candidate is the candidate, and not the party agent of the registered party.

1. The registered officer of a political party can now lodge a disclosure (or public funding claim) when the party agent is absent or unavailable if: the registered officer has completed the agent training (or is exempt); and the party agent or registered officer has advised the Electoral Commission in writing in advance of any occasion on which the registered officer is to lodge a disclose or claim on the agent's behalf.

2. The lead candidate is the candidate in the group whose name is first in the order of names in the Register of Candidates in relation to the group; or if the group is not registered, the candidate whose name is first in the order of names of candidates on a ballot paper (whichever occurs first).

3. A party agent for a registered party can be responsible for making disclosures on behalf of a local government elected member, candidate or group in certain circumstances. In such cases, the NSW Electoral Commission must be notified in writing.

Disclosures of political donations and electoral expenditure continued

How are disclosures made?

Disclosures due during 2022-23 were required to be made using *Funding and Disclosure Online*, or manually using the downloadable forms published on the Electoral Commission's website. Individuals who are responsible for submitting a disclosure are notified when the forms are available for use and provided with information on how and when to disclose.

Funding and Disclosure Online was first available for individuals responsible to prepare and submit disclosures for the disclosure lodgement period ending 31 July 2021. The 2023 NSW State election was the first state general election for which pre-election period disclosures could be made online.

Fact sheets were published on the Electoral Commission's website and shared to inform and support compliance with the disclosure requirements. The disclosure requirements are promoted on the Electoral Commission's website at the time disclosures are due to be submitted. The Electoral Commission aims to increase awareness of the disclosure requirements more broadly by promoting the disclosure requirements on social media platforms.

The disclosure forms include a declaration that must be made by the person responsible for making the disclosure that all that is required to be disclosed has been disclosed. Each disclosure received is checked to make sure the person who is lawfully required to submit the disclosure has signed the declaration and used the approved form.

Political parties are provided with a worksheet to populate the information required to be disclosed in lieu of using the tables in the disclosure forms. A disclosure form must be signed and submitted even if a worksheet has been used.

If a person responsible for making a disclosure is not able to lodge the disclosure form on time, they can request an extension. The request must be made before the due date for submitting the disclosure and the Electoral Commission can only approve an extension if proper reasons exist to justify the extension. The Electoral Commission can grant a conditional extension where the person is asked to disclose what they can by the due date and then disclose the remaining information by the extended due date.

If a disclosure has not been submitted in the form and manner approved by the Electoral Commission or in accordance with the Electoral Funding Act the disclosure is taken to be 'invalidly' submitted. An invalid disclosure generally occurs where:

- the approved form is not used
- the declaration was not signed by the person responsible.

In such cases, the person responsible for submitting the disclosure is notified and advised how to validly submit the disclosure.

An 'incomplete' disclosure form is one where the information submitted is not complete. When an 'incomplete' disclosure form is received the person responsible for making the disclosure is notified and is given an opportunity to provide the information to be disclosed.

The Electoral Funding Act provides that a person who submitted a disclosure (or that person's successor as the agent of the party, elected member, group, candidate, third-party campaigner or associated entity concerned) may amend the disclosure by submitting an amended disclosure in the manner and form approved by the Electoral Commission. An amended disclosure can alter, omit, add or substitute information disclosed.

The Electoral Commission is authorised under the Electoral Funding Act to audit disclosures that are received and to enforce breaches of the disclosure requirements. Detailed information about the audit activities of the Electoral Commission is set out in the Compliance and enforcement section of this report.

Disclosures received during 2022-23

During 2022-23, 16,882 disclosures were expected to be received from political participants for the disclosure periods listed in Table 19, including the second half-year donations disclosure period for 2021-22, and the annual electoral expenditure disclosure period for 2021-22 and for the first half-year donations disclosure period for 2022-23.

Table 19. Disclosures due to be lodged during 2022-23 and relevant disclosure periods

Disclosure obligation	Disclosure period	First date of lodgement	Due date	Disclosures due
Second half-yearly political donation 2021-22	1 January 2022 to 30 June 2022	1 July 2022	28 July 2022	7,016
Annual reportable political donations by donors 2021-22	1 July 2021 to 30 June 2022	1 July 2022	28 July 2022	1,138
Annual electoral expenditure 2021-22	1 July 2021 to 30 June 2022	1 July 2022	22 September 2022	7,020
First-half period political donation 2022-23	1 July 2022 to 31 December 2022	1 January 2023	13 February 2023	1,708
Pre-election period donation disclosure	1 October 2022 to 25 March 2023	1 October 2022	within 21 days of donation being made or received	Details of pre-election disclosures are in the Special Report at Part two

On-time lodgement rates

During 2022-23, 7,317 of the 16,882 disclosures due were submitted to the Electoral Commission on time. This represents an overall 'on-time' submission rate of 43 per cent and was the lowest on-time disclosure submission rate since the Electoral Commission was established in 2015.

A comparison of 'on-time' lodgement rates across the financial years since 2014-15, set out in Table 20, shows a decline in the level of compliance in most categories of political participants compared with previous years though particularly for candidates and groups of candidates, mainly candidates in the December 2021 Local Government elections.

In response to the low candidate and elected member submission rates, the Electoral Commission implemented an intensive program to contact all political participants with overdue disclosure obligations. During this program, compliance and client services officers assisted many duty-holders to navigate the lodgement process step-by-step. Following this intensive compliance program, 12,773 disclosures had been submitted in total, which was 76 per cent of all due for 2022-23. Further late disclosures arising from the 2021 Local Government elections will be reported during the next reporting year (2023-24). Amended disclosures were also received during 2022-23, including those overdue for previous financial years. Refer to Failure to lodge disclosures for more information about the enforcement actions taken in response to failures to lodge disclosures by the due date.

The 2021 Local Government elections were the first ordinary local elections regulated under the Electoral Funding Act. The previous local government ordinary elections (conducted in two tranches in 2016 and 2017 due to council amalgamations) were regulated under the *Election Funding, Expenditure and Disclosures Act 1981*. As a result, the disclosure requirements for most political participants in this reporting year were more frequent than many had previously experienced. Also, under the Electoral Funding Act, candidates contesting local government elections are responsible for submitting their own disclosures rather than appointing an official agent to make disclosures.

Additionally, compliance with 'on-time' disclosure rules was likely impacted by the election schedule. A second half-yearly disclosure of political donations and an electoral expenditure disclosure must be made following 30 June each year, and local government ordinary elections are held in the first half of the financial year. This passage of time can result in some political participants, particularly unsuccessful candidates, believing they have already dealt with all their obligations after making the first half-yearly donations disclosure (in this case, during the previous reporting year in 2021-22).

Disclosures of political donations and electoral expenditure continued

Compounding these matters, the 2021 Local Government elections were twice delayed due to the COVID-19 pandemic. Originally scheduled for September 2020 and then deferred until September 2021, they were eventually held on 4 December 2021. Although the Electoral Commission communicated often with registered participants, and more generally about electoral funding requirements, awareness of the regulatory requirements for this election may have diminished over such an extended period.

Major political donor 'on-time' lodgement rates remained low at 21 per cent compared with 25 per cent in the previous reporting period. The low compliance from major political donors suggests there is still a significant lack of awareness by donors of their disclosure obligations. That will be a focus of awareness-raising activities in the next reporting period, including what additional steps may be taken by donation recipients.

The Electoral Commission is required to publish, as soon as practicable, disclosures of reportable political donations and electoral expenditure and any other information it considers relevant. During 2022-23 a total of 14,987 disclosures were published. These included amended disclosures received in relation to prior periods.

Second half-yearly political donation disclosures 2021-22

Political donation disclosures for the second half-yearly period ending 30 June 2022 were due to be submitted between 1 July and 28 July 2022. It was expected that 7,016 half-yearly disclosures would be made. Forty-six per cent of these were received on time with 3,210 submitted by the due date across all political participant categories, and 2,489 disclosures received late. The due date was extended in 607 cases. In addition to disclosures lodged there were 54 amended disclosures lodged during the reporting period 2022-23.

Most disclosures due for this period were obligations generated by participation in the twice delayed 2021 Local Government ordinary elections. On-time disclosure submission by participants in local government elections is typically lower than compliance by participants in state elections, and factors considered above also impacted this lodgement period.

Table 20. On-time* submission rates for disclosures received since 2014-15, up to 2022-23 (excluding pre-election period disclosures)

Political participant	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23
Political parties	81%	78%	64%	72%	76%	76%	72%	71%	66%
Elected members	83%	76%	67%	74%	76%	70%	75%	69%	64%
Candidates	63%	71%	64%	60%	78%	78%	56%	59%	49%
Groups of candidates	71%	67%	65%	58%	75%	68%	53%	74%	58%
Third-party campaigners	85%	N/A	54%	47%	98%	80%	100%	74%	68%
Associated entities	N/A	N/A	N/A	N/A	100%	67%	100%	100%	100%
Donors	52%	57%	50%	47%	43%	43%	31%	25%**	21%

Note: Where "N/A" is shown, the political participant category was not required to submit disclosures or there were no political participants of that category for that year. *On-time submission means the disclosure was lodged by the statutory due date or, where a participant requested and was granted an extension of time, it was lodged by the extended due date. **Data was unavailable for this participant type for the 2021-22 report. The table is updated with the relevant figure, 25%.

Table 21. Disclosure obligations and disclosures received second half-yearly period 2021-22

Political participant	Disclosure obligations	Received on time	Received late	Not received	On time lodgement rate*
Political parties	54	27	18	9	50%
Elected members	1,969	1,033	493	443	52%
Candidates	4,173	1,712	1,713	748	41%
Groups of candidates	771	411	249	111	53%
Third-party campaigners	45	23	16	6	51%
Associated entities	4	4	0	0	100%
Total	7,016	3,210	2,489	1,317	46%

*On-time lodgement means the disclosure was lodged by the statutory due date or, where a participant requested and was granted an extension of time, the disclosure was lodged by the extended due date.

There were 1,010 or 18 per cent of disclosures received that were 'nil' disclosures. A 'nil' disclosure is a declaration that there are no political donations to be disclosed. Table 22 shows the 'nil' disclosures received.

Table 22. 'Nil' disclosures received for the second half-yearly period 2021-22

Political participant	Number of 'nil' disclosures received	'Nil' disclosures as a percentage of all disclosures received by political participant
Political parties	26	52%
Elected members	477	32%
Candidates	442	13%
Groups of candidates	60	9%
Third-party campaigners	5	13%
Associated entities	0	0%
Total	1,010	18%

Disclosures of political donations and electoral expenditure continued

Based on the disclosures and amended disclosures received in 2021-22, a total of \$5,127,979.25 in political donations and reportable loans were received in the half-yearly period, as shown in Table 23.

Table 23. Political donations and loans received second half-yearly period 2021-22

Political participant	Small political donations received	Reportable political donations received	Membership and affiliation fees received	Reportable loans received	Total donations and loans received
Political parties	\$867,827.26	\$2,126,440.59	\$1,740,223.79	\$120,165.69	\$4,854,657.33
Elected members	\$62,636.17	\$91,910.40	N/A	\$0	\$154,546.57
Candidates	\$21,722.71	\$24,836.00	N/A	\$0	\$46,558.71
Groups	\$22,158.09	\$48,783.06	N/A	\$0	\$70,941.15
Third-party campaigners	N/A	\$1,275.49	N/A	\$0	\$1,275.49
Associated entities	\$0	\$0	N/A	\$0	\$0
Total	\$974,344.23	\$2,293,245.54	\$1,740,223.79	\$120,165.69	\$5,127,979.25

Note: N/A means the political participant category is not required to disclose the category of political donations.

Based on the disclosures and amended disclosures received 2021-22, a total of \$892,802.93 in political donations were made by political participants in the second half-yearly period as shown in Table 24.

Table 24. Political donations made second half-yearly period 2021-22

Political participant	Small political donations made	Reportable political donations made	Total
Political parties	\$0	\$6,897.98	\$6,897.98
Elected members	\$68,969.89	\$602,370.23	\$671,340.12
Candidates	\$55,936.92	\$109,186.76	\$165,123.68
Groups	\$9,686.73	\$17,754.42	\$27,441.15
Third-party campaigners	N/A	\$22,000.00	\$22,000.00
Associated entities	\$0	\$0	\$0
Total	\$134,593.54	\$758,209.39	\$892,802.93

*Third-party campaigners can disclose reportable political donations made in a third-party campaigner disclosure form or in an annual major political donor form.

The disclosures and amended disclosures received also included the net or gross proceeds from fundraising ventures and functions. The legislation provides that in connection with fundraising ventures or functions, during the relevant disclosure period, disclosures of political donations may include either the net or gross proceeds for the venture or function. The amounts disclosed, totalling \$422,837.02, are listed in Table 25.

Table 25. Net or gross proceeds from fundraising ventures and functions second half-yearly period 2021-22

Political participant	Net or gross proceeds from fundraising ventures and functions
Political parties	\$329,827.90
Elected members	\$80,446.12
Candidates	\$363.00
Groups	\$12,200.00
Third-party campaigners	\$0
Associated entities	\$0
Total	\$422,837.02

The disclosures and amended disclosures received also included the payments made by candidates and elected members into a campaign account. The amounts disclosed are listed in Table 26.

Table 26. Payments made by candidates, groups, and elected members into a campaign account second half-yearly period 2021-22

Political participant	Payments made into a campaign account
Elected members	\$123,097.52
Candidates	\$150,891.19
Total	\$273,988.71

Note: the disclosure of payments into a campaign account only applies where a party agent is not the person responsible to disclose on behalf of an elected member, candidate or group.

Financial records of political parties

Political parties are required to lodge copies of their financial records with their second half-yearly disclosure. The financial records covered the 2021-22 financial year. These records are used as part of the audits of political party disclosures.

Table 27 shows the number of parties that complied with this requirement.

Table 27. Lodgement of financial records by parties second half-yearly disclosure 2021-22

Document	Lodged	Not available/ not lodged	Total
Audited financial statements (only for parties registered for state elections)	11	7	18
Financial records	28	24	52
Chart of accounts	23	29	52
Trial balance	25	27	52
Bank statements	35	17	52

Disclosures of political donations and electoral expenditure continued

Annual electoral expenditure disclosures 2021-22

Electoral expenditure disclosures for the annual period ending 30 June 2022 were due to be lodged between 1 July and 22 September 2022. Most disclosures due for this period were obligations generated by participation in the twice delayed 2021 Local Government ordinary elections. There were 7,020 electoral expenditure disclosures expected. Of these, 3,016 or 43 per cent were received by the due date, a further 2,177 were received after the due date and 1,827 had not been received by 30 June 2023. The due date was extended in 620 cases. In addition to disclosures lodged there were 33 amended disclosures lodged during the reporting period 2022-23.

Table 28. Annual electoral expenditure disclosure obligations and disclosures received for the annual electoral expenditure period 2021-22

Political participant	Disclosure obligations	Received on time	Received late	Not received	On-time lodgement rate*
Political parties	54	31	15	8	57%
Elected members	1,971	907	475	589	46%
Candidates	4,175	1,691	1,421	1,063	41%
Groups of candidates	771	349	261	161	45%
Third-party campaigners	45	34	5	6	76%
Associated entities	4	4	0	0	100%
Total	7,020	3,016	2,177	1,827	43%

*On-time lodgement means the disclosure was lodged by the statutory due date or, where a participant requested and was granted an extension of time, the disclosure was lodged by the extended due date.

For the annual electoral expenditure period 2021-22, 953 or 18 per cent of disclosures received were 'nil' disclosures. Table 29 shows the 'nil' disclosures by each category of political participant.

