

Election Campaigns Fund procedures

Contents

Election Campaigns Fund procedures	1
1 Abbreviations and definitions	2
Abbreviations	2
Definitions	2
2 Introduction	3
3 Purpose	3
4 Scope	3
5 Eligibility for payment from the fund	4
Eligible parties	4
Eligible candidates	4
6 Payment amounts	5
Amounts to be reimbursed	6
Party Payments	6
Preliminary payment (paid after the election)	7
Final payment (paid after the election)	8
Candidate payments	8
7 Receiving a payment from the fund	9
Identification of eligibility	9
For advance payments to parties	9
For post-election payments to parties (preliminary and final payments)	9
For payments to candidates	9
Notification of eligibility	9
Claims for payment	10
Processing a claim	10
Integrity and transparency - compliance audits and publication	11
8 Roles and responsibilities	11
9 Monitoring, evaluation and review of this policy	12
10 Associated documents	12
11 Relevant legislation	12
12 Document control	12
Document management	12
Publication details	13
Revision record	13

1 Abbreviations and definitions

Abbreviations

Electoral Commission	New South Wales Electoral Commission (three-member statutory authority)
EF Act	<i>Electoral Funding Act 2018 (NSW)</i>
EF Regulation	Electoral Funding Regulation 2018 (NSW)
Electoral Act	<i>Electoral Act 2017(NSW)</i>

Definitions

- 1.1 **Actual campaign expenditure** – Actual campaign expenditure means actual electoral expenditure incurred in connection with a State election that is within a party or candidate’s expenditure cap and:
- 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.
- 1.2 **Actual electoral expenditure** – means 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 *Electoral Funding Act 2018*).
- 1.3 **Candidate-** in relation to a State election, means a person nominated as a candidate at an election in accordance with the Electoral Act and includes a person applying for registration as, or registered as, a candidate in the Register of Candidates for the election to be kept by the NSW Electoral Commission under Part 7 of the EF Act.
- 1.4 **Capped State expenditure period-** means:
- 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.
- 1.5 **Day for the return of the writ** – means the day specified in the writ as the day for the return of the writ. In the case of a State general election, if the days for the return of the writ are different, the day for the return of the writ is the return for the Legislative Council election.
- 1.6 **Electoral expenditure** - means expenditure for or in connection with:
- promoting or opposing (directly or indirectly):
 - a political party
 - the election of a candidate or candidates, or
 - influencing (directly or indirectly) the voting at an election and which is expenditure of one of the kinds set out in section 7 of the EF Act.
- 1.7 **First preference votes-** means the first preference votes recorded for a candidate that are not rejected as informal at the election

- 1.8 **Party-** means a body or organisation, incorporated or unincorporated, having as one of its objects or activities the promotion of the election to Parliament of a candidate or candidates endorsed by it or by a body or organisation of which it forms a part.
- 1.8 **Party Agent-** means a person appointed as a party agent by a political party.
- 1.9 **Registered party-** means a party registered in accordance with Part 6 of the Electoral Act.
- 1.10 **State election-** means a Legislative Assembly general election, a Legislative Council election or by-election for the Legislative Assembly.
- 1.11 **State by-election-** means a by-election for the Legislative Assembly
- 1.12 **State general election-** means a Legislative Assembly general election and a Legislative Council election held currently.

2 Introduction

- 2.1 The Electoral Commission is responsible for keeping an Election Campaigns Fund for State registered parties and candidates in accordance with the law. The purpose of the Election Campaigns Fund is to reimburse relevant electoral expenditure of eligible political parties and candidates.
- 2.2 The Election Campaigns Fund is administered under Part 4 of the EF Act. The overarching principles and aims of the Election Campaigns Fund, along with the Electoral Commission's functions in managing the fund are included in the Public Funding Policy.

3 Purpose

- 3.1 The purpose of these procedures is to provide a guide as to how the Electoral Commission meets the principles and objectives stated in the Public Funding Policy in relation to:
- how eligibility for payment from the Election Campaigns Fund is determined
 - different types of payments to parties or candidates
 - calculation of payment amounts and
 - the payment claim process (from notification of eligibility to payment)
- 3.2 This document supports the Public Funding Policy by providing specific, factual information about the Election Campaigns Fund. This document is not a guideline within the meaning of section 152 of the EF Act.

