

Fact sheet

Appointment, registrations and responsibilities of party agents

The following information is for political parties and party agents of political parties in New South Wales. Information in this fact sheet is based on the provisions of the *Electoral Funding Act 2018* and the *Electoral Funding Regulation 2018*. Refer to the [NSW Legislation website](#) for the full requirements and/or be guided by independent legal advice.

What is a party agent?

A party agent is a person who is responsible for disclosing a political party's political donations and electoral expenditure. A party agent may also be responsible for managing and disclosing the political donations and electoral expenditure of certain elected members, candidates and groups of candidates.

Requirements for a party to have a party agent

Each party is required to appoint a party agent. This applies to registered and unregistered political parties. The NSW Electoral Commission (Electoral Commission) must be notified of a party agent's appointment using [Funding and Disclosure Online](#) or the approved PDF form. The appointed party agent must be registered with the Electoral Commission. If at any time a registered party does not have a party agent, the registered officer of the party is the party agent.

How to appoint a party agent

To be appointed as a party agent, a person must be a senior office holder of the party and must:

- be enrolled to vote at NSW elections
- successfully complete the Electoral Commission's online training for prospective agents
- have never been sentenced to a term of imprisonment of 30 months or more
- have never been convicted of an indictable offence, an offence against the *Electoral Funding Act 2018* or an electoral offence
- have not been convicted of an offence committed as an adult involving fraud or dishonesty in the last ten years
- not have been determined by the Electoral Commission to not be a fit and proper person to be appointed as a party agent.

The registered officer of a party, deputy registered officer of a party or the party secretary can appoint a party agent. A person that meets the above criteria is eligible to be appointed. A record should be kept of the decision of the party's officers to appoint the person as party agent.

A party agent must be appointed in the form and manner prescribed by the Electoral Commission. A party agent appointment form can be started using [Funding and Disclosure Online](#) and the prospective party agent can either accept or decline this appointment online, which will submit the form to the Electoral Commission. PDF forms are still available [on request](#).

Do all prospective party agents need to undertake the online training?

No. If a person has any one of the following accounting qualifications, they do not need to complete the Electoral Commission's online training for prospective agents:

- a Certified Practising Accountant member of CPA Australia, New South Wales Division
- a member of the Institute of Chartered Accountants in Australia, New South Wales Region, who holds a Certificate of Public Practice issued by that Institute
- a member of the Institute of Public Accountants who holds a Professional Practice Certificate issued by that Institute.

Party agents are, though, encouraged to complete the NSW Electoral Commission's online training, even if they have already completed and passed the training, or if they have a relevant qualification. The training provides important instruction about Electoral Funding laws in New South Wales.

Register of appointed party agents

When a party agent is appointed, the appointment will be assessed to confirm it has been validly lodged. This includes confirming the notice has been submitted by an officer of the party who is involved in the management of the party (such as the registered officer, deputy registered officer or party secretary), the person is eligible to be appointed as a party agent and the person has consented to being appointed as the party agent. If the appointment has not been correctly lodged, it will be rejected by the Electoral Commission. The person who started the appointment will be notified by email and will have the opportunity to submit the appointment again. The Electoral Commission may cancel the registration of a party agent if the person is no longer eligible to be appointed.

If the appointment is accepted, the party agent's name, address and occupation and the name of the party are included in a Register of party agents. A copy of the register is published on the Electoral Commission's website without the address of the party agent. A copy of the register is made available for public inspection at the office of the Electoral Commission without the addresses of party agents who are silent electors. If a party agent is, or becomes, a silent elector they should [contact us](#) to ensure their address is not made publicly available.

Updating party agent details

A registered party agent must notify the Electoral Commission of any changes to the Register of party agents within 30 days of the change occurring. Changes in registered details can be made using [Funding and Disclosure Online](#). The Electoral Commission will amend the Register of party agents if the name, address or occupation of the party agent changes. It is important that party agents contact the Electoral Commission if their email or postal address change, to ensure that they receive correspondence about their legislative obligations.

What if the party agent resigns, dies or the party revokes the party agent's appointment?

If a registered party agent resigns, dies or the party agent's appointment is revoked by the party, the party that appointed the agent must notify the Electoral Commission within 30 days and appoint a new party agent within that time. A party agent can submit their resignation using [Funding and Disclosure Online](#) and the party can appoint a new party agent. A PDF form is still available [on request](#).

Who is a party agent responsible for?

The party agent may be responsible for more than disclosing the party's political donations and electoral expenditure.

The party agent of a party registered for NSW State elections is also responsible for the management and disclosure of the political donations and electoral expenditure of the following NSW State electoral participants:

- NSW State election candidates who are members of the party
- Members of the Parliament of New South Wales who are members of the party
- Legislative Council groups of candidates whose members are all members of the party
- Legislative Council groups of candidates, where the lead candidate is a member of the party, and where all other candidates in the group are members of that or another party registered for NSW State elections.

