

October 2022

Compliance Review Report

Bob Brown Foundation Inc

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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 financial controller of the Bob Brown Foundation Inc (the third party) with the Australian Electoral Commission's (AEC) assessment of the level of compliance of the 2019-20 annual disclosure return with disclosure obligations under 314AEB and 314AEC of the Electoral Act.

Disclosure obligations

A person or entity must provide a disclosure return for a financial year in accordance with Part XX of the Electoral Act if the person or entity is a third party during the year.

Section 314AEB of the Electoral Act requires the third party to furnish a return within 20 weeks after the end of each financial year disclosing:

- total electoral expenditure incurred greater than the disclosure threshold
- details of gifts received totalling more than the disclosure threshold received and used (wholly or partly) to incur or reimburse for electoral expenditure and
- certifying compliance with section 302E of the Electoral Act relating to donations to third parties by foreign donors signed by the members, agents or officers (however described) of the third party.

For the 2019-20 financial year, the disclosure threshold was for sums in excess of \$14,000.

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 third parties under Part XX of the Electoral Act.

Subsection 316(2A) requires the financial controller or officer of the third 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 financial controller under s 316(2A) requiring the third party to provide its financial records and other documents in relation to its financial operations for 2019–20.

Scope of the review

The records which were requested by the AEC from the third 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 third party's annual disclosure return for the 2019–20 financial year:
 - total electoral expenditure

The AEC did not examine other aspects of the financial operations of the third 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 third party by phone, email and/or face to face meetings as appropriate to cover the following topics:

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

During the review the third 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 29 June 2022. A request for amendment was lodged on 13 July 2022.

Review outcomes

1. Timely lodgement

Subsection 31AEB(3) of the Electoral Act requires the third party to lodge an annual disclosure return with the AEC within 20 weeks after the end of the financial year. As lodgement occurred on

27 November 2020 which is after the due date of 18 November 2020, the return did not comply with the requirement under 31AEB(3) to lodge a return for third party within 20 weeks after the end of the financial year.

In response to the draft report, the third party commented that an incorrect return was submitted on 17 November 2020, which was not accepted by the AEC. A new return was lodged on 27 November 2020.

2.Accuracy in reporting – amendments

After examining the documents provided by the third party for the review, the authorised officer of the AEC identified two issues relating to compliance with disclosure obligations under sections 314AEB(2)(a) of the Electoral Act. The issues are discussed in detail below.

Total Electoral Expenditure

Section 314AEB(2)(a) of the Electoral Act requires a third party to disclose the total amount of electoral expenditure incurred by or with the authority of the third party during the 2018–19 financial year. An amendment to total electoral expenditure is required in order to ensure compliance with the Electoral Act. The relevant amendment is set out below.

Part 1: Total Electoral Expenditure – amendment	
Total disclosed in return	\$231,172
Amended total	\$6,807

Gifts received for Electoral Expenditure

Section 314AEC of the Electoral Act requires a third party that was required to provide a return for the year under section 314AEB to disclose details of any gifts received (whether received within the 2018-19 financial year or not) totalling more than the threshold that were used, either wholly or partly, to incur electoral expenditure.

A number of amendments to gifts received are required in order to ensure compliance with the Electoral Act. The relevant amendments are set out below.

Part 2: Gifts for Electoral Expenditure – amendments				
Entry	Name	Address	Amount received	Date received
Original entry no. 1	Orgill Foundation	49 Brownell DR Byron Bay NSW 2481	\$15,000	15/6/2020
Amended Entry No. 1	Remove			

Part 2: Gifts for Electoral Expenditure – amendments				
Entry	Name	Address	Amount received	Date received
Original entry no. 2	Kerry Jarrett	90 Flakemores RD Eggs & Bacon Bay TAS 7112	\$15,000	30/06/2020
Amended Entry No. 2	Remove			
Original entry no. 3	DIVERSICON PTY L	286 Hudson Parade Clareville NSW 2107	\$20,000	21/08/2019
Amended Entry No. 3	Remove			
Original entry no. 4	GTW Investments	15 Richard St Greenwich NSW 2065	\$20,000	12/04/2020
Amended entry no.4	Remove			
Original entry no. 5	LUKE MCGUINN	22 Avonmore Terrace Cottesloe WA 6011	\$20,000	5/6/2020
Amended entry no.5	Remove			
Original entry no. 6	JOHN HEMPTON	15 Harley Td Avalon Beach NSW 2107	\$25,000	26/2/2020
Amended entry no.6	Remove			
Original entry no. 7	R P EISHER	PO Box 208 Yankalilla NSW 5203	\$30,000	26/6/2020
Amended entry no.7	Remove			
Original entry no. 8	JOHN HEMPTON	15 Harley Rd Avalon Beach NSW 2107	\$40,000	2/01/2020
Amended entry no.8	Remove			
Original entry no. 9	Swami Satyadharm Saraswati	3/33 Highs Rad WEST PENNANT HILLS NSW 2125	\$140,000	22/06/2020

Part 2: Gifts for Electoral Expenditure – amendments				
Entry	Name	Address	Amount received	Date received
Amended entry no.9	Remove			
Original entry no. 10	Juliet Lavers	133 Macquarie Street Hobart TAS 7001	\$40,000	22/6/2020
Amended entry no.10	Remove			
Original entry no. 11	Orgill Foundation	49 Brownell Dr BYRON BAY NSW 2481	\$15,000	15/6/2020
Amended entry no.11	Remove			
Original entry no. 12	Kerry Jarrett	90 Flakemores Rd EGGS & BACON BAY TAS 7112	\$15,000	30/6/2020
Amended entry no.12	Remove			
Original entry no. 13	DIVERSICON PTY	286 Hudson Parade CLAREVILLE NSW 2107	\$20,000	21/08/2019
Amended entry no.13	Remove			

Matters requiring future action

It is recommended the third party ensures the accuracy of electoral expenditure and gifts disclosed in the future annual disclosure returns and therefore improve compliance with Part XX of the Electoral Act by examining all relevant electoral expenses and gifts listed in the trial balance.

Conclusion

The authorised officer of the AEC for the purposes of s 316(2) of the Electoral Act has assessed the 2019–20 annual disclosure return for the third party lodged with the AEC on 27 November 2020 did not comply with the requirement under s314AEB(3) of the Electoral Act to lodge a return for the third party within 20 weeks after the end of the financial year.

In addition, in view of the discrepancies identified, the return did not comply with the provisions of s314AEB(2)(a) of the Electoral Act.

In view of the lodgement by the third party on 13 July 2022, of an amendment to the third party's 2019–20 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 sections s314AEB(2)(a) of the Electoral Act.

Joanne Reid
Assistant Commissioner
Australian Electoral Commission

04 October 2022