Table 29. 'Nil' disclosures lodged for the annual electoral expenditure period 2021-22

Political participant	Number of 'nil' disclosures received	'Nil' disclosures as a percentage of all disclosures received
Political parties	29	58%
Elected members	222	16.1%
Candidates	417	13.4%
Groups of candidates	260	42.3%
Third-party campaigners	25	62.5%
Associated entities	0	0%
Total	953	18.4%

Based on the disclosures and amended disclosures received in 2021-22, a total of \$10,252,902 in electoral expenditure was incurred in the annual period as shown in Table 30.

Table 30. Electoral expenditure incurred annual period 2021-22

Political participant	Political parties	Elected member	Candidates	Groups	Third-party Campaigners	Total
Advertising	\$1,377,685.78	\$375,956.98	\$1,385,444.14	\$1,095,303.33	\$238,872.33	\$4,473,262.56
Production and distribution of electoral material	\$1,066,075.39	\$342,460.22	\$1,268,363.51	\$944,862.83	\$48,676.21	\$3,670,438.25
Internet, tele-communications, stationery, and postage	\$200,630.77	\$63,180.91	\$173,732.98	\$126,152.46	\$10,260.08	\$573,957.20
Employing staff engaged in election campaigns	\$376,275.93	\$4,554.68	\$133,563.10	\$11,622.12	\$41,199.88	\$567,215.71
Office accommodation for staff and candidates	\$35,342.11	\$3,404.90	\$14,294.17	\$5,569.42	\$129.65	\$58,740.25
Travel and travel accommodation for staff and candidates	\$20,911.07	\$1,122.02	\$40,443.86	\$5,947.84	\$11,731.26	\$80,156.05
Election campaign research	\$285,661.99	\$356.18	\$103,424.71	\$1,258.60	\$12,320.00	\$403,021.48
Fundraising and audit expenses	\$38,844.27	\$35,329.43	\$59,624.54	\$292,312.35	0	\$426,110.59
Total	\$3,654,895.39	\$826,365.32	\$3,158,110.74	\$2,250,341.14	\$363,189.41	\$10,252,902.00

Annual major political donor disclosures 2021-22

Major political donor disclosures for the annual period ending 30 June 2022 were due to be received between 1 July and 28 July 2022. We expected to receive approximately 1,138 major political donor disclosures. We received 238 by the due date, representing an 'on-time' lodgement rate of 21 per cent; 578 disclosures were received during 2021-22 after the due date and 322 were not received during 2021-22.

In no case was the due date extended and no amended disclosures were received during 2021-22 for major political donors. Based on the disclosures and amended disclosures received during 2022-23, a total of \$3,874,072.84 in reportable political donations were disclosed by major political donors as having been made during the annual period ending 30 June 2022.

First half-yearly political donation disclosures 2022-23

Political donation disclosures for the first half-yearly period starting on 1 July and ending on 31 December 2022 were due to be received between 1 January and 13 February 2023, noting the lodgement period was amended by legislation to be six weeks rather than four weeks after the end of the period.

Disclosures of political donations and electoral expenditure continued

A number of candidates, groups and third-party campaigners registered for local government elections held during 2022-23 as well as those registered for the 2023 NSW State election, were required to submit disclosures for this period. We expected to receive 1,708 half-yearly disclosures. We received 1,095 by the due date; 521 disclosures were received during 2022-23 after the due date and 92 were not received during 2022-23.

The due date was extended in three cases. In addition to disclosures lodged there were 19 amended disclosures lodged by or on behalf of five political parties, 13 elected members, four candidates and two political parties. There were 73 disclosure forms that were not validly lodged. In 69 cases a valid disclosure form was subsequently received. The most common reasons for a disclosure form not being validly lodged were that the wrong disclosure form was used.

Table 31. Disclosure obligations and disclosures received first half-yearly period 2022-23

Political participant	Disclosure obligations	Received on time	Received late	Not received	On-time lodgement rate*
Political parties	53	32	12	9	60%
Elected members	1,404	886	450	68	63%
Candidates	190	133	44	13	70%
Groups of candidates	10	6	3	1	60%
Third-party campaigners	47	34	12	1	72%
Associated entities	4	4	0	0	100%
Total	1,708	1,095	521	92	64%

*On-time lodgement means the disclosure was lodged by the statutory due date or, where a participant requested and was granted an extension of time, the disclosure was lodged by the extended due date.

There were 1,128 'nil' disclosures lodged. Table 32 shows the 'nil' disclosures by political participant.

Table 32. 'Nil' disclosures lodged first half-yearly period 2022-23

Political participant	Number of 'nil' disclosures lodged	'Nil' disclosures as a percentage of all disclosures lodged
Political parties	26	58%
Elected members	950	73%
Candidates	110	62%
Groups of candidates	8	89%
Third-party campaigners	30	67%
Associated entities	4	100%
Total	1,128	71%

Based on the disclosures and amended disclosures received during 2022-23, a total of \$4,338,387.10 in political donations and reportable loans were received in the half-yearly period as shown in Table 33.

Table 33. Political donations and loans received first half-yearly period 2022-23

Political participant	Small political donations received	Reportable political donations received	Membership and affiliation fees received	Reportable loans received	Total donations and loans received
Political parties	\$1,648,393.28	\$1,221,925.35	\$907,847.23	-\$4,054.95*	\$3,774,110.91
Elected members	\$237,819.21	\$75,070.00	N/A	\$66,307.30	\$379,196.51
Candidates	\$114,338.68	\$54,741.00	N/A	\$5,000.00	\$174,079.68
Groups	\$0	\$0	N/A	\$0	\$0
Third-party campaigners	N/A	\$1,000.00	N/A	\$10,000.00	\$11,000.00
Associated entities	\$0	\$0	N/A	\$0	\$0
Total	\$2,000,551.17	\$1,352,736.35	\$907,847.23	\$77,252.35	\$4,338,387.10

*This figure comprises new reportable loans and repayments of principal for previous loans.

Based on the disclosures and amended disclosures received during 2022-23, a total of \$1,454,233.16 in political donations were made in the half-yearly period as shown in Table 34.

Table 34. Political donations made first half-yearly period 2022-23

Political Participant	Small political donations made	Reportable political donations made	Total
Political parties	\$4518.80	\$14,000.00	\$18,518.80
Elected members	\$100,964.47	\$151,882.79	\$252,847.26
Candidates	\$13,139.58	\$12,583.02	\$25,722.60
Groups	\$0	\$5,500.00	\$5,500.00
Third-party campaigners*	N/A	\$1,151,644.50	\$1,151,644.50
Associated entities	\$0	\$0	\$0
Total	\$118,622.85	\$1,335,610.31	\$1,454,233.16

*Third-party campaigners can disclose reportable political donations made in their third-party campaigner disclosure form or in an annual major political donor form.

Disclosures of political donations and electoral expenditure continued

The disclosures and amended disclosures lodged also included the net or gross proceeds from fundraising ventures and functions. The amounts disclosed are listed in Table 35.

Table 35. Net or gross proceeds from fundraising ventures and functions first half-yearly period 2022-23

Political participant	Net or gross proceeds from fundraising ventures and functions
Political parties	\$161,383.02
Elected members	\$4,868.40
Candidates	\$180.00
Groups	\$1,785.00
Third-party campaigners	\$0
Associated entities	\$0
Total	\$168,216.42

The disclosures and amended disclosures received also included the payments made by candidates, elected members, and groups of candidates into a campaign account. The amounts disclosed are listed in Table 36.

Table 36. Payments made by candidates, groups, and elected members into a campaign account first half-yearly period 2022-23

Political participant	Payments made into a campaign account
Elected members	\$44,031.62
Candidates	\$48,474.72
Groups	\$0
Total	\$92,506.34

Note: the disclosure of payments into a campaign account only applies where a party agent is not the person responsible to disclose on behalf of an elected member, candidate, or group.

Disclosures received for past periods

During 2022-23, 856 disclosures and 187 amended disclosures were received for prior disclosure periods as shown in Table 37. Disclosures that are received past the due date are dealt with in accordance with the Electoral Commission's Compliance and Enforcement Policy. Amended disclosures are generally received because of findings through a compliance audit.

Table 37. Disclosures received during 2022-23 for past disclosure periods

Political participant	Annual period 2018-19	1st half yearly 2018-19	2nd half yearly 2018-19	Annual period 2019-20	1st half yearly 2019-20	2nd half yearly 2019/2020	Annual period 2020-21	1st half yearly 2020-21	2nd half yearly 2020-21	1st half yearly 2021-22
Candidate	0	0	0	1	0	0	21	0	19	420
Elected Member	2	1	1	2	4	2	6	1	12	147
Group of Candidates	0	0	0	0	0	0	1	0	3	50
Major Political Donor	2	0	0	2	0	0	114	0	0	0
Major Political Donor - Entity	0	0	0	0	0	0	40	0	0	0
Political Party	0	0	0	0	0	0	0	0	1	2
Third-Party Campaigner	0	0	0	0	0	0	0	0	0	2
Total	4	1	1	5	4	2	182	1	35	621

Table 38. Amended disclosures received during 2022-23 for past disclosure periods

Political participant	Annual period 2018-19	1st half yearly 2018-19	2nd half yearly 2018-19 H2	Annual period 2019-20	1st half yearly 2019-20	2nd half yearly 2019-20	Annual period 2020-21	1st half yearly 2020-21	2nd half yearly 2020-21	1st half yearly 2021-22	Pre-election period 2019 NSW State Election
Candidate	0	0	0	0	0	0	5	1	11	65	0
Elected Member	1	0	1	1	1	2	4	3	9	23	0
Group of Candidates	0	0	0	0	0	0	5	0	8	18	0
Major Political Donor	0	0	0	1	0	0	1	0	0	0	0
Political Party	1	1	1	1	1	4	3	1	1	8	1
Third-party Campaigner	0	0	0	0	0	0	0	0	0	2	0
Total	2	1	2	3	2	6	20	5	29	116	1

Information about pre-election disclosures published by donor location

All disclosures of political donations and electoral expenditure are published on the Electoral Commission's website including the pre-election donations disclosures which were published soon after they were received in the lead up to the 2023 NSW State election. To complement the publication of disclosures, the Electoral Commission also published a map providing a data visualisation of the value of political donations based on the location of donors. Donations were included on the map of New South Wales according to the electoral district in which the individual donor was enrolled, or in which the entity/business donors' offices were located. The data visualisation tool provided a quick and easy way to view the location of, and density of donations across the state during the pre-election period of 1 October 2022 to election date 25 March 2023. The data was published on 22 May 2023 in a Statement from the Chair of the Electoral Commission.

Obligations of registered parties and senior office holders

The Electoral Funding Act imposes certain governance and accountability requirements on registered political parties.

Audited annual financial statements of registered parties

The Electoral Funding Act requires parties that are registered for state elections to provide the Electoral Commission with copies of the parties' audited annual financial statements. The annual financial statements must be prepared in accordance with the Australian Auditing Standards.

The annual financial statements are used as part of the audit and compliance program to ensure parties are complying with the disclosure and public funding requirements of the Electoral Funding Act.

A registered party is not entitled to receive public funding payments if the latest copy of the party's audited annual financial statements has not been lodged. The Electoral Commission is authorised to waive this requirement for parties that are not eligible to receive public funding or where the cost of compliance is unreasonable. The Electoral Commission has waived this requirement for parties that were not entitled to receive public funding payments during the financial year to which the financial statements relate.

During 2022-23, the audited annual financial statements were due to be received by 20 October 2022. Of the 18 parties registered for state elections at that time, 11 provided copies of the audited annual financial statements and seven parties did not provide copies of the statements. These seven parties were unable to receive public funding payments until they complied.

Senior office holders of registered parties

A senior office holder of a party is a person involved in the management or control of the party or the operations of the party. Senior office holders have a duty under the Electoral Funding Act to report to the Electoral Commission any conduct in connection with the party that the office holder knows or reasonably believes constitutes a contravention of the Act. This applies to senior office holders of parties registered for state elections and parties registered for local government elections.

A registered party is not eligible to receive public funding payments unless it provides the Electoral Commission with a list of senior office holders, their roles, and responsibilities. The NSW Electoral Commission must be notified as and when senior office holders change or the roles and responsibilities of a senior office holder changes.

During 2022-23 the registered parties that received public funding payments had all provided a list of senior office holders. The lists are published on the Electoral Commission's website. The Electoral Commission was notified on 25 occasions of changes to senior office holder lists for 11 political parties. No public funding payments were withheld or delayed due to a party not providing a list or not notifying the Electoral Commission of changes to a list.

Public funding

The Electoral Funding Act provides for three schemes where public funds may be approved by the Electoral Commission for payment to eligible political parties, candidates and members of the NSW Parliament. Information about public funding claims is published and updated on the Electoral Commission's website, in accordance with the legislation.

The three schemes are:

- the Election Campaigns Fund – which provides payments to eligible parties and candidates for electoral expenditure incurred at a state election
- the Administration Fund – which provides payments to eligible parties and independent members of the NSW Parliament for administrative expenditure incurred
- the New Parties Fund – which provides payments to eligible parties for policy development expenditure incurred.

Each scheme sets out criteria that determines eligibility to receive payments, the way claims for funding must be made and the rules for assessing the amount a claimant is entitled to receive.

One of the objects of the Electoral Funding Act is to provide for the effective administration of public funding of elections, recognising the importance of the appropriate use of public money for that purpose. To support this objective the Electoral Commission audits claims, and claimants are required to respond to requests for information and provide documents to support the audit process.

A risk-based audit is undertaken for each claim. A risk-based audit may include auditing a sample of expenditure included in a claim. A risk profile is determined for each claimant based on the likelihood and consequence of potential incidents of including unauthorised expenditure in a claim.

Each scheme reimburses claimants for expenditure incurred. In some cases, payments are made in advance where claimants subsequently provide evidence of expenditure incurred. Any excess amounts paid to claimants are payable back to New South Wales consolidated revenue.

The Electoral Commission is authorised under the legislation to withhold payments where a claimant has not met the disclosure requirements for political donations or electoral expenditure or where a party has not provided the Electoral Commission with a copy of its audited annual financial statements or an up-to-date list of senior office holders.

The Electoral Commission is authorised under the legislation to disallow items of expenditure included in a claim under certain circumstances, including if expenditure is not eligible to be included in a claim.

Election Campaigns Fund

The purpose of the Election Campaigns Fund is to reimburse eligible political parties and candidates for electoral expenditure incurred in connection with a state election. Electoral expenditure is expenditure that promotes or opposes a party or candidate or influences the vote at an election. Electoral expenditure is capped in the lead-up to a state election, which means parties and candidates can only spend within the applicable cap amount.

In the lead-up to the 2023 NSW State election, provisions for the Election Campaigns Fund were altered by the *Electoral Legislation Amendment Act 2022* increasing the advance payments that a party can receive from the Election Campaigns Fund before a State general election from 50 per cent to 75 per cent of the party's entitlement for the previous State general election.

Information about the payments to parties and candidates from the Election Campaigns Fund in relation to the 2023 NSW State election are set out in the Electoral Commission's Special Report on the 2023 NSW State Election available on the Electoral Commission's website. This includes advance payments and reimbursement of overpayments.

Payments totalling \$1,049,047.72 were made to 57 candidates, and payments totalling \$29,744,321.28 were made to five parties, entitled to receive reimbursement from the Election Campaigns Fund for electoral expenditure in connection with the 2023 NSW State Election. Copies of claims for payment received and payments and repayments made are published on the Electoral Commission's website.