4 Scope

- 4.1 This document applies to:
- all claims for payment and payments made from the Election Campaigns Fund, and
 - officers of the Electoral Commission, including contractors and third-party consultants, who are involved in the administration of this public funding scheme.

5 Eligibility for payment from the fund

5.1 This information summarises general eligibility criteria applying to State election parties and candidates.

Eligible parties

5.2 A political party is eligible for election campaigns funding for a State general election if both conditions in column A, and at least one condition in column B, are met (Note: parties cannot receive payments in respect of State by-elections):

Column A	Column B
<ol style="list-style-type: none">1. it is a registered party for State elections with the Electoral Commission on election day and was registered for at least twelve months prior to the issue of the writs for the election2. endorses nominated candidates for the election	<ol style="list-style-type: none">1. for a Legislative Assembly election, the total number of first preference votes received by the party's endorsed candidates is at least 4% of the total number of first preference votes received by all candidates in electoral districts in which the party's endorsed candidates were nominated, or2. for a Legislative Council election, the total number of first preference votes received by the party's endorsed candidates (and by all other candidates included in the same group) is at least 4% of the total number of first preference votes received by candidates in that election, or3. at least one candidate endorsed by the party is elected at the election

Eligible candidates

5.3 A candidate is eligible for election campaigns funding for a State general election or by-election if the relevant conditions in column A (as applicable to the type of the election), and at least one condition in column B, are met:

Column A	Column B
<ol style="list-style-type: none"> 1. The candidate is nominated for the State election and registered with the Electoral Commission, and 2. In the case of a candidate for the Legislative Council election, the candidate was not included in a group, or if included in a group, none of the group members were endorsed by a party 	<ol style="list-style-type: none"> 1. in the case of the Legislative Assembly election, the candidate is elected or receives at least 4% of the first preference votes received by all candidates in the electoral district for which the candidate was nominated, or 2. in the case of the Legislative Council election the candidate is elected, or the total number of first preference votes received by the candidate (and, if included in a group, by all other candidates included in the same group) is at least 4% of all first preference votes received by candidates in that election

6 Payment amounts

- 6.1 The amount payable to an eligible party or candidate is the lesser amount of the following:
- a certain amount ('dollar per vote') for each preference vote received by the candidate, or by the endorsed candidates (including all other candidates in the same group) of the party, or
 - the total amount of the actual campaign expenditure incurred by the candidate or the party.
- 6.2 The 'dollar per vote' amounts payable to parties and candidates are adjusted for inflation every four years after a State general election.

Electoral expenditure caps

- 6.3 Actual campaign expenditure is electoral expenditure incurred in connection with a State election that is within a party or candidate's expenditure cap.
- 6.4 Electoral expenditure caps are [adjusted](#) for inflation every four years after each State general election.
- 6.5 Expenditure caps for the current period and for past periods can be accessed through the [Electoral Commission's website](#).

Amounts to be reimbursed

6.6 The models for the maximum amount that can be paid to an eligible party are as follows. Refer to the [Electoral Commission's website](#) for the current 'dollar per vote' amounts:

Category	Criteria	Dollar per vote
A	A party that has at least one Legislative Assembly candidate elected, or the party's endorsed candidates in the Legislative Assembly are, in total, at least 4% of the total first preference votes in the electoral districts for which the candidates were nominated	\$X per first preference vote received by the endorsed candidates of the party in the Legislative Assembly, plus \$Y per first preference vote received by the endorsed candidates of the party in the Legislative Council
B	A party that does not satisfy category 'A' that has 10 or more endorsed candidates in the Legislative Assembly election	\$X per first preference vote received by the endorsed candidates of the party in the Legislative Assembly, plus \$Y per first preference vote received by the endorsed candidates of the party in the Legislative Council
C	A party that does not satisfy category 'A' or 'B' that has less than 10 (including zero) endorsed candidates in the Legislative Assembly election	\$Z per first preference vote received by the endorsed candidates of the party in the Legislative Council

