

# Administration of Agents Policy and Procedure

Version 1.0

**Approval**



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**Electoral Commissioner**

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## Version history

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## Review

This policy will be reviewed **every two years** from the approval date, or if the relevant regulatory frameworks change in a way that means this policy is no longer contemporary.

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## Purpose

To provide guidance on how the Electoral Commission of Queensland (ECQ) staff will administer the appointment, maintenance, and removal of agents for election participants in state and local government elections under the *Electoral Act 1992* (EA) and the *Local Government Electoral Act 2011* (LGEA). The ECQ's Funding, Disclosure and Compliance team (FDC) is responsible for the administration of agents.

## Rationale

Part 11, division 2 of the EA, and part 6, division 2 of the LGEA contain provisions relating to the appointment of agents for election participants in state and local government elections in Queensland, including who is required to have an agent, how agents are appointed, and how the appointment of an agent may end.

## Guiding Principles

The ECQ conducts transparent, fair, and democratic elections under the EA and the LGEA in accordance with these guiding principles:

1. **Efficiency of administrative procedures.** Administrative mechanisms and procedures, including administrative paperwork, should be efficient, user-friendly, and compliant with legislative requirements.
2. **Collection of personal information.** Ensure collection, storage, use, and disclosure of personal information aligns with the *Information Privacy Act 2009*, as well as the privacy provisions in the LGEA.
3. **Public confidence in elections must be preserved.** Election procedures should be open and subject to review so public confidence in the integrity of the electoral system and election outcomes can be maintained.
4. **Neutrality of election officials.** The conduct and administration of elections should not be influenced by political considerations. Persons responsible for conducting elections, including enabling activities, should be politically neutral in their dealings with all election participants.
5. **Right to review other decisions made by the ECQ.** Judicial and administrative review procedures are available to all election participants who wish to query or review a decision made by the ECQ that affects them.

A Human Rights Impact Assessment, in accordance with section 58(5) of the *Human Rights Act 2019*, has been conducted to identify any human rights that may be affected by the actions recommended in this policy. The human rights that were identified are the right to freedom of association with others, and the right to participate in the conduct of public affairs, directly or through freely chosen representatives. Although it places limits in some respect to those rights, it does so overall, to enhance public participation in public life and so is compatible with human rights.

## Part 1 – Appointment of agents

### 1. Appointing an agent

- 1.1. An agent is a person who is responsible for ensuring an election participant's election funding and financial disclosure obligations under the EA or the LGEA are fulfilled. The agent will be liable for any penalties (e.g., fines, debt recoveries) that the ECQ decides to issue if non-compliance is detected.
- 1.2. Requirement to appoint an agent: Certain election participants must appoint an agent under the EA or the LGEA, while other election participants may appoint an agent if they wish. Appendix 1 of this Policy outlines the types of election participants that either must or may appoint an agent, when they should do so and who is responsible for complying with the obligations imposed on an agent if no agent is appointed.
- 1.3. Eligibility for appointment: A person is eligible to be an agent if they –
  - (a) are an adult, and
  - (b) have not been convicted of an offence against –
    - (i) for an appointment of an agent under the EA – part 11 of the EA
    - (ii) for an appointment of an agent under the LGEA – section 43C(4), part 6 or part 9, division 5 of the LGEA.<sup>1</sup>
- 1.4. Notice of appointment: To appoint an agent, an election participant must give the ECQ notice of the agent's appointment.
  - 1.4.1. The notice must –
    - (a) be in writing
    - (b) state the name and address of the proposed agent
    - (c) be accompanied by the proposed agent's written consent to the appointment and a signed declaration that they are eligible for appointment, and
    - (d) if the election participant is a group of candidates – be signed by each member of the group.<sup>2</sup>
  - 1.4.2. The notice does not need to be in an approved form. However, the ECQ prefers that election participants complete and submit their notice of appointment of an agent via the ECQ's Self Service Portal ([selfserv.elections.qld.gov.au](http://selfserv.elections.qld.gov.au)) or using the designated forms available on the ECQ's website ([ecq.qld.gov.au](http://ecq.qld.gov.au)).
- 1.5. Processing notice of appointment: As soon as practicable after receiving a notice of appointment of an agent (provided it meets the requirements under section 1.4.1 above), the ECQ will –
  - (a) enter the agent's details in the register of agents (see section 2 below)
  - (b) action and approve the appointment in the Election Management System (EMS), and

<sup>1</sup> Section 210 of the EA and section 116C of the LGEA.

<sup>2</sup> Section 210(1)(c) of the EA and section 116C(1)(c) of the LGEA.

(c) give written notice to the agent and the election participant advising that the appointment has taken effect.