Public funding continued

Administration Fund

The purpose of the Administration Fund is to reimburse eligible political parties and independent members of the NSW Parliament for administrative and operating expenditure incurred. Administrative and operating expenditure includes:

- expenditure on the administration or management of the activities of the eligible party or elected member
- expenditure for conferences, seminars, meetings, or similar functions at which the policies of the eligible party or elected member are discussed or formulated
- expenditure on providing information to the public or a section of the public about the eligible party or elected member
- expenditure on providing information to members and supporters of the eligible party or elected member
- expenditure in respect of the audit of the financial accounts of the eligible party or elected member
- expenditure on equipment and training to ensure compliance by the eligible party, elected members or endorsed candidates of the eligible party with the obligations under the *Electoral Funding Act 1981*
- expenditure on the reasonable remuneration of staff engaged in the above activities for the eligible party or elected member (being the proportion of that remuneration that relates to the time spent on those activities)
- reasonable expenditure on equipment or vehicles used for the purposes of the above activities (being the proportion of the cost of their acquisition and operation that relates to the use of the equipment or vehicles for those activities)
- expenditure on office accommodation for the above staff and equipment
- expenditure on interest payments on loans.

Administrative and operating expenditure does not include:

- electoral expenditure
- expenditure for which a member may claim a parliamentary allowance as a member
- expenditure incurred substantially in respect of operations or activities that relate to the election of members to a Parliament other than the NSW Parliament
- expenditure prescribed by the Electoral Funding Regulation.

Parties and elected members must meet the criteria to be eligible to receive payments from the fund. This includes that a party is registered for state elections and Members of Parliament are endorsed by the party. A Member of Parliament is eligible to receive payments from the fund only if the elected member was not endorsed by a party at the election in which the elected member was last elected and continues not to be endorsed by a party.

The fund operates on a calendar-year basis where eligible parties and elected members have a maximum amount payable each quarter and a claim for quarterly payment may be made following the end of a quarter.

In November 2022, provisions for the Administration Fund were altered by the *Electoral Legislation Amendment Act 2022* increasing the advance quarterly payments that a party or elected member can receive from the Administration Fund from 50 per cent to 100 per cent of the entitlement and allowing for unspent administrative expenditure in any quarter to be carried over to the following quarter within a given calendar year.

The maximum amount payable to an eligible party is based on the number of endorsed elected members of the party. The maximum amounts payable are adjusted for inflation each calendar year. If an eligible party or elected member claims expenditure more than the maximum amount payable, the amount payable to the eligible party or elected member cannot exceed the maximum amount payable. Excess amounts of expenditure can be carried over to the following quarter in the calendar year.

Eligible parties and elected members are entitled to claim an advance payment at the beginning of each quarter. A quarterly advance payment is equal to 100 per cent of what the eligible party or elected member would be entitled to claim in relation to the quarter once the quarter has ended. Quarterly advance payments are made on the first business day of each quarter. Claims for quarterly payment must be made within three months of the end of a quarter.

Quarterly payments must be made by the Electoral Commission within 30 days of receiving a claim for payment, declaration of expenditure and the required supporting documentation in relation to the expenditure included in the claim. An advance payment made to a party or elected member is deducted from the quarterly amount payable.

If a party or elected member receives by way of an advance payment or quarterly payment more than the amount the party or elected member is entitled to receive the excess amount must be repaid.

Payment made with respect to expenditure incurred in the 2022 calendar year are shown in Table 39. The Electoral Commission paid over \$8.9 million from the Administration Fund to seven eligible parties and three eligible independent elected members during this period. Copies of claims for payment received and payments and repayments made are published on the Electoral Commission's website and in Table 39.

Table 39. Administration Fund amounts paid during 2022-23 for administrative expenditure incurred during 2022

Name of Party or MP	Quarterly maximum amount*	Payment type	Status	Amount	Date of payment/repayment
Alexander Greenwich	\$60,600.00	1st quarterly payment	Paid	\$30,300.00	18/07/2022
	\$60,600.00	2nd quarterly payment	Paid	\$29,141.86	10/11/2022
	\$60,600.00	3rd quarterly advance	Paid	\$30,300.00	1/07/2022
		3rd quarterly payment	Paid	\$27,602.93	9/01/2023
	\$60,600.00	4th quarterly advance	Paid	\$30,300.00	4/10/2022
		4th quarterly payment	Paid	\$23,347.10	11/05/2023
Animal Justice Party	\$160,600.00	1st quarterly payment	Paid	\$76,863.18	21/07/2022
	\$160,600.00	2nd quarterly payment	Paid	\$77,186.99	29/09/2022
	\$160,600.00	3rd quarterly advance	Paid	\$80,300.00	1/07/2022
		3rd quarterly payment	Paid	\$78,167.07	25/01/2023
	\$160,600.00	4th quarterly advance	Paid	\$80,300.00	4/10/2022
		4th quarterly payment	Paid	\$80,300.00	18/04/2023
Australian Labor Party (NSW Branch)	\$909,000.00	2nd quarterly payment	Paid	\$454,500.00	18/08/2022
	\$909,000.00	3rd quarterly advance	Paid	\$454,500.00	1/07/2022
		3rd quarterly payment	Paid	\$454,500.00	4/11/2022
	\$909,000.00	4th quarterly advance	Paid	\$454,500.00	4/10/2022
		4th quarterly payment	Paid	\$454,500.00	14/02/2023
Gregory Michael Piper	\$60,600.00	1st quarterly payment	Paid	\$21,666.84	21/07/2022
	\$60,600.00	2nd quarterly payment	Paid	\$28,727.79	11/08/2022
	\$60,600.00	3rd quarterly advance	Paid	\$30,300.00	1/07/2022
		3rd quarterly payment	Paid	\$30,288.08	25/01/2023
	\$60,600.00	4th quarterly advance	Paid	\$30,300.00	4/10/2022
		4th quarterly payment	Paid	\$30,300.00	21/02/2023
Joseph Gregory McGirr	\$60,600.00	2nd quarterly payment	Paid	\$2,347.85	4/10/2022
	\$60,600.00	3rd quarterly advance	Paid	\$30,300.00	1/07/2022
		3rd quarterly payment	Paid	\$92.96	23/01/2023
	\$60,600.00	4th quarterly advance	Paid	\$30,300.00	4/10/2022
		4th quarterly payment	Repaid	\$10,906.16	5/04/2023

Public funding continued

Name of Party or MP	Quarterly maximum amount*	Payment type	Status	Amount	Date of payment/repayment
National Party of Australia – NSW	\$683,600.00	1st quarterly payment	Paid	\$341,800.00	28/07/2022
	\$683,600.00	2nd quarterly payment	Paid	\$341,800.00	27/10/2022
	\$683,600.00	3rd quarterly advance	Paid	\$341,800.00	1/07/2022
		3rd quarterly payment	Paid	\$341,800.00	19/01/2023
	\$683,600.00	4th quarterly advance	Paid	341,800.00	4/10/2022
		4th quarterly payment	Paid	\$341,800.00	20/04/2023
Pauline Hanson's One Nation	\$160,600.00	1st quarterly payment	Repaid	\$2,083.30	3/08/2022
	\$160,600.00	2nd quarterly payment	Paid	\$9,285.96	17/11/2022
	\$160,600.00	3rd quarterly advance	Paid	\$80,300.00	1/07/2022
		3rd quarterly payment	Paid	\$7,881.29	25/01/2023
	\$160,600.00	4th quarterly advance	Paid	\$80,300.00	4/10/2022
		4th quarterly Payment	Paid	\$7,954.94	27/04/2023
Shooters, Fishers and Farmers Party (NSW) Incorporated	\$232,800.00	2nd quarterly payment	Paid	\$116,400.00	18/08/2022
	\$232,800.00	3rd quarterly advance	Paid	\$116,400.00	1/07/2022
		3rd quarterly payment	Paid	\$116,400.00	22/12/2022
	\$232,800.00	4th quarterly advance	Paid	\$116,400.00	4/10/2022
		4th quarterly payment	Paid	\$44,200.00	3/04/02023
The Greens NSW	\$297,200.00	2nd quarterly payment	Paid	\$148,600.00	27/10/2022
	\$297,200.00	3rd quarterly advance	Paid	\$148,600.00	1/07/2022
		3rd quarterly payment	Paid	\$148,600.00	3/04/2023
	\$297,200.00	4th quarterly advance	Paid	\$148,600.00	4/10/2022
		4th quarterly Payment	Paid	\$148,600.00	4/05/2023
The Liberal Party of Australia New South Wales Division	\$909,000.00	2nd quarterly payment	Paid	\$454,500.00	15/09/2022
	\$909,000.00	3rd quarterly advance	Paid	\$454,500.00	1/07/2022
		3rd quarterly payment	Paid	\$454,500.00	17/11/2022
	\$909,000.00	4th quarterly advance	Paid	\$454,500.00	4/10/2022
		4th quarterly payment	Paid	\$454,500.00	14/02/2023
Total of all payments:				\$8,900,065.38	

*Estimated maximum amount – may be different when eligibility is determined.

During the first half of the 2023 calendar year, the Electoral Commission paid \$7.4 million from the Administration Fund to seven eligible parties and three eligible independent elected members. During this period a quarterly advance payment increased to 100 per cent of what the eligible party or elected member is entitled to claim. Copies of claims for payment received and payments and repayments made are published on the Electoral Commission's website and in Table 40.

Table 40. Administration Fund amounts paid during 2023 for administrative expenditure incurred

Name of Party or MP	Quarterly maximum amount*	Payment type	Status	Amount	Date of payment/repayment
Alexander Greenwich	\$64,900.00	1st quarterly advance	Paid	\$64,900.00	3/01/2023
	\$64,900.00	2nd quarterly advance	Paid	\$64,900.00	3/04/2023
Animal Justice Party	\$171,900.00	1st quarterly advance	Paid	\$171,900.00	3/01/2023
	\$171,900.00	2nd quarterly advance	Paid	\$171,900.00	3/04/2023
Australian Labor Party (NSW Branch)	\$973,700.00	1st quarterly advance	Paid	\$973,700.00	3/01/2023
	\$973,700.00	2nd quarterly advance	Paid	\$973,700.00	3/04/2023
Gregory Michael Piper	\$64,900.00	1st quarterly advance	Paid	\$64,900.00	3/01/2023
	\$64,900.00	2nd quarterly advance	Paid	\$64,900.00	3/04/2023
Joseph Gregory McGirr	\$64,900.00	1st quarterly advance	Paid	\$64,900.00	3/01/2023
	\$64,900.00	2nd quarterly advance	Paid	\$64,900.00	3/04/2023
National Party of Australia - NSW	\$732,200.00	1st quarterly advance	Paid	\$732,200.00	3/01/2023
	\$732,200.00	2nd quarterly advance	Paid	\$732,200.00	3/04/2023
Pauline Hanson's One Nation	\$171,900.00	1st quarterly advance	Paid	\$171,900.00	3/01/2023
	\$171,900.00	2nd quarterly advance	Paid	\$171,900.00	3/04/2023
Shooters, Fishers and Farmers Party (NSW) Incorporated	\$171,900.00	1st quarterly advance	Paid	\$171,900.00	3/01/2023
	\$171,900.00	2nd quarterly advance	Paid	\$171,900.00	3/04/2023
The Greens NSW	\$318,200.00	1st quarterly advance	Paid	\$318,200.00	3/01/2023
	\$318,200.00	2nd quarterly advance	Paid	\$318,200.00	3/04/2023
The Liberal Party of Australia New South Wales Division	\$973,700.00	1st quarterly advance	Paid	\$973,700.00	3/01/2023
	\$973,700.00	2nd quarterly advance	Paid	\$973,700.00	3/04/2023
Total of all payments:				\$7,416,400.00	

Public funding continued

New Parties Fund

The purpose of the New Parties Fund is to reimburse eligible political parties for policy development expenditure incurred. Policy development expenditure includes:

- expenditure on providing information to the public or a section of the public about the eligible party
- expenditure for conferences, seminars, meetings, or similar functions at which the policies of the eligible party are discussed or formulated
- expenditure on providing information to members and supporters of the eligible party
- expenditure in respect of the audit of the financial accounts of the eligible party
- expenditure on the reasonable remuneration of staff engaged in the above activities for the eligible party (being the proportion of that remuneration that relates to the time spent on those activities)
- reasonable expenditure on equipment or vehicles used for the purposes of the above activities (being the proportion of the cost of their acquisition and operation that relates to the use of the equipment or vehicles for those activities)
- expenditure on office accommodation for the above staff and equipment
- expenditure on interest payments on loans.

Policy development expenditure does not include:

- electoral expenditure incurred outside the capped expenditure period for a state election
- expenditure incurred substantially in respect of operations or activities that relate to the election of members to a Parliament other than the NSW Parliament
- expenditure prescribed by the Electoral Funding Regulation.

Parties must meet criteria to be eligible to receive payments from the fund. This includes that a party is registered for state elections, the Electoral Commission is satisfied the party operates as a genuine party and the party is not eligible to receive payments from the Administration Fund.

In November 2022, provisions for the New Parties Fund were altered by the *Electoral Legislation Amendment Act 2022* changing the operation of the fund from calendar year to financial year.

A claim for payment can now only include actual policy development expenditure incurred by a party in the relevant financial year. Eligible parties are not entitled to be reimbursed more than the amount of policy development expenditure incurred and the amount payable is subject to a cap called a 'maximum amount payable'.

The maximum amounts payable to an eligible party are based on the number of first preference votes received by the party's endorsed candidates at the previous NSW State general election. The maximum amounts payable are adjusted for inflation each financial year, noting that the legislative amendment allowed for a six-month period of adjustment in the first half of 2023. If an eligible party claims expenditure more than the maximum amount payable, the amount payable to the eligible party cannot exceed the maximum amount payable.

The maximum amounts payable for the 2022 calendar year, the 2023 adjustment period and the 2023-24 financial year, are published on the Electoral Commission's website.

After a financial year has ended, an eligible party is entitled to claim a payment for expenditure incurred in that year. Claims for payment must be made within six months of the end of a financial year. Payments must be made by the Electoral Commission within 30 days of receiving a claim for payment, declaration of expenditure and the required supporting documentation in relation to the expenditure included in the claim.

The Electoral Commission paid \$10,450.94 from the New Parties Fund to three eligible parties during 2022-23. The payments were made in relation to expenditure incurred by the parties between 1 January 2022 to 30 June 2022. Copies of claims for payment received and payments made are published on the Electoral Commission's website. Four eligible parties did not lodge a claim for payment for expenditure incurred in 2022-23.

Table 41. New Parties Fund amounts paid during the 2022-23 reporting year

Name of party	Maximum amount*	Status	Amount paid	Date of payment
Public Education Party	\$16,439.85	Paid	\$5,060.24	25/01/2023
Socialist Alliance	\$5,390.70	Paid	\$5,390.70	22/12/2022
Total of all payments:			\$10,450.94	

Note: not all eligible parties submit a claim from the New Parties Fund.

Public funding payments not made

If, at the time a payment is due to be made, a party, elected member or candidate has any outstanding disclosures of political donations or electoral expenditure, or, in the case of a party, the party has not provided us with copies of its audited annual financial statements, they are ineligible to receive public funding payments. In some instances the Electoral Commission delayed making payments to political participants until they lodged an outstanding disclosure, however those payments were ultimately made when the participants complied with their obligations.

Repayments of public funding

The Electoral Commission is authorised to recover any excess public funding amounts paid to a party, candidate, or elected member. This generally occurs where the amount of expenditure actually incurred by an elected member or a party in a period is less than the amount paid in advance.

There were two repayments to the Administration Fund during 2022-23 totalling \$12,989.46 and no repayments to the New Parties Fund.

