

Compliance Investigation Report

CFMEU Construction and General Division
(WA Branch)

November 2015

Released under the Freedom of Information Act 1982



AEC

Australian Electoral Commission

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Purpose of this report

This report provides the current State Secretary of the CFMEU Construction and General Division – (WA Branch) (the Entity), Mr Michael Buchan, with the Australian Electoral Commission's (the AEC) opinion as to whether the 2012–13 annual disclosure return lodged on behalf of the Entity has complied with his obligation under sections 314AEA, 314AC and 314AE of the *Commonwealth Electoral Act 1918* (the Act).

Associated entity

The annual disclosure return for the financial year 2012–13 lodged by Mr Buchan identifies the CFMEU Construction & General Division (WA Branch) as an associated entity of the registered political party known as the Australian Labor Party (Western Australian Branch).

Compliance obligations

Registered political parties and associated entities are required under the provisions of the Act to lodge annual disclosure returns.

Section 314AEA of the Act requires the financial controller of an Associated Entity to report after the end of each financial year:

- the total amount received by, or on behalf of, the entity;
- the total amount paid by, or on behalf of, the entity; and
- the total outstanding amount of all debts incurred by or on behalf of, the entity.

Section 314AC of the Act also provides that if the sum of all amounts received by, or on behalf of, the Entity 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.

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

The text of these provisions is reproduced in *Attachment A* to this report.

Authority to investigate

The AEC has authority under s.316 (2A) of the Act to review records and gather relevant information to assess whether these disclosure obligations have been met. Section 316(2A) requires the financial controller of an associated entity to produce the documents requested in a notice from the AEC within the period and in the manner specified in the notice.

As part of this process, the AEC issued one notice to Mr Buchan under s.316 (2A) as follows:

- the notice required the Entity to provide its financial records and other documents in relation to its financial operations for 2012-13.

A copy of the notice issued under s.316 (2A) of the Act is provided at *Attachment B* to this report.

Stakeholder engagement

The AEC's general practice, prior to commencing an investigation, is for the AEC's Compliance area to contact the relevant officer of the associated entity to discuss the scope of the investigation.

Prior to this compliance investigation commencing, AEC staff contacted Mr Buchan to discuss the scope of the investigation process.

It is also the AEC's practice to discuss with the relevant officer of the associated entity, its opinion on compliance issues. Where there are any errors and omissions the AEC will discuss with the relevant officer how they might have occurred. This contact may involve face to face meetings.

The objective of such discussions is to encourage the associated entity to examine its internal processes and systems in order to improve the accuracy of future annual disclosure returns and thereby improve its compliance with Part XX of the Act.

Throughout the investigation, the reporting entity has been co-operative and made available its staff and external accountant as and when required.

On 6 May 2015, a meeting was conducted between AEC staff and the Entity's executive staff and financial controller at the entity's Perth headquarters. Following this meeting and prior to finalisation of the investigation, the Entity voluntarily lodged a request for amendment on 11 August 2015. On finalising the investigation, the AEC identified several further amendments.

Scope of the investigation

The AEC's investigation was limited to those financial records which were considered to be relevant to determine the timeliness, completeness and accuracy of the information disclosed in the Entity's annual disclosure return for the 2012–13 financial year.

The AEC does not have authority under Part XX of the Act to examine any other aspects of the Entity's financial operations such as the existence or effectiveness of internal controls.

AEC's opinion

The AEC's opinion relates only to its investigation of information required to be set out under sections 314AEA, 314AC and 314AE of the *Commonwealth Electoral Act 1918*.

After examining the documents provided by Mr Buchan for the investigation, the AEC identified several issues relevant to compliance with disclosure obligations under sections 314AB, 314AC and 314AE of the Act. The issues are detailed below.

1. Timely lodgement

The 2012–13 annual disclosure return for the Entity was lodged on 23 September 2013. As lodgement occurred by the due date of 20 October 2013, it complied with the requirement under s.314AEA (1) to lodge a return for an associated entity within 16 weeks after the end of the financial year.

2. Accuracy in reporting – amendments required

After examining the documents provided by Mr Buchan for the investigation, the AEC identified several issues relating to compliance with disclosure obligations under sections 314AB, 314AC and 314AE of the Act. The issues are detailed below.

During the course of the investigation, AEC staff identified that total receipts and total payments were substantially under-disclosed. This was due to the non-inclusion, in total receipts and total payments, of cash transactions for the transfer of assets, and the entry of net transactions in the ledger. It was explained to the external accountant that, while in practical terms, a transaction may appear as a conversion of assets, the actual inflows and outflows of cash are required to be disclosed in full.

No explanation was provided during the investigation for the non-disclosure of total debts, or for incorrect disclosures or non-disclosures of individual receipts or debts exceeding the threshold.

During a meeting conducted at the Entity's Perth headquarters on 5 May 2015, and subsequent correspondence and discussions, the Entity's executive staff and financial controller have acknowledged that the amendments listed below would ensure full disclosure of the information required of Mr Buchan under the provisions of sections 314AEA, 314AC and 314AE of the Act.

Total Receipts

Total reportable receipts by the Entity were under-stated in the Entity's 2012-13 annual disclosure return. The AEC recommends an amendment of the figure reported for total receipts in the Entity's 2012–13 annual disclosure return to \$21 314 947. A full breakdown of the amended amount can be viewed at *Attachment C*.

On 11 August 2015, the Entity lodged an amendment of the total receipts amount to \$21 354 927. The AEC considers a second amendment is required to accurately reflect total receipts. The amendment made by the Entity on 11 August 2015 and the recommended second amendment are set out below.

Part 2a: Total Receipts – amendment lodged 11 August 2015

Original entry	Total receipts as per Annual Disclosure Return lodged 23 September 2013	\$18 173 681
Amended entry	Total receipts as per Request for Amendment lodged 11 August 2015	\$21 354 927