6.7 The models for the maximum amount that can be paid to an eligible candidate are as follows. Refer to the [Electoral Commission's website](#) for the current 'dollar per vote' amounts:

Criteria	Dollar per vote
A candidate for a Legislative Assembly general election or by-election	\$X per first preference vote received by the candidate
A candidate for a Legislative Council election	\$Y per first preference vote received by the candidate

Party Payments

6.8 An eligible party can receive a payable amount by way of up to three payments. These payments are:

Advance payment (paid before the State general election)

6.9 An advance payment is paid before a NSW State general election to a party that received payments from the fund for the previous NSW State general election. An advance payment can be paid as a lump sum or by way of instalments and is deducted from the amount payable to the party after the general election. A party may receive:

- An advance payment equal to 50% of the total amount the party was entitled to receive for the previous NSW State general election, after the commencement of the capped State expenditure period for the general election and before the issue of the writs for the general election.
- A further advance payment of 25% of the total amount to which the party was entitled to receive for the previous NSW State general election, after the issue of the writs for the general election.

For example, if Party X was paid \$1,200,000 from the Election Campaigns Fund for the 2019 State general election, an advance payment of 50% (\$600,000) for the 2023 State general election can be paid after the commencement of the capped State expenditure period and before the issue of the writs for the general election.

In addition, Party X is entitled to receive a further 25% (\$300,000) of the amount it was paid from the Election Campaigns Fund for the 2019 State general election, after the issue of the writs for the general election.

These payments can be made as a lump sum or by way of instalments and are deducted from the amount payable to the party after the general election.

Following the 2023 election, Party X is eligible for a payment from the Fund. The amount of the advance payment is deducted from Party X's total amount payable, calculated as follows:

2019 election payment for Party X	\$ 1,200,000
Advance payment (50%) before issue of the writs	\$ 600,000
Advance payment (25%) after issue of the writs	\$ 300,000

Preliminary payment (paid after the election)

6.10 Preliminary payments are payable to eligible parties after a State general election, if the Electoral Commission is unable to make a final payment (see 6.11 below) within 14 days after the party lodges a claim for payment. A preliminary payment to a party is:

- 90% of the party's estimated payable amount after the election minus advance payments made for the election
- payable within 14 days from the day the party lodges a claim for payment, and
- deducted from the party's total payable amount before the final payment is made.

For example, Party X lodges a claim for payment from the Election Campaigns Fund after the 2023 State general election. The Electoral Commission will not be able to finalise assessing the expenditure in the claim in order to make a final payment within 14 days. The estimated payable amount to the party is \$1,600,000, and 90% of that estimated amount is \$1,440,000. Party X's advance payment, \$600,000 (explained in the previous paragraph) is then deducted from that 90% to reach a preliminary payment amount of \$840,000. This payment is made as a lump sum within the 14 days from the day after Party X lodged the claim for payment.

Estimated payable amount	\$ 1,600,000
90% of the estimated amount	\$ 1,440,000
Less advance payment	(\$ 600,000)
Preliminary payment	\$ 840,000

Final payment (paid after the election)

- 6.11 A final payment is payable to an eligible party after the State general election, once a validly-lodged claim for payment has been assessed, audited, finalised and approved by the Electoral Commission. A final payment to a party is the balance of the party's total payable amount after any previous payments (such as an advance payment and/or a preliminary payment, if made) have been deducted.

For example, the Electoral Commission's assessment of Party X's claim for payment from the Election Campaigns Fund has been finalised and the total payable amount based on verified expenditure is now \$1,800,000. Party X received an advance payment of \$600,000 and a preliminary payment of \$840,000, so the final payment amount is \$360,000, calculated as follows:

Total payable amount	\$1,800,000
Less advance payment	(\$ 600,000)
Less preliminary payment	(\$ 840,000)
Final payment amount:	\$ 360,000

- 6.12 It is possible for a final payment to a party to be made instead of a preliminary payment, if the final payment can be made within 14 days after the claim was lodged. In this case, no preliminary payment is made, and only the advance payment (if made) will be deducted.