Table 42. Repayments of public funding made during 2022-23

Fund	Party, elected member or candidate	Amount repaid	Repayment date
Administration Fund	Pauline Hanson's One Nation	\$2,083.30	03/08/2022
Administration Fund	Joseph McGirr	\$10,906.16	05/04/2023
Total amount repaid		\$12,989.46	

Compliance and enforcement

The Electoral Commission is responsible for the monitoring and enforcement of compliance with New South Wales electoral and lobbying laws.

The Electoral Commission is required to report statistical information each year to the NSW Parliament about the use of its enforcement powers. These include issuing statutory notices to require the provision of documents or information or require a person to attend an interview and to be subject to an inspection.

During 2022-23, the Electoral Commission continued to regulate and enforce the Electoral Act and the Electoral Funding Act and, the now repealed, *Election Funding, Expenditure and Disclosures Act 1981*, for breaches of the legislation that occurred in relation to electoral funding obligations before 1 July 2018.

Additionally, the Electoral Commission regulated and enforced matters under the *Local Government Act 1993* (electoral provisions only) and the Lobbying of Government Officials Act.

The Electoral Commission seeks to detect, review and investigate potential non-compliance, initiating enforcement actions as appropriate and operate in accordance with key policies and procedures including the following that are published on the Electoral Commission's website:

- Compliance Audit Policy
- Compliance and Enforcement Policy
- Compliance and Enforcement Procedures
- Prosecution Policy
- Compliance and Enforcement Publication Policy.

Limits on authority to disclose compliance and enforcement information

The Electoral Commission was not, during 2022-23, generally authorised under its statutory framework to publish or otherwise disclose information about the existence or outcomes of specific investigations and enforcement actions, except with the agreement of the individuals concerned or where there has been a public enforcement action (for example, court proceedings).

On 26 October 2022, the *Electoral Legislation Amendment Act 2022* introduced a provision that permits disclosure of information concerning investigations and other enforcement action in certain circumstances, in the public interest. The Electoral Commission's Compliance and Enforcement Publication Policy was amended to reflect this change. No such disclosure was made during the 2022-23 financial year.

Under the Lobbying of Government Officials Act, the Electoral Commission is specifically required to publish on its website any decisions to refuse to register a third-party lobbyist, suspend or cancel the registration of a third-party lobbyist, place a third-party lobbyist or other lobbyist on the Lobbyist Watch List and determine that a third-party lobbyist is ineligible to be registered.

Compliance framework

The Electoral Commission's compliance framework is structured around core audit and investigation capabilities with the work, processes and procedures supported by ongoing compliance and intelligence functions.

The Electoral Commission receives allegations of breaches of electoral and lobbying laws directly from members of the public, the media, political stakeholders and other government agencies. Non-compliance with electoral funding and lobbying laws is also identified through compliance audits and other operational processes.

The Electoral Commission conducts compliance audits of parties, elected members, candidates, groups, third-party campaigners and associated entities to determine compliance with the requirements for political donations and electoral expenditure. Compliance reviews are undertaken of disclosures lodged by major political donors.

As part of the compliance audits the Electoral Commission audits disclosures of political donations and electoral expenditure. The Electoral Commission can also appoint a registered company auditor to undertake an audit of a disclosure on its behalf. During 2022-23, the Electoral Commission did not appoint any registered company auditors, relying instead on its own audit team.

A political party, elected member, group of candidates, candidate, third-party campaigner or associated entity must assist the Electoral Commission with the audit of a disclosure by complying with reasonable requests for information, explanations, financial and other records.

A compliance audit includes assessing compliance with all aspects of the laws that apply to political donations and electoral expenditure including the use and operation of campaign accounts and the registration of electoral participants for the purposes of accepting political donations and making payments for electoral expenditure.

Using a risk-based approach, the validity and completeness of disclosures is determined and supporting documentation such as financial records, invoices and receipts are verified.

Table 43. Compliance audits and reviews finalised and commenced for disclosures received during 2021-22

Political participant	Audits finalised for the 12-month disclosure period ending 30 June 2021	Audits finalised for the 12-month disclosure period ending 30 June 2022	Audits commenced for the 12-month disclosure period ending 30 June 2022	Audits to be started for the 12-month disclosure period ending 30 June 2022
Political parties	145	87	11	41
Elected members	4,025	3,027	16	1,685
Candidates	1,365	5,263	69	4,998
Groups	222	1,035	105	868
Third-party campaigners	25	90	0	6
Associated entities	12	12	0	0
Major political donors	652	652	12	102
Total	6,446	10,166	213	7,700

Where compliance issues including financial or factual anomalies are identified through a compliance audit or review, enforcement action may be taken including issuing warnings, cautions or penalty notices.

Compliance reviews are also conducted on registered third-party lobbyists and the Electoral Commission may issue warnings, suspend or cancel the registration of third-party lobbyist where there is a failure to comply with the Lobbying of Government Officials Act or the Lobbyists Code of Conduct.

In certain cases, a compliance matter may be referred to another NSW government agency. This may occur where the matter is not within the Electoral Commission's remit, or the Electoral Commission is required to refer the matter to the Independent Commission Against Corruption Section 11 of the *Independent Commission Against Corruption Act 1988*.

Information management and case recording

All compliance and enforcement work undertaken by the Electoral Commission is recorded using systems designed for, and exclusively managed by, the Electoral Commission.

The Electoral Commission's Funding and Disclosure Management System (FADMS) is used to record and manage the audit of disclosures. The FADMS platform contains disclosure data inputted through the lodgement of disclosures and published to the Electoral Commission's website.

The Investigations Matter Management System (IMMS) is used to manage compliance reviews and investigations. IMMS ensures that cases can be tracked with workflows of actions, activities, and milestones.

Both FADMS and IMMS also store audit, high volume non-compliance, and investigation and intelligence data securely in the agency's records management system.

Compliance activities

Compliance operations for the July 2022 Local Government elections and the 2023 State election

The Investigations team led compliance operations involving field teams for the three local government elections held on 30 July 2022 (Shellharbour City Council, Singleton Council and Kempsey Shire Council) and for the 2023 State election. More details about these compliance operations can be found in the relevant local government election report available on the website and the Electoral Commission's Special Report on the public funding and regulation of the 2023 NSW State election.

During the other local government by-elections held during the year, the Investigation team was available to respond to any compliance issue arising during pre-poll and on election day.

Compliance and enforcement continued

Focused reviews following compliance audits of disclosures

During 2022-23, investigators reviewed 292 matters identified by the audit team arising from compliance audits where further review was warranted. These mostly related to suspected failures to:

- maintain a campaign account
- pay for electoral expenditure from the campaign account
- disclose reportable political donations or ensure donors are on the electoral roll
- provide required vouching to support the disclosure of political donations or electoral expenditure
- disclose electoral expenditure
- identify donations in breach of the donation caps
- provide receipts for donations, which include statements regarding the obligation of a donors to disclose.

In relation to the above matters, no further action was taken in relation to 240 matters, and warnings were issued as shown in the following. A warning is issued to the person who was responsible for complying with the disclosure requirements.

Table 44. Warnings issued because of compliance audit referrals to the investigations team

Political participant	Warnings issued
Party agents	7
Official agents of third-party campaigners	4
Major political donors	2
Elected Members	1
Candidates	18
Lead Candidates of a Group of Candidates	202
Total warnings issued from compliance audits and reviews	52

Failure to lodge disclosures

It is an offence to fail to submit a disclosure by the due date. The Electoral Commission may issue penalties or prosecute a person who commits an offence in relation to a disclosure. The Electoral Commission manages, in accordance with an approved protocol, a measured process to encourage timely lodgement and penalise non-compliant behaviour. As an initial step, a ‘first-level warning’ is issued to a person or entity who failed to lodge a disclosure, after the due date has passed, giving them an opportunity to submit the disclosure. Warnings and cautions are also issued to persons who lodged after the due date.

Final enforcement decisions consider responses to the ‘first-level warning’ and any aggravating or mitigating circumstance around the alleged breach.

During 2022-23, the Investigations team worked on examining those who lodged a disclosure past the due date, or who had failed to lodge a disclosure. The following disclosure periods were examined:

- half-yearly political donations disclosures for the period 1 July 2021 to 31 December 2021, due 25 February 2022
- half-yearly political donation disclosures for the period 1 January 2021 to 30 June 2021, due 28 July 2022
- annual expenditure disclosures for the period 1 July 2020 to 30 June 2021, due 22 September 2022
- annual disclosures of reportable political donations by major political donors for the period 1 July 2021 to 30 June 2022, due 28 July 2022
- half-yearly political donation disclosures for the period 1 July 2022 to 31 December 2022, due 13 February 2023.

Following the 2021 Local Government elections, a large number of first-time candidates and other electoral participants required clarification and education regarding their obligations to lodge disclosures in different capacities and spanning multiple disclosure periods. To reduce instances of non-compliance and encourage stakeholders to lodge, the Investigations team undertook a joint project with the Client Services team, to proactively call and email candidates directly advising them which disclosures were overdue and why. The targeted emails, which also informed the candidates of the consequences of non-compliance, significantly increased the lodgement rate. Since the beginning of that project, more than excess of 2,500 outstanding disclosures were lodged.

Table 45 shows the number of warnings issued through to enforcement actions taken in response to disclosures not lodged or not lodged by the due date. In these cases, the enforcement action is taken against the person responsible for submitting the disclosure. The examination of the 1st half-yearly disclosures for the period 1 July 2021 to 31 December 2021 continued beyond the reporting period.

Table 45. Enforcement actions in response to a failure to submit a disclosure by the due date

Enforcement action	1st half-yearly disclosures 2021-22	2nd half-yearly disclosures 2021-22	Annual expenditure disclosures 2021-22	Annual major political donor disclosures 2021-22	1st half-yearly disclosures 2022-23	Total
Warning	190	926	1,019	797	382	3,314
Caution	858	0	0	0	0	858
Penalty Notice	30	0	0	1	0	31
Recommendation to prosecute	4	0	0	0	0	4

The Electoral Commission continues to exercise its discretion in some matters to issue a caution where it may have otherwise considered taking different enforcement action, such as issuing a penalty notice or prosecuting, in cases where the COVID-19 pandemic was having a significant impact on a stakeholder's ability to comply with the legislative requirements. A discretion was also exercised in cases of first-time candidates who were not elected at the December 2021 Local Government elections who had, by virtue of the elections being postponed, obligations to lodge disclosures for multiple periods and had nothing to disclose.

Investigations

Reviews and investigations

During 2022-23, the Investigations team reviewed 245 new matters of alleged non-compliance and potential breaches falling under the Electoral Commission's enforcement authority.

Electoral Funding Act

During 2022-23, the NSW Electoral Commission reviewed 45 new matters relating to potential breaches of the Electoral Funding Act. The potential breaches mainly concerned unlawful political donations.

Table 46. Outcomes of reviews and investigations conducted into breaches of the Electoral Funding Act

Activity	Total	No further action	Warnings	Penalty Notice	Recovery of unlawful political donations	Prosecution	Ongoing
Review/Investigation	45	26	9	1	3	0	6

Electoral Act

During the 2022-23 period the NSW Electoral Commission reviewed 122 matters relating to potential breaches of the Electoral Act. Out of these 108 matters were linked to the 2023 NSW State election, with the main breach relating to non-compliant electoral material.

Apart from the State election allegations, the Electoral Commission also reviewed potential cases of multiple voting arising from the 2022 Bega, Monaro and Strathfield State by-elections, as well as matters concerning failures to vote. It is important to note that a review or investigation into a failure to vote is only undertaken if the matter is not resolved through a separate penalty notice process and is expected to be heard by a court.

Table 47. Outcomes of reviews and investigations conducted into potential breaches of the Electoral Act

Activity	Total	No further action	Warnings	Penalty notice	Prosecutions	Ongoing	Failure to vote	Multiple voting
Review/Investigation	108	34	70	-	-	4	7	7

Local Government Act

During 2022-23 the NSW Electoral Commission reviewed seven matters relating to potential breaches of the electoral provisions of the Local Government Act. Six of these matters related to related to electoral material for the 2021 Local Government elections held on 4 December 2021. One allegation related to electoral material for the 2022 Kempsey Local Government by-election.

We also reviewed matters concerning failures to vote. It is important to note that a review or investigation into a failure to vote is only undertaken if the matter is not resolved through a separate penalty notice process and is expected to be heard by a court.

Table 48. Outcomes of reviews and investigations conducted into potential breaches of the Local Government Act

Activity	Total	No further action	Cautions	Warnings	Prosecution	Ongoing	Failure to vote
Review/Investigation	7	7	0		0	0	13

Lobbying of Government Officials Act

Where breaches of the Lobbying of Government Officials Act occur the registration of a third-party lobbyist may be suspended or cancelled, or the third-party lobbyist can be placed on a Watch list.

Reviews are conducted following 31 January, 31 May, and 30 September to identify where a registered third-party lobbyist has not complied with the requirement to confirm the lobbyist's registered details are up to date.

Reviews are also undertaken where a registered third-party lobbyist has not appointed a responsible officer or where the responsible officer of a registered third-party lobbyist has not complied with the requirement to undertake the annual online training provided by the Electoral Commission.

During 2022-23 one registration of a third-party lobbyist was suspended, and 55 registered third-party lobbyists received a warning in relation to their failure to confirm on time. There were no third-party lobbyist registrations cancelled or lobbyists placed on the Watch list.

During the 2022-23, one matter was reviewed relating to a potential breach of the Lobbying of Government Officials Act. The review determined there was no need for any further action.

Table 49 shows the number of warnings issued, that only one third-party lobbyist registration was suspended and that no registrations were cancelled during 2022-23 due to a breach of the Lobbying of Government Officials Act or Lobbyists Code of Conduct.

Table 49. Suspensions and cancellations of third-party lobbyist registrations for breaches of the Act or the Lobbyists Code of Conduct 2022-23

Reason	Warnings issued	Suspension of registration	Cancellation of registration
Failure to confirm registered details are up to date	55	1	0

Table 50. Notices issued

Notice type	Purpose	Number issued
s.138(a) Electoral Funding Act	Require information	26
s.138(b) Electoral Funding Act	Require the provision of documents	38
s.138(c) Electoral Funding Act	Answer questions	7
s.138(d) Electoral Funding Act	Attend interview	13
Total		84

Details of the decisions made by the Electoral Commission in relation to the suspension or cancellation of registrations of third-party lobbyists and the reasons for those decisions are published on the Electoral Commission's website.

Use of powers of compulsion

Under the Electoral Funding Act, the Electoral Commission and its appointed inspectors have the authority to issue notices for the provision of information, documents, or attendance for questioning. These powers empower the inspectors with the Investigation Team to carry out investigations.

Moreover, the Electoral Commission's enforcement powers extend beyond the Electoral Funding Act to include potential breaches of the Electoral Act, the Lobbying of Government Officials Act, electoral provisions of the Local Government Act as well as matters previously governed by the now repealed Parliamentary Electorates and Elections Act and Election Funding, Expenditure and Disclosures Act.

The Electoral Funding Act also grants inspectors appointed by the Electoral Commission the right to enter premises and inspect documents to determine whether any contraventions of the Electoral Funding Act have occurred. During the 2022-23 period no inspections were conducted.

Table 50 shows the number of notices issued under section 138 of the Electoral Funding Act.

Investigations continued

Recovery of unlawful political donations and electoral expenditure incurred in excess of an applicable expenditure cap

The Electoral Commission is authorised under the Electoral Funding Act to recover the value of unlawful political donations and electoral expenditure incurred in excess of an applicable expenditure cap and pay these amounts to the State.

