

# New Parties Fund Procedures

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# 1. Abbreviations and definitions

## Abbreviations

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

## Definitions

- 1.1 **Actual policy development expenditure** - means policy development expenditure for which the party has a legal liability to pay or has paid.
- 1.2 **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.
- 1.3 **First preference votes** - means the first preference votes recorded for a candidate that are not rejected as informal at an election.
- 1.4 **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.
- 1.5 **Party Agent** - – means a person appointed as a party agent by a political party.
- 1.5 **Policy development expenditure** - includes expenditure on or for:
- providing information to the public or a section of the public about the eligible party
  - conferences, seminars, meetings or similar functions at which the policies of the eligible party are discussed or formulated
  - providing information to members and supporters of the eligible party
  - the audit of the financial accounts of the eligible party
  - 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)
  - the 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 and
  - electoral expenditure incurred during the capped State expenditure period.
- Policy development expenditure does not include:
- electoral expenditure incurred outside the capped State expenditure period
  - expenditure incurred substantially in respect of activities that relate to the election of members to a Parliament other than the NSW Parliament
  - expenditure prescribed by the regulations.
- 1.6 **Registered party** - means a party registered in accordance with Part 6 of the Electoral Act.
- 1.7 **State General Election** - means a Legislative Assembly general election and a periodic Council election held or to be held concurrently.

## 2. Introduction

- 2.1 The Electoral Commission is responsible for keeping a New Parties Fund for State registered parties in accordance with the law.
  - 2.2 The purpose of the New Parties Fund is to reimburse relevant policy development expenses of eligible political parties.
  - 2.3 The New Parties Fund is administered under Part 5 of the EF Act. The overarching principles and aims of the New Parties Fund, along with the Electoral Commission's functions in managing the Fund, are included in the Public Funding Policy.
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## 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 New Parties Fund is determined
    - ✓ calculation of annual entitlements 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 New Parties Fund. This document is not a guideline within the meaning of section 152 of the EF Act.
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## 4. Scope

- 4.1 These procedures apply to:
    - ✓ all claims for payment and payments made from the Fund, and
    - ✓ officers of the Electoral Commission, including contractors and third-party consultants, who are involved in the administration of this public funding scheme.
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## 5. How the Fund works

- 5.1 The purpose of the New Parties Fund is to annually reimburse registered State political parties, that are not eligible for payments from the Administrative Fund, for policy development expenditure.
- 5.2 The relevant amounts in respect of the New Parties Fund are adjusted annually for inflation in accordance with Clause 5A of Schedule 1 of the EF Act.
- 5.3 The New Parties Fund operates on a financial year basis<sup>1</sup> and payments made from the Fund reimburse eligible parties for actual policy development expenditure incurred in a financial year.
- 5.4 In order for a payment to be made, a claim for payment must be:

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<sup>1</sup> Following assent of the *Electoral Legislation Amendment Act 2022* (on 2 November 2022, the EF Act was amended to change the operation of the New Parties Fund from calendar year to financial year.

- ✓ accompanied by a declaration and information or evidence to establish the eligibility for payment of the party
- ✓ must be lodged by an eligible party and
- ✓ made within 6 months after the end of the financial year for which payment is to be made.
- ✓ all payments must be paid within 30 days of the Electoral Commission receiving all the required documents.

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## 6. Eligibility for payments from the Fund

6.1 A party is eligible for payments from the New Parties Fund for a financial year if:

- ✓ it is a registered party that has been registered for at least twelve months at the time a claim is made
- ✓ the Electoral Commission is satisfied that it operates as a genuine political party
- ✓ it is not entitled to payments from the Administration Fund and
- ✓ the party has provided to the Electoral Commission a list of senior office holders and a summary of their roles and responsibilities and does not have any outstanding declarations under Part 3 (Political donations and electoral expenditure) or financial statements under Part 6 (Obligations of registered parties and senior office holders) of the EF Act.

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## 7. Calculation of annual entitlement

7.1 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 maximum amount. That maximum amount is *adjusted* for inflation each year.

7.2 The annual maximum amounts are calculated using the following information:

- ✓ the number of first preference votes received by any candidate endorsed by the party at the previous State general election (and multiplying that number with the relevant amount of cents for the financial year) or
- ✓ a threshold dollar amount, whichever is greater.

7.3 The threshold amount only applies for the first eight calendar years after a party becomes eligible to claim.

7.4 The amounts are adjusted each financial year and are published on the *NSW Electoral Commission website*.

### Examples

#### Step 1: calculation of the annual maximum amount:

7.5 Party XYZ (registered for over two years) is eligible to receive a payment from the Fund and claims a payment. Candidates endorsed by Party XYZ in the previous State general election received a total of 20,000 first preference votes. The number of cents per vote for the relevant financial year is 70 cents and the minimum threshold amount for the financial year is \$13,300. The calculation of the annual maximum amount is as follows:

- ✓ first preference votes amount: 20,000 x 70 cents = \$14,000, or

- threshold amount: \$13,300.