1.6. Appointment takes effect: The appointment of an agent only takes effect once the agent's name is included in the ECQ's register of agents (see section 2 below).<sup>3</sup>

1.7. Obligation to ensure compliance: An agent must take all reasonable steps to inform their election participant about their election funding and financial disclosure obligations under the EA or LGEA, and to establish and maintain appropriate systems to help the participant comply with these obligations.<sup>4</sup>

## 2. Register of agents

2.1. The EA and the LGEA require the ECQ to keep a register of agents.<sup>5</sup> The register must include the name and address of each person appointed as an agent for an election participant.<sup>6</sup>

2.2. The register of agents may be kept in the way, and in the form, the ECQ considers appropriate.<sup>7</sup>

2.3. The following registers kept by the ECQ contain the details of agents appointed for different types of election participants. For practical reasons, these registers will together serve as the register of agents for the ECQ –

- (a) The register of political parties and agents
- (b) The register of third parties and agents
- (c) The register of local government groups and agents
- (d) The register of agents for state government candidates
- (e) The register of agents for local government candidates.

2.4. The above registers use information that is extracted from EMS. While only the name of the agent will be made available for public inspection,<sup>8</sup> the address of each agent can be found in the respective section of EMS.

2.5. Once an agent's name is included in the register, the appointment will continue until one of the following happens –

- (a) the agent's obligations under part 11 of the EA or part 6 of the LGEA end, or
- (b) the agent's appointment ends and the ECQ removes their name from the register of agents (see part 2 below).<sup>9</sup>

<sup>3</sup> Section 212(1)(a) of the EA and section 116E(1)(a) of the LGEA.

<sup>4</sup> Section 306B of the EA and section 116G of the LGEA.

<sup>5</sup> Section 211(1) of the EA and section 116D(1) of the LGEA.

<sup>6</sup> Section 211(2) of the EA and section 116D(2) of the LGEA.

<sup>7</sup> Section 116D(3) of the LGEA.

<sup>8</sup> Section 388A of the EA and section 135B of the LGEA.

<sup>9</sup> Section 212 of the EA and section 116E of the LGEA.

## Part 2 – Resignation or removal of agents

### 3. Resignation of an agent

- 3.1. An agent can resign their appointment at any time by giving notice of their resignation to the ECQ.<sup>10</sup>
- 3.2. Notice of resignation: A notice of resignation must be in writing and should be signed by the resigning agent. The notice does not need to be on an approved form nor signed by the election participant who appointed the agent.
- 3.3. Processing notice of resignation: As soon as practicable after receiving the notice of resignation, the ECQ will –
- (a) remove the person's details from the register of agents<sup>11</sup>
  - (b) remove the person as the agent for the election participant in EMS, and
  - (c) give written notice to the election participant advising that the agent has resigned and requiring the election participant to give –
    - (i) notice of the removal of the agent (see section 4.2 below), and
    - (ii) notice of the appointment of a new agent (if required) (see section 4.5 below).
- 3.4. Resignation of agent takes effect: The resignation of an agent only takes effect once the ECQ has removed the person's details from the register of agents.<sup>12</sup> The removal of a person from the register of agents does not absolve the person from any acts or omissions that may have occurred during their time as agent.

### 4. Removing an agent

- 4.1. An election participant must give notice to the ECQ if the appointment of the participant's agent ends.<sup>13</sup> An agent's appointment ends if the agent –
- (a) resigns
  - (b) dies
  - (c) has their appointment revoked by the election participant, or
  - (d) is convicted of an offence against part 11 of the EA or section 43C(4), part 6 or part 9, division 5 of the LGEA.<sup>14</sup>
- 4.2. Notice of removal: A notice of removal of an agent must be given within 28 days after the agent's appointment ends.<sup>15</sup>

<sup>10</sup> Section 212(2)(a) of the EA and section 116E(3)(a) of the LGEA.

<sup>11</sup> Section 212(2)(a) of the EA and section 116E(3)(a) of the LGEA.

<sup>12</sup> Section 212(1) of the EA and section 116E(1) of the LGEA states that the appointment of a person as an agent for an election takes effect when the person's name is entered in the register of agents and continues until their obligations as an agent end or their appointment ends.

<sup>13</sup> Section 212(3) of the EA and section 116E(4) of the LGEA.

<sup>14</sup> Section 212(1)(b) of the EA and section 116E(2) of the LGEA.

<sup>15</sup> Section 212(3) of the EA and section 116E(4) of the LGEA.