In the 2022-23 period, three matters led to the recovery of unlawful political donations totalling \$11,770.12. Additionally, during the same reporting period, an older matter outside of the reporting period resulted in the recovery of \$9,000. In total, \$20,770.12 of unlawful donations were voluntarily recovered in this reporting period from those who had received them. These donations were considered unlawful as they exceeded the applicable political cap or were an unlawful campaign contribution. There were no compliance cases during this period where the value of electoral expenditure in excess of an expenditure cap was recovered.

Table 51. Recovery of unlawful political donations

Political participant	Number	Total value
Political parties	4	\$20,770.12
Candidates	-	-
Total		\$20,770.12

Compliance agreements

Compliance agreements are a tool for remedying and/or avoiding breaches of electoral funding laws by way of a set of agreed actions between a duty-holder and the Electoral Commission. During 2022-23 one new agreement was entered into and the Electoral Commission continued to monitor, as required, compliance with agreements entered into in previous years.

Penalty notices issued in accordance with the Fines Act and internal review of decisions

During the year, 31 penalty notices were issued by authorised officers of the Electoral Commission for apparent breaches of the Electoral Funding Act.

Table 52. Penalty notices issued for apparent breaches of the Electoral Funding Act

Breach	Penalty amount	Number of penalty notices issued
Failure to lodge a disclosure by a party agent – s.141(1)	\$2,750	0
Failure to lodge a disclosure by anyone other than a party agent – s.141(1)	\$1,100	31
Total		31

In accordance with the Fines Act a person can apply for a review of the decision to issue a penalty notice. Reviews of penalty notice decisions issued under the Electoral Funding Act are conducted by authorised officers of the Electoral Commission. In the reporting period, the Electoral Commission received 17 applications to conduct an internal review of its decision to issue a penalty notice. In 10 instances the outcome of the review was for the penalty to stand, and 16 penalty notices were withdrawn, and cautions were issued. Of four reviews initiated in the previous reporting period, two penalties were to stand and two were withdrawn with cautions issued instead.

Litigation

Failure to vote proceedings

During 2022-23, the Electoral Commission commenced proceedings in relation to 71 electors who appeared to have failed to vote at the Local Government elections held on 4 December 2021 and who chose to have their matters dealt with in court instead of paying a fine. Thirty-six (36) matters of the 71 concluded in 2022-23 while the remaining matters will continue to be dealt with in 2023-24.

Of the 36 matters dealt with to finality, 12 matters were withdrawn in line with the Prosecution Policy of the Electoral Commission. The remaining 24 matters were concluded with court outcomes ranging from a conviction and imposition of the maximum penalty (a fine of \$110) to an order dismissing the charge in accordance with section 10(1)(a) of the *Crimes (Sentencing Procedure) Act 1999* (offence proven but no conviction recorded).

The Electoral Commission also commenced proceedings in relation to one elector who appeared to have failed to vote at the Tenterfield Local Government by-election held on 26 February 2022 and who chose to have the matter dealt with in court. This matter will continue to be dealt with in 2023-24.

The Electoral Commission commenced proceedings in relations to three electors who failed to vote at the State by-elections held on 12 February 2022, and who chose to have their matters dealt with in court instead of paying a fine, one relating to the district of Strathfield and two relating to the district of Willoughby. These three matters will continue to be dealt with in 2023-24.

Failure to lodge disclosure proceedings

There was one prosecution commenced in 2021-22 for the offence of failure to lodge a declaration under the Electoral Funding Act. The defendant was convicted of failing to lodge a declaration as an elected member of a council for the relevant 2019-20 disclosure period, with a fine of \$1,350 and additional costs of \$1,250 imposed by the Local Court. Following an appeal against the severity

of this sentence, the conviction and fine imposed by the Local Court were set aside. The District Court dealt with the defendant in accordance with section 10(a) of the *Crimes (Sentencing Procedure) Act 1999* (offence proven but no conviction recorded).

Other Election Funding, Expenditure and Disclosures Act proceedings

In its 2020-21 Report to NSW Parliament, the Electoral Commission reported on proceedings concerning a former councillor. The proceedings involved two alleged offences under the former Election Funding, Expenditure and Disclosures Act, namely:

- Section 96H(3) – giving information to official agent knowing it would result in the making of a false statement in a disclosure required to be made under the Election Funding, Expenditure and Disclosures Act, and
- Section 96I(1) read with 96C(1)– accepting a reportable political donation being aware that a record of the donation has not been made or a receipt provided.

The defendant, who was convicted and fined in respect of both offences, lodged an appeal against the two convictions imposed by the Local Court. The District Court appeal was heard in 2022, resulting in the Local Court convictions and fines being upheld. The defendant then appealed against the severity of the Local Court sentence, with this appeal being heard in June 2023. The District Court ultimately dealt with the matter in accordance with s10(1)(b) of the *Crimes (Sentencing Procedure) Act 1999*, dismissing the Local Court convictions and imposing a conditional release order for 12 months. The defendant was ordered to pay costs to the prosecutors.

Civil proceedings

There were no civil proceedings in 2022-23 relating to the statutory functions of the Electoral Commission.

Table 53. Prosecutions and related proceedings commenced 2021-22 and 2022-23

Act	Matter	Number of matters in 2021-22	Number of matters in 2022-23
Election Funding, Expenditure and Disclosures Act	Appeals (s 96H(3), 96I(1) and 96C(1))	1	0
Electoral Funding Act	Failure to lodge	0	1
Electoral Funding Act	Appeal regarding failure to lodge	0	1
Local Government Act	Failure to vote	0	72
Electoral Act	Failure to vote	0	3

Glossary

Refer also to the Glossary on the Electoral Commission's website.

Name/Title	Definition
Actual administrative expenditure	Administrative expenditure for which the elected member or party has a legal liability to pay or has paid.
Actual campaign expenditure	Actual electoral expenditure incurred in connection with a state election that is within a party or candidate's expenditure cap and: <ul style="list-style-type: none"> • for a state election – is incurred by a party or candidate between 1 July in the year before the election, to the end of election day, or • for a state by-election – is incurred by a candidate during the three-month period leading up to, and including election day.
Actual electoral expenditure	Electoral expenditure for which the candidate or party has a legal liability to pay or has paid, including electoral expenditure incurred by a party for, and invoiced to, a candidate (as provided in section 9(9) of the <i>Electoral Funding Act 2018</i>).
Address	The residential address of a registered officer, deputy registered officer or party secretary and the street address of a party's headquarters.
Administrative expenditure	Expenditure for administrative and operating expenses and includes expenditure on or for: <ul style="list-style-type: none"> • the administration or management of the activities of the eligible party or elected member • conferences, seminars, meetings or similar functions at which the policies of the eligible party or elected member are discussed or formulated • providing information to the public or a section of the public about the eligible party or elected member • providing information to members and supporters of the eligible party or elected member • the audit of the financial accounts of the eligible party or elected member • equipment and training to ensure compliance by the eligible party, elected member or endorsed candidates of the party with obligations under the EF Act • reasonable remuneration of staff engaged in the above activities for the eligible party or elected member (being the proportion of that remuneration that relates to the time spent on those activities) • reasonable expenditure on equipment or vehicles used for the purposes of the above activities (being the proportion of the cost of their acquisition and operation that relates to the use of the equipment or vehicles for those activities) • office accommodation for the above staff and equipment • interest payments on loans. • Administrative expenditure does not include: <ul style="list-style-type: none"> • electoral expenditure • expenditure for which a member may claim a parliamentary allowance as a member • expenditure incurred substantially in respect of operations or activities that relate to the election of members to a Parliament other than the NSW Parliament and • expenditure prescribed by the regulations.

Name/Title	Definition
Administration Fund	<p>The purpose of the Administration Fund is to reimburse eligible political parties and independent members of parliament for administrative and operating expenditure incurred in a quarterly period.</p> <p>A political party or elected member that is eligible to receive a payment may make a claim with the NSW Electoral Commission for payment from the fund.</p> <p>The NSW Electoral Commission publishes reports on payments made from the Administration Fund.</p>
Aggregate political donation	Political donations added together. See also: Political donation.
Associated entity	A corporation or another entity that operates solely for the benefit of one or more parties registered for State elections or members of the NSW Parliament.
Auditor	A registered company auditor within the meaning of the <i>Corporations Act 2001</i> of the Commonwealth.
By-election	<p>By-election means—</p> <p>a) in relation to State elections—a by-election for the Assembly, or</p> <p>b) in relation to local government elections—a by-election for a councillor (including the mayor) of the council of a local government area.</p>
Campaign account	A campaign account is an account held by political parties, elected members, candidates, groups of candidates, third-party campaigners and associated entities for the purpose of isolating certain income and payments for an election from other income and payments. The account is held in Australian dollars with a financial institution. Campaign accounts allow election campaign finances to be more easily identified when a disclosure is audited by the NSW Electoral Commission. Political parties, elected members (NSW Members of Parliament and councillors), candidates, groups of candidates, third-party campaigners and associated entities may be required to use a campaign account.
Candidate	<p>A person who is nominated in accordance with the <i>Electoral Act 2017</i> for election to political office and whose nomination has been accepted by the Electoral Commissioner. Only duly nominated candidates have their names included on a ballot paper. Under the <i>Electoral Funding Act 2018</i>, a candidate includes a person registered as a candidate under the <i>Electoral Funding Act 2018</i> for the purpose of accepting political donations and electoral expenditure.</p> <p>A candidate under the <i>Electoral Funding Act 2018</i> also includes an unregistered candidate who has accepted a political donation or made a payment for electoral expenditure for the election.</p>
Cap on electoral expenditure	Electoral expenditure incurred by parties, groups, candidates and third-party campaigners is capped during the capped expenditure period of a state general election and the capped local government expenditure period of a local government election. There are different caps applicable to parties, groups, candidates and third-party campaigners.
Cap on political donations	Political donations made to registered political parties, unregistered parties, elected members, groups, candidates, associated entities and third-party campaigners are subject to caps. There are different caps applicable to registered political parties, unregistered parties, elected members, groups, candidates, associated entities and third-party campaigners.
Capped expenditure period	The period in which the electoral expenditure of parties, groups, candidates and third-party campaigners is capped. For the 2023 NSW State election, the period commenced 1 October 2022 and ends on election day.

Glossary continued

Name/Title	Definition
Capped local government expenditure period	The period during which the electoral expenditure of parties, groups, candidates (including mayoral candidates) and third-party campaigners is capped for local government elections. For an ordinary election of the councillors, the capped local government expenditure period starts on 1 July in the year of the election. If an election is to be held where a council was constituted, has been dismissed, or has been declared to be non-functioning, the capped local government expenditure period will start 3 months before election day or on the day of proclamation of the election. In all other instances, it will start from and including the day on which the date of the election is publicly notified by the person conducting the election. The capped local government expenditure period for will end on election day.
Capped State expenditure period	Capped State expenditure period- means: <ul style="list-style-type: none"> • for a State general election – from 1 October in the year before the election to the end of election day • for a State by-election – from the day the writ is issued for the by-election, to the end of election day.
Claimant/s	A party or independent elected member eligible for administrative funding.
Close associate of a corporation	A close associate of a corporation means each of the following: <ul style="list-style-type: none"> • a director or officer of the corporation or the spouse of such a director or officer • a related body corporate of the corporation • a person whose voting power in the corporation or a related body corporate of the corporation is greater than 20% or the spouse of such a person • if the corporation or a related body corporate of the corporation is a stapled entity in relation to that stapled entity • in relation to a corporation that is a property developer – a person in a joint venture or partnership with the property developer in connection with a relevant planning application made by or on behalf of the property developer who is likely to obtain a financial gain if the development that would be or is authorised by the application is authorised or carried out and • if the corporation is a trustee, manager or responsible entity in relation to a trust-a person who holds more than 20% of the units in the trust (in the case of a unit trust) or is a beneficiary of the trust (in the case of a discretionary trust).
Close associate of an individual	Close associate of an individual means each of the following: <ul style="list-style-type: none"> • the spouse of the individual and • in relation to an individual who is a property developer – a person in a joint venture or partnership with the property developer in connection with a relevant planning application made by or on behalf of the property developer who is likely to obtain a financial gain if development that would be or is authorised by the application is authorised or carried out.
Delegation	The formal assignment of functions of the Electoral Commission conferred or imposed on them under the Electoral Act and regulation, Electoral Funding Act and regulation, Local Government Act and regulation, and Lobbying of Government Officials Act and regulation, to the and Electoral Commissioner and staff of the agency. In this document, delegation does not refer to financial delegations under the <i>Public Finance and Audit Act 1983</i> or other delegations in place for the NSWEC that relate to the day-to-day workings of the organisation, such as who can approve annual leave or staff travel.

Name/Title	Definition
Deputy registered officer	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.
Disclosure	A person or entity who makes a political donation to a party, elected member, candidate, group or other person or entity (including a third-party campaigner or associated entity). See also: Major political donor and Prohibited donor.
Disposition of property	Disposition of property means any conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, and includes— a) the allotment of shares in a company, and b) the creation of a trust in property, and c) the grant or creation of any lease, mortgage, charge, servitude, license, power, partnership or interest in property, and d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of any debt, contract or chose in action, or of any interest in property, and e) the exercise by a person of a special or general power of appointment of property in favour of any other person (or a hybrid of both), and f) any transaction entered into by any person with intent to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of any other person.
Donor	A person or entity who makes a political donation to a party, elected member, candidate, group or other person or entity (including a third-party campaigner or associated entity). See also: Major political donor.
Elected member	A member of Parliament, or a councillor (including the mayor) of the council of a local government area, and includes a person who, during any period after ceasing to be a member of Parliament or a councillor, is entitled to remuneration as such a member or councillor.
Election	Election means a State election or a local government election in NSW. See also: Local government election.
Elector	A person entitled to vote at an election.
Election Campaigns Fund	The fund used by the NSW Electoral Commission to reimburse eligible parties and candidates for electoral expenditure incurred in connection with the election.
Electoral Commissioner of NSW	Appointed by the Governor under section 11 of the <i>Electoral Act 2017</i> . The Commissioner is responsible for the conduct of elections under the <i>Electoral Act 2017</i> including the enrolment of electors, the maintenance of the Electoral Information Register and the preparation of the authorised rolls for use in elections. The Commissioner is also an ex officio member of the NSW Electoral Commission.
Electoral expenditure	Expenditure for or in connection with promoting or opposing, directly or indirectly, a party or the election of a candidate or candidates or for the purpose of influencing, directly or indirectly, the voting at an election.
Eligible party	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).
Enrolment	The process of officially registering to be on the list of voters.

