

June 2018

Compliance Review Report

Australian Labor Party (State of Queensland)

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Purpose of this report

Pursuant to s 316(2A) of the *Commonwealth Electoral Act 1918* (the Electoral Act), this report provides the party agent of the Australian Labor Party (State of Queensland) (the party) with the Australian Electoral Commission's (AEC) assessment of the level of compliance of the 2015–16 annual disclosure return lodged on behalf of the party with disclosure obligations under ss 314AB, 314AC and 314AE of the Electoral Act.

Disclosure obligations

Registered political parties and associated entities are required under Part XX of the Electoral Act to furnish returns.

Section 314AB of the Electoral Act requires the party agent of a registered political party to furnish a return within 16 weeks after the end of each financial year, disclosing:

- the total amount received by, or on behalf of, the party, during the financial year, together with the details specified by s 314AC of the Electoral Act;
- the total amount paid by, or on behalf of, the party, during the financial year; and
- the total outstanding amount, as at the end of the financial year, of all debts incurred by or on behalf of, the party, together with the details specified by s 314AE of the Electoral Act.

Section 314AC of the Electoral Act provides that if the sum of all amounts received by, or on behalf of, the party from a person or organisation during a financial year is more than the threshold amount specified therein, the annual disclosure return must include the particulars of that sum.

Section 314AE of the Electoral Act provides that if the sum of all outstanding debts incurred by, or on behalf of, the party to a person or an organisation during a financial year is more than the threshold amount specified therein, the annual disclosure return must include the particulars of that sum.

For the 2015–16 financial year, the threshold was for sums in excess of \$13,000.

The Electoral Act is available in full [here](#).

Conduct of the review

The authorised officer of the AEC has authority under s 316(2A) to require the production of documents and giving of evidence for the purpose of assessing compliance with the disclosure obligations required of registered political parties and associated entities under Part XX of the Electoral Act.

Subsection 316(2A) requires the party agent of a registered political party to produce the documents or other things referred to in a notice served by the authorised officer within the period and in the

manner specified in the notice or to appear, at the time and place specified in the notice, before the authorised officer to give evidence, either orally or in writing, and to produce the documents or other things referred to in the notice.

As part of this process, the authorised officer of the AEC served a notice on the party agent under s 316(2A) requiring the party to provide its financial records and other documents in relation to its financial operations for 2015–16.

Scope of the review

The records which were requested by the AEC from the party were limited to those which enabled the AEC to assess the following aspects of compliance with its disclosure obligations under Part XX of the Electoral Act:

- the timeliness of lodgement of the annual disclosure return
- the completeness and accuracy of the following information disclosed in the party's annual disclosure return (as amended on 1 December 2016 and 27 July 2017) for the 2015–16 financial year:
 - total receipts
 - total gifts in kind
 - individual receipts above \$13,000
 - total payments
 - total debts
 - individual debts above \$13,000
- the completeness and accuracy of information disclosed by Head Office on behalf of the following five party units:
 - Griffith FEC
 - Rankin FEC
 - Forde FEC
 - Brisbane FEC Campaign
 - Karawartha MEC

The AEC did not examine other aspects of the financial operations of the party such as the existence or effectiveness of internal controls.

Stakeholder engagement

The AEC's general practice is to communicate with the relevant officer of the party by phone, email and/or face to face meetings as appropriate to cover the following topics:

- financial reports and documentation available from the party's accounting system
- compliance issues arising from the AEC review of the financial reports and documentation provided by the party
- required and suggested amendments to the annual disclosure return which arise from the compliance review
- potential enhancements in the party's understanding of disclosure obligations and accounting processes to improve future compliance.

During the review the party provided documentation to the AEC as requested and within set timeframes.

A draft compliance review report was issued by the authorised officer of the AEC on 25 May 2018. The party was provided with an opportunity to comment on the draft report by 8 June 2018. The party did not provide any comment and lodged a request for amendment on 31 May 2018.