The annual maximum amount is therefore **\$14,000** which is greater than \$13,300, the minimum threshold amount.

## Step 2: calculation of annual entitlement

### Scenario 1:

- 7.6 Party XYZ claims a payment from the Fund and shows that the party incurred \$11,000 of actual policy development expenditure in the last financial year. Party XYZ can be paid \$11,000 from the Fund, because the amount payable to the party is the amount of actual policy development expenditure, which is less than the maximum amount.

### Scenario 2:

- 7.7 Party XYZ claims a payment from the Fund and shows that it incurred \$15,000 of actual policy development expenditure in the last financial year. Party XYZ can be paid \$13,300 from the Fund, which is the maximum entitlement of the party, because the amount of actual policy development expenditure exceeds the party's maximum entitlement.

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## 8. Making a claim from the Fund

### Identification and advice of eligibility

- 8.1 Following a State general election, the Electoral Commission assess potentially eligible parties in accordance with the Electoral Funding Act, using reliable sources of information to check the eligibility criteria.
- 8.2 Relevant to each condition of eligibility, the following sources are checked:
- That a party is a registered party and has been a registered party for at least twelve months: party registration records held by the Electoral Commission;
  - That the party operates as a genuine political party: the most recent State general election results showing that the party endorsed candidates in that election and has continued to be eligible to be a registered party and
  - That the party is not entitled to payments from the Administration Fund: the most recent State general election results showing that none of the candidates endorsed by the party were elected; and the list of elected members on the NSW Parliament website
- 8.3 In the lead up to a claim period, officers of the Electoral Commission advise each eligible party. The advice contains information about the party's eligibility to receive a payment, and the maximum payment available. Forms are also provided to enable eligible claimants to make a claim for payment.

### Completing, lodging, and reviewing a claim

#### Lodgment

- 8.4 Following advice of eligibility (as detailed in paragraph 8.3), the party agent<sup>2</sup> of the eligible party lodges a claim for payment, which is accompanied by a declaration of actual policy development expenditure. The declaration includes any actual policy development expenditure incurred by the party in the financial year. The claim is lodged by 31 December of the year following the financial year of expenditure.

#### Review

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<sup>2</sup> a registered officer may lodge a public funding claim instead of the party agent, providing: the registered officer has completed the Electoral Commission's agent training (unless exempt); and the Electoral Commission has been notified in writing by the party agent or registered officer.

- 8.5 Officers of the Electoral Commission undertake a review of each claim to determine the entitlement of the party. The review looks at the expenditure claimed and the supporting documents provided. It results in a recommended payment amount, which is the amount of actual policy development expenditure incurred by the party during the financial year, up to the annual maximum amount.
- 8.6 The Electoral Commission may reject items or elements of expenditure for reasons including:
- ✓ the expenditure is not actual policy development expenditure
  - ✓ was not incurred in the financial year and/or
  - ✓ was not incurred by the party or there is no supporting documentation for that expenditure.
- 8.7 The Electoral Commission also checks whether the party has complied with the obligations under the EF Act for eligibility of payment. Such obligations are:
- ✓ lodge any outstanding disclosures and
  - ✓ provide annual financial statements and a list of senior office holders and a summary of their roles and responsibilities.

## Payment

- 8.8 The Electoral Commission will make a payment to the party's nominated account within 30 days after being satisfied that the party is eligible for payment and the claim and required documentation has been provided.
- 8.9 The Electoral Commission must publish a copy of the claim on the NSW Electoral Commission website. It may also, on application, provide for public inspection copies or extracts from any other document received in connection with a claim.

## 9. Roles and responsibilities

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

## 10. Monitoring, evaluation and review of this policy

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

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## 11. Associated documents

11.1 Public Funding Policy

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## 12. Relevant legislation

12.1 The New Parties Fund is administrated under Part 5 (Administrative and New Party policy development funding) of the *Electoral Funding Act 2018*.

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## 13. Document control

### Document management

<b>Approved by:</b> The NSW Electoral Commission	<b>Signature:</b>
<b>Executive Director Review:</b> Rachel McCallum Executive Director, Funding, Disclosure and Compliance, and General Counsel	<b>Signature:</b>
<b>Director Review:</b> Emma Keene Director, Client Experience Regulatory Services	<b>Signature:</b>

### Publication details

<b>Document Type:</b>	<input type="checkbox"/> Policy <input type="checkbox"/> Standard <input checked="" type="checkbox"/> Procedure <input type="checkbox"/> Guidelines	
<b>Responsible Business Unit:</b>	<b>Author:</b> Policy Officer, Regulatory Education and Policy	<b>Publication:</b> <input type="checkbox"/> Not for publication

Funding, Disclosure & Compliance and General Counsel		<input type="checkbox"/> Internal catalogue <input type="checkbox"/> Intranet only <input checked="" type="checkbox"/> Intranet and website
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### Revision record

Date	Version	Revision description
10 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 policy development expenditure
February 2023	V 1.3	Legislative change – <i>Electoral Legislation Amendment Act 2022</i>