Glossary

continued

Name/Title	Definition
Endorsed	Endorsed, in relation to a party, means endorsed, selected or otherwise accredited to stand as a representative of the party in an election.
Entity	An incorporated or unincorporated body, or the trustee of a trust.
Expenditure period	In the case of a State election – the period from and including 1 October in the year before which the election is to be held to the end of polling day for the election; in the case of a State by-election – the period from and including the day of the issue of the writ or writs for the election to the end of polling day for the election; in the case of a local government general election – the period from and including 1 July in that year to the end of polling day for the election; and for another other local government election – the period from and including the day on which the date of the election is publicly notified by the person conducting the election to the end of polling day for the election.
Fines Act	<i>Fines Act 1996 (NSW)</i>
First preference votes	The first preference votes recorded for a candidate that are not rejected as informal at the election.
<i>Funding and Disclosure Online</i>	The NSW Electoral Commission's secure portal for political participants to comply with NSW electoral funding laws online. It allows users to perform a range of tasks online including disclosing political donations and electoral expenditure.
Gift	Any disposition of property made by a person to another person, otherwise than by will, being a disposition made without consideration in money or money's worth or with inadequate consideration, and includes the provision of a service for no consideration or for inadequate consideration, other than— <ul style="list-style-type: none"> a) the provision of voluntary labour, and b) the provision of voluntary professional services to a party by an officer or an elected member of the party.
Government official	The following: <ul style="list-style-type: none"> a) a Minister or Parliamentary Secretary, b) a staff member of a Minister or Parliamentary Secretary (including a staff member in an electorate office), c) the head of a Public Service agency, d) a person employed in the Public Service of New South Wales, the Transport Service of New South Wales or any other service of the Crown, e) an individual who is engaged under a contract to provide services to or on behalf of the Public Service of New South Wales, the Transport Service of New South Wales or any other service of the Crown, f) a member (however expressed) of, or of the governing body of, a statutory body, but does not include (except in Parts 5 and 6) a local government official.
Group	In relation to State elections means a group of candidates, or part of a group of candidates, for a Legislative Council election, or in relation to local government elections means a group of candidates, or part of a group of candidates, for a local government election. For the purposes of Part 2 of the Electoral Funding Act, a group includes individuals who accept a gift for use solely or substantially for a purpose related to the proposed candidacy of the individuals at a future election.

Name/Title	Definition
Independent	A candidate or Member of Parliament who is not seeking election as a member of a political party.
Independent elected member	A member of Parliament who was not endorsed by any party when they were elected and is not a member or representative of any party.
Legislative Assembly	The lower house of Parliament in NSW. It has 93 members each representing an electoral district. All 93 members are elected at a general election, every four years.
Legislative Council	The upper house of the Parliament of New South Wales consisting of 42 members elected for an eight-year term, half of whom (that is, 21) are elected at each general election every four years.
Liquor or gambling industry business entity	A corporation engaged in a business undertaking that is mainly concerned with either or a combination of the following, but only if it is for the ultimate purpose of making a profit: <ul style="list-style-type: none"> • the manufacture or sale of liquor products • wagering, betting or other gambling (including the manufacture of machines used primarily for that purpose) or • a person who is a close associate of a such a corporation.
Lobbying a Government official	Lobbying a Government official means communicating with the official for the purpose of representing the interests of others in relation to any of the following: <ol style="list-style-type: none"> a) legislation or proposed legislation or a government decision or policy or proposed government decision or policy, b) a planning application, c) the exercise by the official of his or her official functions.
Lobbyist/Third-party lobbyist	A third-party lobbyist is an individual or body carrying on the business (generally for money or other valuable consideration) of lobbying government officials on behalf of another individual or body.
Lobbyists Code	The Lobbyists Code of Conduct prescribed by the Lobbying Regulations in accordance with Part 2 of the Lobbying Act.
Lobbyists Register	The Register of Third-Party Lobbyists established under Part 3 of the Lobbying of Government Officials Act.
Lobbyists Watch List	The Lobbyists Watch List established under Part 4 of the Lobbying of Government Officials Act.
Local government election	An election under the LG Act for the office of councilor or mayor under that Act (other than an election of mayor by councilors).
Local Government Register of Political Parties	Local Government Register of Political Parties – means the register kept by the Commissioner in accordance with section 319 of the Local Government Act.
Major political donor	A person or entity (other than a party, elected member, group or candidate) who makes a reportable political donation of or exceeding \$1,000. See also: Donor and Prohibited donor.
Member	Member – of a party, means a member of the party who is enrolled under the Electoral Act.

Glossary

continued

Name/Title	Definition
New Parties Fund	<p>The purpose of the New Parties Fund is to reimburse eligible political parties for policy development expenditure incurred in a calendar year.</p> <p>A political party that is eligible to receive a payment may make a claim with the NSW Electoral Commission for payment from the fund.</p> <p>The NSW Electoral Commission publishes reports on payments made from the New Parties Fund.</p>
Nil disclosure	Political participants who have an obligation to disclose, but who have not made or received any political donations or incurred any electoral expenditure during a reporting period, must make a disclosure declaring this.
NSW Electoral Commission	<p>The independent statutory authority constituted under the <i>Electoral Act 2017</i> consisting of three members, including the Electoral Commissioner, which regulates and enforces electoral laws, including the political donation and electoral expenditure disclosure and public funding schemes under the <i>Electoral Funding Act 2018</i>.</p> <p>NSW Electoral Commission also refers to the staff agency, headed by the Electoral Commissioner, that assists the Electoral Commission and Electoral Commissioner to exercise their functions.</p>
NSW Electoral Commission Public Service Agency	The NSW Electoral Commission staff agency is led by the Electoral Commissioner. It was created as a separate public sector agency under the <i>Government Sector Employment Act 2013</i> .
Nomination	The process by which a person applies to become a candidate for election. Note that this is different from 'registration' under the <i>Electoral Funding Act 2018</i> .
Official agent	A person who is responsible for the management and disclosure of the political donations and electoral expenditure of a third-party campaigner or associated entity.
Party	A body or organisation, incorporated or unincorporated, having one of its objects or activities the promotion of the election to the NSW Parliament or a local Council of a candidate or candidates endorsed by it. A party includes a registered political party and an unregistered political party.
Party agent	A person appointed as a party agent by a political party.
Planning application	<p>Planning application means an application or request by a person (other than a public authority within the meaning of the <i>Environmental Planning and Assessment Act 1979</i>):</p> <ol style="list-style-type: none"> to initiate the making of an environmental planning instrument or plan under that Act in relation to any development, project or activity on a particular site, or for consent to, or approval of, any development, project or activity under that Act or for the modification of any such consent or approval.
Political party	A body or organisation, incorporated or unincorporated, having as one of its objects or activities the promotion of the election to the NSW Parliament or a local Council of a candidate or candidates endorsed by it or by a body or organisation of which it forms a part. See also: Registered party.
Political donor	A person who makes a gift. See also: Major political donor.
Political donation	A gift made to or for the benefit of a party, elected member, group, candidate or other person or entity (including a third-party campaigner or associated entity).

Name/Title	Definition
Political participant	<p>Individuals and groups actively involved in the electoral process. Political participants include:</p> <ul style="list-style-type: none"> • candidates and groups • political parties • members of Parliament and councillors • party agents and official agents • associated entities • third-party campaigners • political donors • third-party lobbyists.
Prohibited donor	<p>Prohibited donor means:</p> <ul style="list-style-type: none"> • a property developer or • a tobacco industry business entity or • a liquor or gambling industry business entity; • and includes any industry representative organisation if the majority of its members are prohibited donors listed above.
Property developer	<p>Property developer means:</p> <ul style="list-style-type: none"> • an individual or a corporation that carries on a business mainly concerned with the residential or commercial development of land, with the ultimate purpose of the sale of the land for profit, and in the course of that business: • 1 relevant planning application has been made by or on behalf of the individual or corporation and is pending or • 3 or more relevant planning applications made by or on behalf of the individual or corporation have been determined within the preceding 7 years. • a person who is a close associate of an individual or corporation. <p>Any activity engaged in by an individual or corporation for the dominant purpose of providing commercial premises at which the individual or corporation or a related body corporate of the corporation will carry on business is to be disregarded for the purpose of determining whether the individual or corporation is a property developer unless that business involves the sale or leasing of a substantial part of the premises.</p>
Public Funding	<p>The NSW Electoral Commission administers three public funding schemes in New South Wales. Public funding is available to eligible parties and candidates contesting state elections and to eligible parties and independent members of Parliament.</p> <p>Public funding is not available to political parties registered for local government elections.</p>
Register of Third-Party Lobbyists	<p>The Electoral Commission is required to establish a Register of Third-Party Lobbyists and publish it on a website under their maintenance.</p>
Register of Parties	<p>The register kept by the Commissioner in accordance with section 58 of the Electoral Act.</p>
Registered party	<p>A political party on the Register of Parties kept by the Electoral Commissioner under the <i>Electoral Act 2017</i>. To be eligible to be registered, a party must have at least 750 members to be registered for State elections, or a minimum of 100 members for local government elections, and have a written constitution, however that is expressed.</p>

Glossary

continued

Name/Title	Definition
Registered officer	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	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.
Registration	In relation to a candidate, group of candidates or third-party campaigner for the election, means being registered under the <i>Electoral Funding Act 2018</i> for the purposes of accepting political donations and making payments for electoral expenditure. See also: Nomination.
Related body corporate	Related body corporate has the same meaning as in the <i>Corporations Act 2001</i> (cth). Sections 9 and 50 of that Act defines a related body corporate as a body corporate that is related to another body corporate because it is one of the following: <ul style="list-style-type: none"> • a holding company of the other body corporate • a subsidiary of the other body corporate or • a subsidiary of a holding company of the other body corporate.
Related body corporate	Related body corporate has the same meaning as in the <i>Corporations Act 2001</i> (Cth). Sections 9 and 50 of that Act defines a related body corporate as a body corporate that is related to another body corporate because it is one of the following: <ul style="list-style-type: none"> • a holding company of the other body corporate • a subsidiary of the other body corporate or • a subsidiary of a holding company of the other body corporate.
Relevant planning application	Relevant planning application has the same meaning as in section 10.4 (Disclosure of political donations and gifts) of the <i>Environmental Planning and Assessment Act 1979</i> (NSW).
Reportable political donation	A political donation of or more than \$1,000 made to or for the benefit of a party, elected member, group, candidate, associated entity or third-party campaigner.
Responsible officer	A person appointed by a third-party lobbyist who has a management, financial or other interest in the third-party lobbyist. The officer is responsible for the lobbyist's compliance with its obligations under the <i>Lobbying of Government Officials Act</i> on behalf of the third-party lobbyist.
Secretary	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.
Senior office holder (of political party)	A person involved in the management, control or the operations of the party. A person must be a senior office holder to be appointed as a party agent of a party. Seniors office holders may include the following: president, deputy president, chairperson, deputy chairperson, vice-chairperson, general secretary, assistant general secretary, secretary, deputy secretary, state director, deputy state director, treasurer, deputy treasurer, convenor, or deputy convenor.
Spouse	Spouse of a person includes a de facto partner of that person.
Stapled entity	The interests in which are traded, along with the interests in another entity as stapled securities and (in the case of a stapled entity that is a trust) includes any trustee, manager or responsible entity in relation to the trust.
State election	A Legislative Assembly general election, a Legislative Council election or a by-election for the Legislative Assembly

Name/Title	Definition
Third-party campaigner	A third-party campaigner is a person or entity (other than an associated entity, party, elected member, group or candidate) who incurs more than \$2,000 in electoral expenditure for a State election during the capped expenditure period for the election.
Third-party lobbyist	An individual or body carrying on the business (generally for money or other valuable consideration) of lobbying government officials on behalf of another individual or body.
Tobacco industry business entity	<ul style="list-style-type: none"> • a corporation engaged in a business undertaking that is mainly concerned with the manufacture or sale of tobacco products or • a person who is a close associate of such a corporation.
Unlawful political donation	<p>The following donations are unlawful under electoral funding legislation:</p> <ul style="list-style-type: none"> • Political donations in the form of cash over \$100 • Failure to record details of a reportable political donation • Anonymous reportable political donations • Identity of donors • Indirect campaign contributions valued at more than the allowable amount • Political donations to more than three third-party campaigners • Political donations by a party etc. to independent candidates • Failure to record details of reportable loans • Prohibited donors • Donations exceeding the caps

Annexure A

Schedule 1 – table of delegated powers and functions of the Electoral Commission

Electoral Funding Act 2018, Electoral Funding Regulation 2018

Miscellaneous

No.	Column 1	Column 2	Column 3
1.	s.4 (definition of 'official agent')	The designation of a person as an official agent of an associated entity or third-party campaigner	Executive Director, Funding, Disclosure and Compliance & General Counsel
2.	s.4 (definition of 'official agent')	The designation of a person as the official agent of an associated entity	
3.	s.9(6)(b)	To require that: a) the value of a donation or expenditure consisting of a disposition of property, or b) the value of a gift, be determined by a valuer appointed or approved in accordance with the Regulation	
4.	cl.42(1)	The determination that the value of property disposed of has not been correctly stated, and to appoint or approve a person to assess the value of property disposed of	

Disclosure of political donations and electoral expenditure

No.	Column 1	Column 2	Column 3
5.	s.14(4)	Approval of the manner and form of written notice that a party agent consents to being responsible for making disclosures on behalf of a candidate, group or elected member	Executive Director, Funding, Disclosure and Compliance & General Counsel
6.	s.14(5)	Approval of the manner and form of a written notice of withdrawal of consent or agreement for a party agent to be responsible for making disclosures on behalf of a candidate, group or elected member	
7.	s.14A	Approval of the way in which a party agent of a registered party must give written notice to the Electoral Commission that the party has dis-endorsed a candidate	
8.	s.17(2)	To approve the form and manner of an electronic or internet-based system for the lodgement of declarations of disclosures	
9.	s.17(1)(b)	Approval of the form and manner of a declaration of disclosure, including provision for an electronic or internet-based method of lodgement within the approval of a form and manner of declaration	

No.	Column 1	Column 2	Column 3
10.	s.22(1)	The maintenance of a website to which reportable political donations, electoral expenditure and any other information considered relevant, is published	Executive Director, Funding, Disclosure and Compliance & General Counsel
11.	s.22(1)	To publish disclosures of reportable political donations, electoral expenditure and any other information considered relevant by the Electoral Commission	
12.	s.22(1)(b)	The determination that any other information is to be considered relevant to disclosures of reportable political donations and expenditure and published on the Electoral Commission's website	
13.	s.22(3)	The determination that any disclosure of political donation is to be considered vexatious, false, or misleading, and to refuse to publish said disclosure on its website or to remove it from, its website	
14.	s.22(4)	To keep copies of disclosures made in a declaration for at least 6 years after the disclosure period to which they relate and make those copies available for public inspection	
15.	s.22(5)	To provide copies of or extracts from any disclosures of political donations or electoral expenditure kept by the Electoral Commission, on application and payment of a reasonable fee	Executive Director, Funding, Disclosure and Compliance & General Counsel Director, Client Experience Regulatory Services Manager, Client Services
16.	s.22(5)	The determination of a reasonable amount for a fee for providing copies or extracts of disclosures for public inspection	Executive Director, Funding, Disclosure and Compliance & General Counsel Director, Compliance Director, Client Experience Regulatory Services
17.	cl.6(3)	Approval of the form and manner of lodgement of the accompanying information to a Part 3 declaration by a party after the end of the half-year period ending 30 June	Executive Director, Funding, Disclosure and Compliance & General Counsel
18.	cl.6A(3)	Approval of the form and manner of lodgement in which information accompanying a Part 3 declaration by an elected member, candidate or group at the end of a half year period ending 30 June	