For example, a final payment to Party Y can be made within 14 days after the claim was lodged. Party Y's total payable amount is \$800,000. Party Y received an advance payment of \$400,000 (50% of the party's 2015 payment of \$800,000), so the final payment amount is \$400,000 (\$800,000 - \$400,000).

Candidate payments

- 6.13 An eligible candidate can receive a payment from the Elections Campaigns Fund in relation to a State general election or a State by-election. Eligible candidates are only entitled to a single payment for the total payable amount (that is, they cannot receive an advance payment or preliminary payment). Payment is made after the candidate's valid claim for payment is lodged and assessed after the election.

For example, candidate A is eligible for a payment from the Election Campaigns Fund after a by-election for the Assembly seat of Electorate District Z. Candidate A lodges a claim for payment with the Electoral Commission after the election and the payable amount is \$30,000. This payment is made as a lump sum once the claim is finalised, audited and approved by the Electoral Commission.

7 Receiving a payment from the fund

Identification of eligibility

- 7.1 The Electoral Commission identifies the parties and candidates eligible for a payment, and communicates with eligible parties and candidates throughout the claim and payment processes.

For advance payments to parties

- 7.2 Prior to the capped State expenditure period for a State general election, the Electoral Commission notifies those parties that are eligible to make a claim for a 50% advance payment.
- 7.3 Prior to the issue of the writs for a State general election, the Electoral Commission notifies those parties that are eligible to make a claim for a further 25% advance payment.

For post-election payments to parties (preliminary and final payments)

- 7.3 Following a State general election, the Electoral Commission assesses each party's eligibility in accordance with the EF Act, using reliable sources of information. Relevant to each condition of eligibility, the following sources are checked:
- that a party was a registered party on election day for the election: check the Register of Parties kept by the Electoral Commission
 - that the party endorsed candidates who were duly nominated for the election and the candidates claimed to be endorsed by the party: check the election results showing that the party endorsed candidates in that election, and check candidate nomination records held by the Electoral Commissioner, and
 - that either a candidate endorsed by the party was elected, or the 4% first preference vote threshold was reached in the relevant election: check the final vote count results from both the Legislative Assembly and Legislative Council elections.

For payments to candidates

- 7.4 Following a State general election or by-election, the Electoral Commission assesses each candidate's eligibility in accordance with the EF Act, using the following reliable sources of information. Relevant to each condition of eligibility, the sources of information checked are the registers, nominations information and final vote counts published on the Electoral Commission website as follows:
- that the candidate is registered as a candidate in the Register of Candidates for the election on election day: check the Register of Candidates kept by the Electoral Commission for the election and published on the Electoral Commission website.
 - for the Legislative Council election only – that the candidate was not part of a group, or was part of a group of independent candidates: check candidate registration and nomination records held by the Electoral Commission, check election results published on the Electoral Commission website, and
 - that either the candidate was elected, or the candidate reached the 4% first preference vote threshold in the relevant election: check the final vote count results from both the Legislative Assembly and Legislative Council elections (published on the Electoral Commission website).

Notification of eligibility

- 7.5 After a State election, the Electoral Commission notifies the party agent of each eligible party and each eligible candidate of their eligibility to receive a payment, and the maximum payable amount

(based on the applicable expenditure cap). Forms are provided to each party agent and candidate to enable them to make a claim for payment.

Claims for payment

- 7.6 To receive a payment from the Election Campaigns Fund, a party agent or candidate must lodge a claim for payment with the Electoral Commission. If an eligible candidate was endorsed by a registered party the actual campaign expenditure of the candidate is to be included in the party's claim for payment. A candidate who was endorsed by a registered party is not entitled to make a claim separate to the party.

Claims for election campaigns funding must be lodged within 120 days after the day for the return of the writs for the election (or the return of the writ for a by-election). The day for the return of the writs for a State election is published on the Electoral Commission's website. A claim for payment is to be made in the form and manner approved by the Electoral Commission. The following documents and information are to accompany the claim for payment:

- the invoices and/or receipts for each item of expenditure included in the claim, and, in the case where a declaration of political donations and electoral expenditure is due to be lodged before the claim (see the Disclosure Policy and Procedures), a copy of the declaration and the supporting documents that accompany the declaration.
- bank details of the nominated account for which payment is to be made.