- 4.2.1. The notice must state that the agent's appointment has ended, the day the appointment ended, and the reason the appointment ended.<sup>16</sup>
  - 4.2.2. If the election participant was a group of candidates and the agent's appointment ended because it was revoked by the group, the notice must be signed by each member of the group.<sup>17</sup>
  - 4.2.3. The notice does not need to be on an approved form. However, the ECQ prefers that election participants complete and submit their notice of removal of an agent via the ECQ's Self Service Portal ([selfserv.elections.qld.gov.au](http://selfserv.elections.qld.gov.au)) or using the designated forms available on the ECQ's website ([ecq.qld.gov.au](http://ecq.qld.gov.au)).
- 4.3. Processing notice of removal: As soon as practicable after receiving a notice of removal of an agent (provided it meets the requirements under section 4.2 above), the ECQ will –
- (a) remove the person's details from the register of agents<sup>18</sup>
  - (b) remove the person as the agent for the election participant in EMS, and
  - (c) give written notice to the election participant advising that the agent has been removed and requiring the election participant to give notice of the appointment of a new agent (if required) (see section 4.5 below).
- 4.4. Removal of agent takes effect: The removal of an agent only takes effect once the ECQ has removed the person's details from the register of agents.<sup>19</sup> The removal of a person from the register of agents does not absolve the person from any acts or omissions that may have occurred during their time as agent.
- 4.5. Appointing a new agent: If an election participant is required to have an agent under the EA or the LGEA (see Appendix 1) and the agent's appointment ends, the election participant must give notice of the appointment of a new agent within 28 days.<sup>20</sup> The ECQ will check that the election participant has given notice of the removal of the previous agent before processing the notice of appointment of the new agent.

<sup>16</sup> Section 212(3)(a) of the EA and section 116E(4)(a) of the LGEA.

<sup>17</sup> Section 116E(5) of the LGEA.

<sup>18</sup> Section 212(2) of the EA and section 116E(3) of the LGEA.

<sup>19</sup> Section 212(1) of the EA and section 116E(1) of the LGEA states that the appointment of a person as an agent for an election takes effect when the person's name is entered in the register of agents and continues until their obligations as an agent end or their appointment ends.

<sup>20</sup> Section 212(3)(b) of the EA and section 116E(4)(b) of the LGEA.



## Delegations

1. Any FDC officer may approve the appointment or removal of an agent.

## Appendix 1 — Appointment of agents by election participants

Election participant	Requirement to appoint an agent		Information about appointment	Reference
	Must	May		
Registered political party	✓		<p>A registered political party must appoint an agent for part 11 of the EA. The notice of appointment of an agent should be given to the ECQ as soon as possible after the party is registered. The appointment applies on a continuous basis and is not election-specific (i.e., the appointment carries across elections and applies both during and outside the election period).</p> <p>A registered political party that endorses a candidate in a local government election must appoint an agent for the election. For administrative purposes, the agent appointed by the party under the EA will automatically be the party's agent for local government elections under the LGEA. The party does not need to give another notice of appointment of an agent for a local government election.</p> <p>If no agent is appointed, each member of the executive committee (however described) of the party is taken to be the agent.</p>	Section 206 of the EA and section 114 of the LGEA.
Candidate		✓	<p>A candidate in a state or local government election may appoint an agent for the election. The notice of appointment of an agent may be given at any time. The appointment is election-specific (i.e., the appointment is only applicable for the election for which it is given).</p> <p>If no agent is appointed, the candidate is taken to be their own agent.</p>	Section 207 of the EA and section 115 of the LGEA.
Group of candidates	✓		<p>A group of candidates for a local government election must appoint an agent for the election. The notice of appointment of an agent must be given at the same time as, and in accompaniment to, the group's application to register for the election. The appointment is election-specific (i.e., the appointment is only applicable for the election for which it is given).</p> <p>If no agent is appointed, each member of the group is taken to be the agent.</p>	Section 116 of the LGEA.

Election participant	Requirement to appoint an agent		Information about appointment	Reference
	Must	May		
Registered third party (individual)		✓	<p>A third party individual who is registered for a state or local government election may appoint an agent for the election. The notice of appointment of an agent may be given at any time. The appointment is election-specific (i.e., the appointment is only applicable for the election for which it is given).</p> <p>If no agent is appointed, the third party is taken to be their own agent.</p>	Section 208 of the EA and section 116A of the LGEA.
Registered third party (organisation)	✓		<p>A third party organisation that is registered for a state or local government election must appoint an agent for the election. The notice of appointment of an agent must be given at the same time as, and in accompaniment to, the third party's application to register for the election. The appointment is election-specific (i.e., the appointment is only applicable for the election for which it is given).</p> <p>If no agent is appointed, each member of the executive committee (however described) of the third party is taken to be the agent.</p>	Section 208 of the EA and section 116A of the LGEA.
Unregistered third party		✓	<p>A third party that is not registered for a state or local government election may appoint an agent for the election. The notice of appointment of an agent may be given at any time. The appointment is election-specific (i.e., the appointment is only applicable for the election for which it is given).</p> <p>If no agent is appointed, the third party is taken to be their own agent.</p>	Section 209 of the EA and section 116B of the LGEA.

# Appendix 2 — Definitions

## Definitions

Term	Definition	Reference (if applic.)
Agent	A person appointed by an election participant under the EA or the LGEA, who is responsible for fulfilling the election participant’s election funding and financial disclosure obligations.	Part 11, division 2 of the EA and part 6, division 2 of the LGEA

## Appendix 3 — Regulatory Framework

### Regulatory framework

- *Electoral Act 1992*
- *Local Government Electoral Act 2011*