Review outcomes

1. Timely lodgement

Subsection 314AB(1) of the Electoral Act requires the party agent of the registered political party to lodge an annual disclosure return with the AEC within 16 weeks after the end of the financial year. As lodgement occurred by the due date of 20 October 2016, it complied with the requirement under s 314AB(1) to lodge a return for a registered political party within 16 weeks after the end of the financial year.

2. Accuracy in reporting – amendments

After examining the documents provided by the party for the review, the authorised officer of the AEC identified several issues relating to compliance with disclosure obligations under ss 314AB, 314AC and 314AE of the Electoral Act. The issues are discussed in detail below.

Total Receipts and Total Payments

Paragraph 314AB(2)(a) of the Electoral Act requires the party agent to report the total amount received by, or on behalf of, the party during the financial year, together with the details required by s 314AC. To satisfy this, the party must account for all transactions that result in receipts from

external entities. These transactions must be accounted for on a gross basis without any offsetting, inclusive of GST. All non-cash benefits received by the party must also be included in total receipts.

Paragraph 314AB(2)(b) of the Electoral Act requires the party agent to report the total amount paid by, or on behalf of, the party during the financial year. To satisfy this, the party must account for all transactions that result in payments to external entities. These transactions must be accounted for on a gross basis without any offsetting, inclusive of GST.

Transactions within the party, including those between its individual bank accounts, represent internal transfers. Such transactions should be eliminated from the calculation of total receipts and total payments to avoid inflating the total amounts reported in the return.

Total reportable receipts by the party were under-stated in the party's 2015–16 annual disclosure return. The amount recorded as total receipts in the return is required to be amended by the party in order to ensure compliance with the Electoral Act.

Total reportable payments by the party were over-stated in the party's 2015–16 annual disclosure return. The amount recorded as total payments and outlays on the party's behalf in the return is required to be amended by the party in order to ensure compliance with the Electoral Act.

The relevant amendments are set out below.

Part 1a: Total Receipts AND Part 4: Total payments – amendments		
	Total receipts	Total payments
Total disclosed in return	\$11,315,433	\$10,552,780
Amended total	\$11,812,992	\$9,923,739

Gifts-in-kind

Paragraph 314AB(2)(a) of the Electoral Act requires the party agent to report the total amount received by, or on behalf of, the party during the financial year. The total amount received must also include the value of a *gift* (donation), loan or bequest in accordance with the definition at s 314AA.

Section 287 of the Electoral Act defines *gift* as being:

“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 (other than volunteer labour) for no consideration or for inadequate consideration...”.

Therefore, goods or services provided free of charge or at less than commercial rates constitute a gift that must be disclosed as a receipt by the party.

Total reportable gifts-in-kind received by the party were under-stated in the party's 2015–16 annual disclosure return. The relevant amendment is set out below.

Part 1b: Total Gifts in kind – amendment	
Total disclosed in return	\$264,214
Amended total	\$280,714

Amounts of more than \$13,000 received

Section 314AC of the Electoral Act provides that if the sum of all amounts received by, or on behalf of, the party from a person or organisation during a financial year is more than the threshold, the annual disclosure return must include the particulars of that sum. Furthermore, that sum is to include only those individual amounts which exceed the threshold.

Individual receipts exceeding the threshold were under-disclosed in the party's 2015–16 annual disclosure return. Six amendments to individual receipts exceeding the \$13,000 threshold are required in order to ensure compliance with the Electoral Act. The relevant amendments are set out below.