Processing a claim

- 7.7 The Electoral Commission may reject items of expenditure for reasons including:

- there is no supporting documentation of that expenditure
- the expenditure is not actual electoral expenditure
- the expenditure does not meet the Electoral Commission's [General Guidelines](#)
- the expenditure was not incurred in the capped State expenditure period or was not incurred by the party or candidate

- 7.8 The Electoral Commission may also disallow wholly or in part any item of expenditure covered by a claim if it is satisfied that it is proper to do so.

- 7.9 Once all expenditure in the claim has been assessed (or for a preliminary payment the amount payable has been estimated), payment of the payable amount is made to the party or candidate's State campaign account if all of the following conditions are met:

- the claim was validly made, according to the requirements outlined in paragraph 7.6 above
- the Electoral Commission is satisfied of the party or candidate's eligibility
- the Electoral Commission approves the payment
- the party or candidate has no outstanding declarations or (for parties) annual financial statements and
- the party has provided the Electoral Commission with a list of senior office holders and a summary of their roles and responsibilities.

Integrity and transparency - compliance audits and publication

7.10 The Electoral Commission may audit a claim for payment made by a party or candidate. The party agent or candidate must assist the Electoral Commission in conducting the audit by:

- giving full and free access at all reasonable times to all accounts, records, documents and papers of the party agent and of the party or candidate, as the case may require, relating directly or indirectly to the expenditure referred to in the claim, and
- giving all information and explanations that the Electoral Commission reasonably asks for with respect to the expenditure referred to in the claim.

7.11 The Electoral Commission:

- publishes all Election Campaigns Fund claims for payment on the Electoral Commission's website.
- may, on application, provide copies of or extracts from any other document relating to the assessment of such a claim by the Electoral Commission for public inspection.

8 Roles and responsibilities

Who	How
NSW Electoral Commission	Approve the Election Campaigns Fund procedures and associated documents
Executive Director and Directors Funding, Disclosure and Compliance	<ul style="list-style-type: none">• participate in the consultation process• determine policy instrument content and compliance with electoral funding laws• communicate policy development and revision with Legal and Governance and the Policy Coordinator
Policy Coordinator (ePMO and Corporate Governance)	<ul style="list-style-type: none">• coordinates administration of the policy development and review process• manages the publication, amendment or archiving of approved policy instruments in the Policy Library
Manager Regulatory Education and Policy	<ul style="list-style-type: none">• develops or amends policy instruments as required• forwards approved policy instruments to the Policy Coordinator for registration and publication• forwards approved policy instruments to the Policy Implementer (if not also the Policy Author) for implementation

9 Monitoring, evaluation and review of this policy

9.1 This policy will be reviewed every three years, or whenever it becomes apparent that a revision is needed.

10 Associated documents

10.1 Public Funding Policy

10.2 Disclosure policy and procedures

11 Relevant legislation

11.1 The public funding of State elections campaign is administered under Part 4 of the *Electoral Funding Act 2018*.

12 Document control

Document management

Approved by:	Signature:
The NSW Electoral Commission	Signature Redacted Date approved: 12 April 2023
Executive Director Review:	Signature:
Rachel McCallum Executive Director, Funding, Disclosure and Compliance, and General Counsel	Signature Redacted
Director Review:	Signature:
Emma Keene Director, Client Experience Regulatory Services	Signature Redacted

Publication details

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Responsible Business Unit: Client Experience and Regulatory Services	Author: Policy and Project Officer, Regulatory Education and Policy	Publication: <input type="checkbox"/> Not for publication <input type="checkbox"/> Internal catalogue <input type="checkbox"/> Intranet only <input checked="" type="checkbox"/> Intranet and website

Revision record

Date	Version	Revision description
1 August 2016	V 1.0	New procedures
13 February 2019	V 1.1	Legislative change- <i>Electoral Funding Act 2018</i>
11 December 2019	V 1.2	Clarification of actual electoral expenditure
12 April 2023	V 1.3	Legislative changes – <i>Electoral Legislation Amendment Act 2022</i>