The party agent cannot opt-out of being responsible for these candidates, elected members and groups. However, where a candidate in a State election has been dis-endorsed by a political party, the party agent may notify the Electoral Commission of this, and once the Electoral Commission has received this notice, the [person responsible](#) for making a disclosure for the dis-endorsed candidate will be the candidate, and not the party agent of the party.

The party agent of a party registered for NSW State or local government elections may make an agreement with a local government candidate, elected member or group of candidates to be responsible for the management and disclosure of the candidate, elected member or group's political donations and electoral expenditure. The agreement takes effect once the Electoral Commission has received a valid notice of the agreement. A party agent should [contact us](#) before entering into an agreement with a local government candidate, elected member or group.

What are the legal responsibilities of a party agent?

The legal responsibilities of a party agent in relation to a party include:

- disclosing the party's political donations and electoral expenditure to the Electoral Commission in accordance with Part 3 of the *Electoral Funding Act 2018* including providing the party's accounting records
- providing the Electoral Commission with copies of the receipts and acknowledgements issued to those who make reportable political donations to the party when disclosing political donations
- providing the Electoral Commission with copies of the invoices or receipts for electoral expenditure and copies of advertising material to which the expenditure relates when disclosing electoral expenditure
- authorising individuals to issue receipts to those who make a reportable political donation to the party
- making applications to the Electoral Commission to seek approval for the party to keep a system of accounts as an alternative to the requirements for accounts set out in the *Electoral Funding Regulation 2018*
- accepting political donations made for the benefit of a future candidate for a Legislative Assembly election before that candidate has been selected, identified or endorsed by the party
- making claims for payment from the Election Campaigns Fund, Administration Fund or New Parties Fund on behalf of the party
- providing the Electoral Commission with copies of invoices or receipts for the expenditure included in a claim for payment from the Election Campaigns Fund
- making declarations of administrative or policy development expenditure in relation to a claim for payment made from the Administration Fund or New Parties Fund

- assisting the Electoral Commission in the conduct of its audits in relation to a claim for payment from the Election Campaigns Fund
- assisting with enquiries or requests for information from the Electoral Commission in the conduct of audits of disclosures of political donations and electoral expenditure
- as a senior office of the party, to report in writing to the Electoral Commission, any conduct of the party that contravenes the requirements of the *Electoral Funding Act 2018*.

The legal responsibilities of a party agent as the person responsible for a candidate, elected member or group include:

- accepting political donations made to or for the benefit of a candidate, elected member or group and paying those political donations into the party's State or local government campaign account (as applicable)
- making payments for electoral expenditure for candidates, elected members and groups from the party's State or local government campaign account (as applicable)
- appointing a person in writing to enable them to make payments for electoral expenditure from the party's State or local government campaign account on behalf of the candidate, elected member or group
- keeping complete and accurate accounting records on behalf of a candidate, elected member or group in accordance with the requirements set out in the *Electoral Funding Regulation 2018*
- issuing receipts and acknowledgements to those who make a reportable political donation to a candidate, elected member or group (contact us to obtain receipt and acknowledgement books)
- disclosing the political donations made to or for the benefit of a candidate, elected member or group and disclosing the electoral expenditure incurred on behalf of the candidate, elected member or group
- providing the Electoral Commission with copies of the receipts and acknowledgements issued to those who make reportable political donations when disclosing political donations
- providing the Electoral Commission with copies of the invoices or receipts for electoral expenditure and copies of advertising material to which the expenditure relates when disclosing electoral expenditure
- making arrangements for the party to make indirect campaign contributions to the party's endorsed candidates
- assisting with enquiries or requests for information from the Electoral Commission in the conduct of audits of disclosures or public funding claims.

When making a declaration that all political donations and electoral expenditure that are required to be disclosed have been made and are true and correct, a party agent must use their best endeavours to ensure they are not making a false or misleading statement.

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.

Offences under the *Electoral Funding Act 2018* and Regulations

It is an offence for a party agent to contravene the requirements of the *Electoral Funding Act 2018* in relation to managing, recording and disclosing political donations and electoral expenditure and operating a campaign account.

The Electoral Commission can issue warnings, penalties or prosecute offences including for unlawful use of a campaign account, failing to record or disclose political donations and electoral expenditure and accepting political donations or making payments for electoral expenditure unlawfully.

More information

Rules that apply to political parties and party agents of political parties in New South Wales are determined in the *Electoral Funding Act 2018*, available in full at legislation.nsw.gov.au. Penalties apply for non-compliance.

More information about party agents can be found on the [NSW Electoral Commission website](http://www.nsw.gov.au/elections).

For further information, contact us on 1300 022 011 or at fdc@elections.nsw.gov.au.