Part 2: Amounts of more than \$13,000 received – amendments				
Entry	Name	Address	Amount received	Receipt Type
New entry no. 1	Labor Holdings Pty Ltd	Level 1, 16 Peel Street SOUTH BRISBANE QLD 4101	\$749,292	Other receipt
New entry no. 2	Labor Holdings Pty Ltd	Level 1, 16 Peel Street SOUTH BRISBANE QLD 4101	\$30,000	Other receipt
New entry no. 3	Josh Milroy	2109/25 Connor Street FORTITUDE VALLEY QLD 4006	\$14,000	Other receipt
Original entry no. 1	Blackmores	20 Jubilee Avenue WARRIEWOOD NSW 2102	\$14,461	Other receipt
Amended entry no. 1	Morgans	GPO Box 202 BRISBANE QLD 4000	\$14,461	Other receipt
Original entry no. 2	Hunter Hall	Level 2, 56 Pitt Street SYDNEY NSW 2000	\$35,724	Other receipt
Amended entry no. 2	Morgans	GPO Box 202 BRISBANE QLD 4000	\$35,724	Other receipt
Original entry no. 3 (to be removed)	Labor Holdings Pty Ltd	Level 1, 16 Peel Street SOUTH BRISBANE QLD 4101	\$120,000	Donation Received
Amended entry no.3	–	–	–	–

Total Debts

Paragraph 314AB(2)(c) of the Electoral Act requires the party agent to report the total outstanding amount as at the end of the financial year of all debts incurred by or, on behalf of, the party.

Total reportable debts of the party were under-stated in the party's 2015–16 annual disclosure return. The amount recorded as total debts in the return is required to be amended by the party in order to ensure compliance with the Electoral Act. The relevant amendment is set out below.

Part 4: Total Debts – amendment	
Total disclosed in return	\$1,418,686
Amended total	\$1,585,797

Debts of more than \$13,000

Section 314AE of the Electoral Act provides that if the sum of all outstanding debts, incurred by, or on behalf of, the party to a person or an organisation during a financial year is more than the threshold, the return must include the particulars of that sum.

Individual debts exceeding the threshold were under-disclosed in the party's 2015–16 annual disclosure return. One amendment to individual debts exceeding the \$13,000 threshold is required in order to ensure compliance with the Electoral Act. The relevant amendment are set out below.

Part 5: Debts of more than \$13,000 – amendments				
Entry	Name	Address	Amount Owed	Financial/Non-financial institution
New entry no. 1	Australian Taxation Office	Locked Bag 1793 Penrith NSW 1793	\$77,898	Non-financial

3. Party Units

Based on the sample of records examined by the AEC, the financial information reported to Head Office by party units was generally accurate and supported by the documentation provided. It was observed there were instances where figures reported on behalf of party units did not eliminate transfers occurring within the party, resulting in the over-statement of totals reported on behalf of these party units.

Matters requiring future action

It is recommended the party ensures the accuracy of future annual disclosure returns and therefore improve compliance with Part XX of the Electoral Act by:

- ensuring that transactions between the party and its associated entities are disclosed accordingly
- checking the accuracy of all calculations of amounts for disclosure in the annual disclosure return
- examining all amounts received by the entity in identifying receipts above the threshold for disclosure
- ensuring that the amounts reported by Head Office of behalf of party units correctly eliminate transactions occurring within the party from the calculation of total receipts and total payments
- maintaining a register of gifts-in-kind received, including the details on valuations of gifts received
- including all debts listed in the trial balance as owing to other persons and entities in the calculation of total debts, other than amounts owed for staff entitlements, regardless of the age of the debt
- examining all debts listed in the trial balance as owing to other persons and entities in identifying individual debts exceeding the threshold for disclosure

Conclusion

The authorised officer of the AEC for the purposes of s 316(2) of the Electoral Act has assessed the 2015–16 annual disclosure return for the party lodged with the AEC on 13 October 2016 complied with the requirement under s 314AB(1) of the Electoral Act to lodge a return for a registered political party within 16 weeks after the end of the financial year.

However, in view of the discrepancies identified, the return (as amended on 1 December 2016 and 27 July 2017) did not comply with the provisions of ss 314AB, 314AC and 314AE of the Electoral Act.

In view of the lodgement by the party agent on 31 May 2018, of an amendment to the party's 2015–16 annual disclosure return, the authorised officer of the AEC has assessed that the disclosure return (as amended) accurately includes the information required to be disclosed under the provisions of ss 314AB, 314AC and 314AE of the Electoral Act.