Annexure A continued

Political donations and electoral expenditure

No.	Column 1	Column 2	Column 3
19.	s.31A(7)	To publish number of enrolled electors and corresponding applicable caps for a local government area or ward prior to the start of the capped government expenditure period for an election	Executive Director, Funding, Disclosure and Compliance & General Counsel
20.	s.31A(8)	To notify local government candidates of the number of enrolled electors and applicable expenditure caps for the relevant local government area or ward	Executive Director, Funding, Disclosure and Compliance & General Counsel Director, Client Experience Regulatory Services Manager, Client Services Lead, Guidance and Decisions Lead, Systems and Reporting Regulatory Services Officer Senior Client Services Officer Client Services Officer
21.	s.41(7)(c)	To nominate a charity to receive any remaining amount in a campaign account that is no longer required by the relevant elected member, group, or candidate if the relevant elected member, candidate, or group cannot be contacted	Executive Director, Funding, Disclosure and Compliance & General Counsel
22.	s.46(1)(a)(iv)	The determination that identification supplied by an individual is acceptable for the purposes of making a political donation	
23.	s.46(1)(b)	The determination that identification supplied by an entity is acceptable for the purposes of making a political donation	
24.	s.56(6)	Maintenance of a public register of determinations published on a website maintained by the Electoral Commission	
25.	s.59(1)	To audit a declaration of disclosures	Executive Director, Funding, Disclosure and Compliance & General Counsel
26.	s.59(2)(b)	To ask for reasonable information and explanations with respect to any matter set out in a declaration	Director, Compliance Manager, Audit Senior Auditor Auditor
27.	s.60(2)	The determination that there is good cause to extend the due date for lodging of a declaration, and to extend the due date for the lodging of a declaration on that basis	Executive Director, Funding, Disclosure and Compliance & General Counsel
28.	s.60(4)	To make it a condition for extending a lodgement due date that a person lodges a declaration containing all disclosures the person is in a position to make at that time	
29.	s.61(2)	Approval of the form and manner of an amended declaration	

No.	Column 1	Column 2	Column 3
30.	cl.25(1)	To issue receipt books containing forms of receipt in triplicate for political donations	Executive Director, Funding, Disclosure and Compliance & General Counsel
31.	cl.26(1)	To issue acknowledgement books containing forms of acknowledgement in triplicate for political donations	Director, Client Experience Regulatory Services Manager, Client Services Lead, Guidance and Decisions Lead, Systems and Reporting Regulatory Services Officer Senior Client Services Officer Client Services Officer
32.	cl.12(1)	Approval of an address at which a party must keep party records	Executive Director, Funding, Disclosure and Compliance & General Counsel Director, Compliance
33.	cl.15(12)	Approval of an electronic accounting system by which a party may issue receipts for political donations	
34.	cl.16(12)	Approval of an electronic accounting system by which a party may issue acknowledgements for political donations	
35.	cl.22(3)	Conditional or unconditional approval of an application for a party to use an alternative system of accounting records where satisfied that: a) the proposed system of accounts will accurately explain the transactions to be disclosed in a Part 3 declaration, and b) that the information contained in the declaration is accessible in the proposed system	
36.	cl.22(4)	To cancel an approval granted under cl.22(3) following at least one month's notice	
37.	cl.25(10)	Approval of an electronic accounting system by which an elected member, candidate, group, associated entity or third-party campaigner may issue receipts for political donations	Executive Director, Funding, Disclosure and Compliance & General Counsel
38.	cl.26(11)	Approval of an electronic accounting system by which an elected member, group, candidate or third-party campaigner may issue acknowledgements for political donations	Director, Compliance
39.	cl.32	1. Authorisation of a person other than an elected member or candidate to operate the campaign account of the elected member or candidate for a specified period or purpose, if satisfied there are exceptional circumstances 2. Revocation of an authorisation granted under cl.32(1) 3. The determination that there are exceptional circumstances that warrant an authorisation under cl.32(1)	

Annexure A continued

No.	Column 1	Column 2	Column 3
40.	cl.35(1)	The decision to refuse to publish the address of a donor that has made a reportable political donation, when aware that the donor is a silent elector, under exemption from section 22 of the Electoral Funding Act	Executive Director, Funding, Disclosure and Compliance & General Counsel Director, Client Experience Regulatory Services Manager, Client Services
41.	cl.34	To conduct a compliance audit of compliance with the requirements of Part 3 of the Act by a party, elected member, candidate (including the lead candidate of a group), associated entity or third-party campaigner	Executive Director, Funding, Disclosure and Compliance & General Counsel Director, Compliance Manager, Audit Senior Auditor Auditor
42.	cl.44(1)	The determination that a material particular in a Part 3 declaration or a claim for a Part 4 payment is incorrect, and on that basis, to issue a notice to a current or former elected member or candidate, or current or former party agent, to lodge any records of political donations or electoral expenditure as required within the time specified in the notice	Executive Director, Funding, Disclosure and Compliance & General Counsel Director, Compliance
43.	cl.44(3)	The determination that records lodged with the Electoral Commission may be of assistance in determining why a Part 3 declaration or a claim for a part 4 payment was not validly lodged, or whether a statement or claim was materially false or misleading, and to make copies of those records on that basis	Executive Director, Funding, Disclosure and Compliance & General Counsel Director, Compliance

Public funding of state election campaigns

No.	Column 1	Column 2	Column 3
44.	s.64(2)	The decision as to whether any expenditure is or is not electoral expenditure	Executive Director, Funding, Disclosure and Compliance & General Counsel
45.	s.66(2)(b)	The determination that a candidate claims to be endorsed by a political party for the purpose of determining a party's eligibility to receive payments from the Election Campaigns Fund	
46.	s.71(1)	The determination that 2 or more registered parties endorse the same candidate or group and the candidate or candidates each claim to be endorsed by those parties	
47.	s.73(2)(a)	Approval for payments to be made from the Election Campaigns Fund (for payments up to \$150,000)	
48.	s.73(2)(a)(i)	Approval of the manner and form of a claim for payment from the Election Campaigns Fund	
49.	s.73(2)(a)(ii)	The determination that a party or candidate is eligible for a payment from the Election Campaigns Fund (for payments up to \$150,000)	

No.	Column 1	Column 2	Column 3
50.	s.73(3)	The determination that the applicant of a claim for payment from the Election Campaigns Fund must provide additional information relating to the assessment of the claim	Executive Director, Funding, Disclosure and Compliance & General Counsel Director, Compliance Manager, Audit Senior Auditor Auditor
51.	s.73(4)	The determination that it is proper to disallow any items of expenditure covered by a claim in whole or in part, and to disallow the expenditure on that basis	Executive Director, Funding, Disclosure and Compliance & General Counsel Director, Compliance Manager, Audit
52.	s.74(1)	To audit a claim from the Election Campaigns Fund	Executive Director, Funding, Disclosure and Compliance & General Counsel Director, Compliance Manager, Audit Senior Auditor Auditor
53.	s.74(2)(b)	The determination that further information or explanation is required to assess a claim for a payment from the Election Campaigns Fund, and reasonably request that information or explanation is provided	
54.	s.76(2)	The determination that it is proper in the circumstances that a payment is made wholly or partially to a specified account with a financial institution, established for or in trust for a party, members of a party, or a candidate, and to direct that the payment under Part 4 of the Act be made to that account (for payments up to \$150,000)	Executive Director, Funding, Disclosure and Compliance & General Counsel
55.	s.76(6)	The determination of reasonable conditions to which a payment made to an agent is subject, regarding the disbursement of that payment about (for payments up to \$150,000)	
56.	s.77(1)	To make a preliminary payment to a party within 14 days where a claim for payment is unable to be finalised (for payments up to \$150,000)	
57.	s.77(2)	To estimate the amount payable to a party as a preliminary payment	
58.	s.77(3)	The assessment of and reliance on information contained in a claim for the purpose of estimating the amount payable to a party	
59.	s.77(4)	To notify a party that a preliminary payment made to that party was in excess of the amount to which it became entitled, and that the excess must be repaid	
60.	s.79	To make a payment to a candidate's legal representative or other person in the case of the death of a candidate who would have been entitled to that payment (for payments up to \$150,000)	

Annexure A continued

No.	Column 1	Column 2	Column 3
61.	s.81(1)	The determination that the identity of a group has not substantially changed as a result of changes to its composition, and to subsequently make payments under Part 4 as though the group had not changed (for payments up to \$150,000)	Executive Director, Funding, Disclosure and Compliance & General Counsel
62.	s.82(1)	The creation and maintenance of copies of all claims for payment, and their assessment documents, for at least 6 years after the relevant election day	
63.	s.82(2)(a)	To publish a copy of a claim on the Electoral Commission's website	Executive Director, Funding, Disclosure and Compliance & General Counsel Director, Client Experience Regulatory Services Manager, Client Services Lead, Guidance and Decisions Lead, Systems and Reporting Regulatory Services Officer Senior Client Services Officer Client Services Officer
64.	s.82(2)(b)	To provide copies or extracts of claims, and documents relating to the assessment of claims, for public inspection	Executive Director, Funding, Disclosure and Compliance & General Counsel Director, Client Experience Regulatory Services Manager, Client Services
65.	s.84(2)	The decision as to whether expenditure is or is not administrative expenditure	Executive Director, Funding, Disclosure and Compliance & General Counsel
66.	s.85(2)	The decision as to whether expenditure is or is not policy development expenditure	
67.	s.86(2)	To distribute payments from the s. 86(2) Administration Fund in accordance with Division 2 of the Electoral Funding Act (for payments up to \$150,000.00)	
68.	s.87(2)(b)	The determination that elected members did claim to be endorsed by a party at the State election in which the candidates were elected	
69.	s.87(2)(c)	The determination that elected members continue to be endorsed by a party	
70.	s.88(2)(b)	The determination that that an elected member is not a member or representative of any party	
71.	s.89(1)	The determination that 2 or more registered parties endorse the same elected members for the State election at which the elected members were elected, and that the members each claim to be endorsed by those parties	

No.	Column 1	Column 2	Column 3
72.	s.90(2)	To notify a party or elected member that they have been paid a quarterly payment in excess of the amount to which they are entitled, and that the excess is to be repaid within 60 days after receiving the notification within 60 days after receiving the notification	Executive Director, Funding, Disclosure and Compliance & General Counsel
73.	s.91(6)	To notify a party or elected member and demand repayment of an excess amount of a quarterly advance payment	
74.	s.91(7)(b)	The determination of the manner and form of a claim for quarterly advance payment	
75.	s.92(2)	To distribute payments from the s. 92(2) New Parties Fund (for payments up to \$150,000.00)	
76.	s.93(2)(b)	The determination that a party operates as a genuine political party in respect of eligibility to receive payments from the New Parties Fund	
77.	s.95(1)(b)	The determination that other information should be lodged with a claim for payment	Executive Director, Funding, Disclosure and Compliance & General Counsel Director, Compliance Manager, Audit Senior Auditor Auditor
78.	s.95(2)(a)	To publish claims for payment on the Electoral Commission's website	Executive Director, Funding, Disclosure and Compliance & General Counsel Director, Client Experience Regulatory Services Manager, Client Services Lead, Guidance and Decisions Lead, Systems and Reporting Regulatory Services Officer Senior Client Services Officer Client Services Officer
79.	s.95(2)(b)	To provide copies of, or extracts from, any document received in connection with a claim for public inspection	Executive Director, Funding, Disclosure and Compliance & General Counsel Director, Client Experience Regulatory Services Manager, Client Services

Annexure A continued

Registered parties and senior office holders

No.	Column 1	Column 2	Column 3
80.	s.97(1)	Approval of the form of the audited annual financial statements of registered parties	Executive Director, Funding, Disclosure and Compliance & General Counsel
81.	s.97(4)	To waive compliance with the requirement for a registered party to provide a copy of the party's audited annual financial statements, where: <ul style="list-style-type: none"> a) the party is not eligible to receive a payment, or b) where the cost of compliance is considered by the Electoral Commission to be unreasonable 	
82.	s.97(4)(b)	The determination that the cost of compliance with the requirement to provide an audited copy of a party's financial statements is unreasonable	
83.	s.98(3)	To publish the names of senior office holders of parties and a summary of their roles and responsibilities on the Electoral Commission's website	Executive Director, Funding, Disclosure and Compliance & General Counsel Director, Client Experience Regulatory Services Manager, Client Services Lead, Guidance and Decisions Lead, Systems and Reporting Regulatory Services Officer Senior Client Services Officer Client Services Officer
84.	s.98(2)	Approval of the manner and form of the list of senior office holders	Executive Director, Funding, Disclosure and Compliance & General Counsel
85.	s.102(1)(d)	The determination that a person is or is not "fit and proper" to be a party agent or official agent	
86.	s.102(3)	To cancel the registration of a person as a party or official agent where the person is no longer qualified to be appointed as an agent	Executive Director, Funding, Disclosure and Compliance & General Counsel
87.	cl.40(1)	The authorisation and/or provision of a training programme for the qualification of persons to be appointed as party agents and official agents	

No.	Column 1	Column 2	Column 3
88.	cl.40(2)	To notify a person in writing that they have successfully completed the training program for party agents and official agents	Executive Director, Funding, Disclosure and Compliance & General Counsel Director, Client Experience Regulatory Services Manager, Client Services Lead, Guidance and Decisions Lead, Systems and Reporting Regulatory Services Officer Senior Client Services Officer Client Services Officer

Registers of electoral participants

Register of candidates

No.	Column 1	Column 2	Column 3
89.	s.103(4)(h)	The determination that other particulars are to be included in a State Register of Candidates for a State election, or a Local Government Register of Candidates for a Local Government election	Executive Director, Funding, Disclosure and Compliance & General Counsel
90.	s.103(5)(g)	The determination that other particulars in relation to a group are to be included in a State Register of Candidates for a State election, or a Local Government Register of Candidates for a Local Government election	
91.	s.103(6)	The determination of the manner and form in which a State Register of Candidates for a State election or a Local Government Register of Candidates for a Local Government election is to be kept	
92.	s.104(3)	To make an entry in a State Register of Candidates for a State election or a Local Government Register of Candidates for a Local Government election to effect the deemed registration of a candidate or group	Executive Director, Funding, Disclosure and Compliance & General Counsel Director, Client Experience Regulatory Services Manager, Client Services Lead, Guidance and Decisions Lead, Systems and Reporting Regulatory Services Officer Senior Client Services Officer Client Services Officer
93.	s.105(2)(a)	Approval of the manner and form of an application for registration of a candidate	Executive Director, Funding, Disclosure and Compliance & General Counsel
94.	s.105(2)(c)(viii)	The determination that other particulars are to be included in an application for registration of a candidate	

Annexure A continued

No.	Column 1	Column 2	Column 3
95.	s.106(2)(a)	Approval of the manner and form of an application for registration of a group	Executive Director, Funding, Disclosure and Compliance & General Counsel
96.	s.106(2)(c) (vii)	The determination that other particulars are to be included in an application for registration of a group	
97.	s.107(1)(a)	To register a person as a candidate for an election	Executive Director, Funding, Disclosure and Compliance & General Counsel Director, Client Experience Regulatory Services Manager, Client Services Lead, Guidance and Decisions Lead, Systems and Reporting Regulatory Services Officer
98.	s.107(1)(b)	To refuse to register a person as a candidate in the Register of Candidates for a general election	
99.	s.107(3)	The determination that any particulars in an application for registration of a candidate are incomplete or incorrect, and to: a) refuse to register a candidate on that basis, or b) register a candidate despite that determination	
100.	s.107(4)(a)	To notify a candidate of a refusal to register the candidate	
101.	s.108(1)(a)	To register a group of candidates for an election	Senior Client Services Officer Client Services Officer
102.	s.108(1)(b)	To refuse to register a group in the Register of Candidates for a general election	
103.	s.108(3)	The determination that any particulars in an application for registration of a group are incomplete or not correct, and to: refuse to register a group on that basis, or register a group despite that determination.	
104.	s.108(4)(a)	To notify a group of a refusal to register the group	
105.	s.108(5)	The determination that the name of a group is obscene or offensive, and refusal to register a group on that basis	Executive Director, Funding, Disclosure and Compliance & General Counsel
106.	s.108(6)(a)	To notify a group of a refusal to register the group due to an obscene or offensive name	Executive Director, Funding, Disclosure and Compliance & General Counsel Director, Client Experience Regulatory Services Manager, Client Services Lead, Guidance and Decisions Lead, Systems and Reporting Regulatory Services Officer Senior Client Services Officer Client Services Officer
107.	s.109(1)	Approval of the manner and form of a notice to advise the Electoral Commission of a change in the registered particulars of a candidate or group	Executive Director, Funding, Disclosure and Compliance & General Counsel

No.	Column 1	Column 2	Column 3
108.	s.109(2)	The determination that there are reasonable grounds to believe that a candidate or group has not notified the Electoral Commission of a change in the registered particulars of the candidate or group, and based on that belief, to serve a notice on a candidate or group requiring the candidate or group to notify the Electoral Commission of a change in the registered particulars of the candidate or group.	Executive Director, Funding, Disclosure and Compliance & General Counsel Director, Client Experience Regulatory Services Manager, Client Services Lead, Guidance and Decisions Lead, Systems and Reporting
109.	s.109(3)	To cancel the registration of a candidate or group where the candidate or group has not notified the Electoral Commission of a change in the registered particulars of the candidate or group	Executive Director, Funding, Disclosure and Compliance & General Counsel
110.	s.110(1)	To vary the particulars set out in the Register of Candidates where the Electoral Commission has been notified of a change in the registered particulars of a candidate or group	Executive Director, Funding, Disclosure and Compliance & General Counsel
111.	s.110(1)	The determination that there are reasonable grounds to believe that the varied particulars of a candidate or group are not correct, and based on that belief, to not vary the particulars	Director, Client Experience Regulatory Services Manager, Client Services
112.	s.110(2)	To cancel the registration of a candidate or group at the written request of the candidate or group	Lead, Guidance and Decisions Lead, Systems and Reporting
113.	s.110(3)	The determination that particulars of a candidate or group are not correct, and to omit those particulars from the Register of Candidates on that basis	Regulatory Services Officer Senior Client Services Officer Client Services Officer
114.	s.110(4)	The determination that any particulars of a candidate or group are correct, and to include those particulars in the Register of Candidates on that basis	
115.	s.110(5)	To notify a candidate or group of variations made to the Register of Candidates	

Register of associated entities

No.	Column 1	Column 2	Column 3
116.	s.111(2)(c)	The determination that other particulars should be included in the Register of Associated Entities	Executive Director, Funding, Disclosure and Compliance & General Counsel
117.	s.111(4)	The determination of the manner and form in which the Register of Associated Entities is to be kept	
118.	s.112(2)(a)	Approval of the manner and form of an application for registration	

Annexure A continued

No.	Column 1	Column 2	Column 3
119.	s.113(1)(a)	To register an associated entity	Executive Director, Funding, Disclosure and Compliance & General Counsel
120.	s.113(1)(b)	To refuse to register an associated entity	
121.	s.113(2)	The determination that any particulars of an application for the registration of an associated entity are incomplete or incorrect, and to: a) refuse registration on that basis, or b) register the associated entity despite that determination	Director, Client Experience Regulatory Services
122.	s.113(3)(a)	To notify the official agent of an associated entity of a refusal to register the associated entity and the reasons for the refusal.	Manager, Client Services Lead, Guidance and Decisions Lead, Systems and Reporting Regulatory Services Officer Senior Client Services Officer Client Services Officer
123.	s.114(1)	Approval of the manner and form of a notice to advise the Electoral Commission of a change in the registered particulars of an associated entity	Executive Director, Funding, Disclosure and Compliance & General Counsel
124.	s.114(2)	The determination that there are reasonable grounds to believe that the official agent of an associated entity has not notified the Electoral Commission of a change in the registered particulars of the associated entity, and based on that belief, to serve a notice on the official agent of an associated entity requiring the official agent to notify the Electoral Commission of a change in the registered particulars of the associated entity.	Executive Director, Funding, Disclosure and Compliance & General Counsel Director, Client Experience Regulatory Services Manager, Client Services Lead, Guidance and Decisions Lead, Systems and Reporting
125.	s.114(3)	To cancel the registration of an associated entity where the official agent has not notified the Electoral Commission of a change in the registered particulars of the associated entity	Executive Director, Funding, Disclosure and Compliance & General Counsel
126.	s.115(1)	To vary the particulars set out in the Register of Associated Entities where the Electoral Commission has been notified of a change in the registered particulars of an associated entity	Executive Director, Funding, Disclosure and Compliance & General Counsel
127.	s.115(1)	The determination that there are reasonable grounds to believe that the varied particulars of an associated entity are not correct, and based on that belief, to not vary the particulars	Director, Client Experience Regulatory Services Manager, Client Services
128.	s.115(2)	To cancel the registration of an associated entity at the written request of the official agent	Lead, Guidance and Decisions Lead, Systems and Reporting
129.	s.115(3)	The determination that any particulars of an associated entity are incorrect, and to omit those particulars from the Register of Associated Entities	Regulatory Services Officer

No.	Column 1	Column 2	Column 3
130.	s.115(4)	The determination that any particulars of an associated entity are correct, and to include those particulars in the Register of Associated Entities	Senior Client Services Officer Client Services Officer
131.	s.115(5)	To notify the official agent of an associated entity of variations made to the Register of Associated Entities.	

Register of third-party campaigners

No.	Column 1	Column 2	Column 3
132.	s.116(4)(c)	The determination that other particulars should be included in the Register of Third- party Campaigners	Executive Director, Funding, Disclosure and Compliance & General Counsel
133.	s.116(5)	The determination of the manner and form in which the Register of Third-party Campaigners is to be kept	
134.	s.117(2)(a)	Approval of the manner and form of an application for registration	
135.	s.118(1)(a)	To register a person as a third-party campaigner in the Register of Third-party Campaigners for a general election	Executive Director, Funding, Disclosure and Compliance & General Counsel Director, Client Experience Regulatory Services
136.	s.118(1)(b)	To refuse to register a person as a third-party campaigner in the Register of Third-party Campaigners for a general election	
137.	s.118(3)	The determination that any particulars of an application for the registration of a third-party campaigner are incomplete or incorrect, and to: a) refuse registration on that basis, or b) register the third-party campaigner despite that determination	Manager, Client Services Lead, Guidance and Decisions Lead, Systems and Reporting Regulatory Services Officer Senior Client Services Officer Client Services Officer
138.	s.118(4)(b)	To notify the official agent of a third-party campaigner of a refusal to register the third- party campaigner and the reasons for the refusal.	Senior Client Services Officer Client Services Officer
139.	s.119(1)	Approval of the manner and form of a notice to advise the Electoral Commission of a change in the registered particulars of a Third-party Campaigner	Executive Director, Funding, Disclosure and Compliance & General Counsel
140.	s.119(2)	The determination that there are reasonable grounds to believe that the official agent of a third-party campaigner has not notified the Electoral Commission of a change in the registered particulars of the third-party campaigner, and based on that belief, to serve a notice on the official agent to notify the Electoral Commission of a change in the registered particulars of the third-party campaigner.	Executive Director, Funding, Disclosure and Compliance & General Counsel Director, Client Experience Regulatory Services Manager, Client Services Lead, Guidance and Decisions Lead, Systems and Reporting
141.	s.119(3)	To cancel the registration of a Third-party Campaigner where the official agent has not notified the Electoral Commission of a change in the registered particulars of the Third-party Campaigner	Executive Director, Funding, Disclosure and Compliance & General Counsel

Annexure A continued

No.	Column 1	Column 2	Column 3
142.	s.120(1)	To vary the particulars set out in the Register of Third-party Campaigners where the Electoral Commission has been notified of a change in the registered particulars of a third- party campaigner.	Executive Director, Funding, Disclosure and Compliance & General Counsel
143.	s.120(1)	The determination that there are reasonable grounds to believe that the varied particulars of a third-party campaigner are not correct, and based on that belief, to not vary the particulars	Director, Client Experience Regulatory Services Manager, Client Services
144.	s.120(2)	To cancel the registration of a third-party campaigner at the written request of the official agent	Lead, Guidance and Decisions Lead, Systems and Reporting
145.	s.120(3)	The determination that any particulars of a third-party campaigner are incorrect, and to omit those particulars from the Register of Third-Party campaigners	Regulatory Services Officer Senior Client Services Officer Client Services Officer
146.	s.120(4)	The determination that any particulars of a third-party campaigner are correct, and to include those particulars in the Register of Third-Party campaigners	
147.	s.120(5)	To notify the official agent of a third-party campaigner of variations made to the Register of Third-party Campaigners	

Register of party agents

No.	Column 1	Column 2	Column 3
148.	s.121(3){d}	The determination that other particulars should be included in the Register of Party Agents	Executive Director, Funding, Disclosure and Compliance & General Counsel
149.	s.121(5)	The determination of the manner and form in which the Register of Party Agents is to be kept	
150.	s.123(3)	Approval of the manner and form of a notice of the appointment or revocation of the appointment of a party agent	
151.	s.124(1)	To register a party agent	Executive Director, Funding, Disclosure and Compliance & General Counsel
152.	s.124(2)	To cancel the registration of a party agent upon notice of the death, resignation, or the revocation of the appointment of the party agent	Director, Client Experience Regulatory Services Manager, Client Services
153.	s.124(3)	To reject a notice of the appointment, revocation of the appointment, death or resignation of a party agent where the notice is not in accordance with the <i>Electoral Funding Act 2018</i>	Lead, Guidance and Decisions Lead, Systems and Reporting
154.	s.124(4)	To amend the Register of Party Agents	Regulatory Services Officer Senior Client Services Officer Client Services Officer

Register of official agents

No.	Column 1	Column 2	Column 3
155.	s.125(3)	The determination of the manner and form in which the Register of Official Agents is to be kept	Executive Director, Funding, Disclosure and Compliance & General Counsel
156.	s.125(4)	The determination that other particulars should be included in the Register of Official Agents	
157.	s.127(2)	Approval of the manner and form of a notice of the appointment or revocation of the appointment of an official agent	
158.	s.128(1)	To register an official agent upon receipt of a notice of appointment of the agent	Executive Director, Funding, Disclosure and Compliance & General Counsel Director, Client Experience Regulatory Services Manager, Client Services Lead, Guidance and Decisions Lead, Systems and Reporting
159.	s.128(2)	To cancel the registration of an official agent upon notice of the death, resignation, or the revocation of the appointment of the official agent	
160.	s.128(3)	To reject a notice of the appointment, revocation of the appointment, death or resignation of an official agent where the notice is not in accordance with the <i>Electoral Funding Act 2018</i>	
161.	s.128(4)	To include in the Register of Official Agents the particulars of the persons who are official agent because of the office they hold and not because of an appointment	
162.	s.129	To amend the Register of Official Agents	
			Regulatory Services Officer Senior Client Services Officer Client Services Officer

Maintenance of registers

No.	Column 1	Column 2	Column 3
163.	s.131	To publish the Register of Candidates, the Register of Third-Party Campaigners, and the Register of Official Agents for by-elections on the Electoral Commission's website	Executive Director, Funding, Disclosure and Compliance & General Counsel Director, Client Experience Regulatory Services Manager, Client Services Lead, Guidance and Decisions Lead, Systems and Reporting Regulatory Services Officer Senior Client Services Officer Client Services Officer
164.	s.131(3)	The determination of the manner and form of the registers kept for by-elections	
165.	s.132(2)(a)	To prepare a copy of each register that excludes the residential address of any person who is a silent elector within the meaning of the <i>Electoral Act 2017</i> and to make it available for inspection during ordinary office hours	

Annexure A continued

No.	Column 1	Column 2	Column 3
166.	s.132(2)(b)	To prepare a copy of each register that excludes the addresses of all individuals and publish it on the Electoral Commission's website	Executive Director, Funding, Disclosure and Compliance & General Counsel
167.	s.133	The determination that any particulars in an application or notice must be verified by a statutory declaration	

Financial delegations

No.	Column 1	Column 2	Column 3
168.	s.135	To pay any money received or recovered to the Consolidated Fund	Executive Director, Corporate Director, Finance

Investigation powers

No.	Column 1	Column 2	Column 3	
169.	s.138(8)	To authorise a person to exercise the functions conferred on the Electoral Commission under section 138 of the Act	Executive Director, Funding, Disclosure and Compliance & General Counsel	
170.	s.138(1)(a)	To serve notice on a person that they are required to provide information for the purposes of enforcement of the Act	Director, Compliance Inspector	
171.	s.138(1)(b)	To serve notice on a person that they are required to provide documents for the purposes of enforcement of the Act		
172.	s.138(1)(c)	To require a person, by notice in writing, to answer questions about matters in respect of which information is required for the purposes of the enforcement of the Act		
173.	s.138(1)(d)	To serve notice on a person that they are required to attend at a specified place and time to answer questions		
174.	s.138(2)	The nomination of a place and time a person may be required to produce a document or attend to answer questions		
175.	s.138(4)	To take copies of any document provided under section 138 of the Act		
176.	s.138(5)	To retain documents provided under section 138 of the Act where there is reason to believe the documents are evidence of an offence under the Act or Regulation		
177.	s.139(1)	To appoint a person who is a member of staff of the Electoral Commission, or person belonging to a class of persons prescribed by the regulations, as an inspector		Executive Director, Funding, Disclosure and Compliance & General Counsel
178.	s.139(2)	To issue each person appointed as an inspector with identification		
179.	s.139(2)	Approval of the form of an inspector's identification		

No.	Column 1	Column 2	Column 3
180.	s.150	<p>The authorisation of a person to certify that any one or more of the following matters is admissible in criminal or civil proceedings under the Electoral Funding Act:</p> <p>a) that a specified group, candidate, third- party campaigner or associated entity was or was not registered in a specified register kept under the EF Act at a specified time or during a specified period,</p> <p>b) that a specified party was or was not registered under the <i>Electoral Act 2017</i> or the <i>Local Government Act 1993</i> at a specified time or during a specified period,</p> <p>c) that a specified person was or was not registered as an agent in a specified register kept under the EF Act at a specified time or during a specified period, or</p> <p>d) that there was no person registered at a specified time or during a specified period as the agent of a specified party, third-party campaigner or associated entity.</p>	Executive Director, Funding, Disclosure and Compliance & General Counsel

Miscellaneous

No.	Column 1	Column 2	Column 3
181.	s.151	To undertake the education and information of parties, elected members, candidates, groups, third-party campaigners, associated entities, party agents, official agents and donors of their obligations	Executive Director, Funding, Disclosure and Compliance & General Counsel
182.	s.153(1)	To extend the time for doing anything under the Act, except for making a s.60 disclosure, where proper reasons exist for the extension	
183.	cl.45(3)	To require a party, elected member, candidate, group, associated entity or third- party campaigner to arrange for a member of the Electoral Commission, or a person authorised, to view a DVD, video tape, film or other transparency	Executive Director, Funding, Disclosure and Compliance & General Counsel
184.	cl.45(3)	The authorisation of a person to view a DVD, video tape, film or other transparency	Director, Compliance

Schedule 2 – table of covid-related delegations

The following delegated functions will expire 12 months from the date of the new instrument unless amended to reflect a shorter period.

No.	Column 1	Column 2	Column 3
185.	s.73	Approval for payments to be made from the Election Campaigns Fund	Electoral Commissioner
186.	s.86(2)	To distribute payments from the Administration Fund	
187.	s.92(2)	To distribute payments from the New Parties Fund	





NSW Electoral Commission
231 Elizabeth Street, Sydney NSW 2000
GPO Box 832, SYDNEY NSW 2001
T (+61 2) 9290 5999 | F (+61 2) 9290 5991
Office hours: Monday – Friday, 9am – 5pm
elections.nsw.gov.au