

Compliance Review Report

Australian Labor Party (Tasmanian Branch)

2013–14 Annual Disclosure Return

December 2015



AEC

Australian Electoral Commission

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Released under the Freedom of Information Act 1982

Purpose of the report

This report provides the party agent of the registered political party the Australian Labor Party (Tasmanian Branch) (the Party), Mr John Dowling, with the Australian Electoral Commission's (the AEC) opinion as to whether the 2013–14 annual disclosure return lodged on behalf of the Party has complied with obligations under sections 314AB, 314AC and 314AE of the *Commonwealth Electoral Act 1918* (the Act).

Disclosure obligations

Registered political parties are required under the provisions of the Act to lodge annual disclosure returns with the AEC.

Under Part XX of the Act, section 314AB requires the agent of a registered political party and each state branch of the registered party to report after the end of each financial year:

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

Section 314AC of the Act also 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.

Section 314AE of the 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 annual disclosure return must include the particulars of that sum.

Extracts of the texts of these provisions of the Act are reproduced in *Attachment A* to this report.

Conduct of the review

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 agent of a registered party 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 two notices to Mr Dowling under s.316 (2A) requiring the Party to provide its financial records and other documents in relation to its financial operations for 2013–14.

The first notice issued on 19 May 2015 requested documentation with regard to the Party's state office financial operations. A second notice issued on 25 August 2015 requested documentation pertaining to the financial operations of five selected party units of the Party.

A copy of both notices issued under s.316 (2A) of the Act is provided at *Attachment B* and *Attachment C* respectively to this report.

Scope of the review

The AEC's review was limited to those financial records and documents which were considered relevant to determine the completeness and accuracy of information reported in the Party's 2013–14 annual disclosure return in accordance with the requirements of sections 314AB, 314AC and 314AE of the Act.

The AEC does not have the authority under Part XX of the Act to examine any 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, prior to commencing a review, is to contact the relevant officer of the political party to discuss the scope of the review. This contact may involve face to face meetings.

Prior to commencement of this compliance review, staff of the AEC contacted Mr Dowling by telephone to discuss the scope of the review process.

It is also the AEC's practice, prior to finalising a review, to discuss with the relevant officer of the political party its opinion on compliance issues. Where there are any errors or omissions the AEC will discuss with the relevant officer how they might have occurred.

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

On 9 December 2015 the AEC provided Mr Dowling with a draft of the report for his consideration and comment. Mr Dowling was asked to provide his comments by 15 December 2015. Mr Dowling emailed the AEC on 11 December 2015 and advised that he had no comment to make in respect to the draft report.

The AEC's Opinion

1. Timely lodgement

The 2013–14 annual disclosure return for the Party was lodged with the AEC on 19 October 2014. As lodgement occurred by the due date of 20 October 2014, 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 required

Total Receipts and Total Payments

Subsections 314AB(2)(a) and 314AB(2)(b) of the Act require the party agent of a political party to report the total amount received and 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 receipts from and payments to, external entities, including all gifts received in kind. All transactions must be accounted for on a gross basis inclusive of GST. The movement of funds between the party's own accounts are to be eliminated.

The AEC identified discrepancies in the figures reported for *Total Receipts* and *Total Payments* in the Party's 2013–14 annual disclosure return. Mr Dowling acknowledged that the discrepancies were due to some receipts and payments being inadvertently double-counted and that the total value of the movement of funds, (internal transfers), within the Party's banking accounts was not accurately identified and eliminated from the figures reported.

Mr Dowling agreed that the individual amounts for *Total Receipts* and *Total Payments* should be amended as set out in the tables below.

Part 1a: Total Receipts – amendment recommended		
Original entry	Total receipts as per annual return lodged 19 October 2014	\$2 022 378
Amended entry	Amended total receipts recommended per this report	\$1 516 986

Part 3: Total Payments – amendment recommended		
Original entry	Total payments as per annual return lodged 19 October 2014	\$2 880 159
Amended entry	Amended total payments recommended per this report	\$2 189 496

On 24 November 2015 Mr Dowling emailed the AEC to confirm that he agreed with the discrepancies identified within this report. Mr Dowling subsequently lodged an amendment with the AEC on 4 December 2015 that incorporated the amended amounts specified in the above table.

3. Party Units

The AEC selected five party units of the Party at random to assess the extent to which the financial information reported in all parts of the Party's 2013–14 annual disclosure return was complete and accurate. The following party units were selected for the compliance review:

- Glenorchy Branch
- Huon Branch
- Leven Branch
- Tamar Branch
- Sandy Bay Branch.

Discrepancies were identified between the information the Party initially advised to the AEC and the information revealed in documentation received by the AEC that was provided on behalf of the Huon and Tamar branches. These discrepancies are discussed below.

Huon Branch

In its annual return lodged with the Party's state office, the Huon Branch reported 'Nil' for the amounts reported for Total Receipts and Total Payments for financial transactions during the 2013–14 financial year.

Documentation provided for the AEC's compliance review included copies of bank statements from which the AEC assessed the amounts of \$494.00 and \$74.00 for Total Receipts and Total Payments respectively. Therefore the return lodged by the Huon Branch with the Party's state office was under-reported.

Tamar Branch

Documentation provided for the AEC's compliance review of the Tamar Branch included financial records that detailed the withholding of small cash amounts received totalling \$180.00, which were ultimately used to purchase postage stamps.

The amounts reported in the Tamar's Branch return submitted to the Party's state office for Total Receipts and Total Payments are therefore under-reported due to the figures being based on the total of relevant transactions recorded in the bank statements (i.e. at the exclusion of the cash retained and later used to purchase postage stamps).

Matters requiring future action

The matters commented on below were previously highlighted with the Party in the AEC's report of the compliance review conducted on the Party's 2009–10 annual disclosure return. Based on the discrepancies identified in this review and the current format stipulated by the Party's state office, which sets out the annual return that its party units are required to lodge, it is apparent that the Party has not yet implemented procedures to adopt the AEC's previous advices on this matter. An extract of the AEC's 2009–10 report commenting on these matters is provided at *Attachment D*.

1. Accuracy in elimination of internal transfers

During the review process, the AEC identified internal transfers totalling \$280,522 from within the Party's own state office banking accounts. The non-elimination of a substantial portion of these transfers by the Party contributed significantly to the over-stated amounts reported for *Total Receipts* and *Total Payments* in its 2013–14 annual disclosure return.

2. Financial information reported by party units

The AEC's examination of the financial records for the five selected party units revealed that the disclosures made in their returns generally adhered to the instructions included in the disclosure return forms as stipulated by the Party's State Office.

However, the investigation highlighted issues concerning the instructions provided in the forms that appear to have contributed to inaccurate reporting by some of those party units. For example, the current annual disclosure return required to be lodged by party unit branches to the Party's state office does not provide for the recording, and thereby the elimination, of intraparty transactions. Nor is information provided in the instructions on treatment in relation to the receipt of gifts-in-kind or cash transactions that are not processed through the banking system.

It is recommended that the Party implement procedures to improve the quality of party unit reporting, as described in both the 2009–10 review and in this review, to enable accurate reporting of party unit transactions.

Conclusion

The AEC is of the opinion that the 2013–14 annual disclosure return for the Party lodged with the AEC on 19 October 2014 complied with the requirement under s.314AB(1) of the Act to lodge a return for a political party within 16 weeks after the end of the financial year.

However, given the discrepancies identified and the subsequent requirement to lodge an amendment to rectify those discrepancies, the AEC is of the opinion that the 2013–14 annual disclosure return lodged by the Party on 19 October 2014 did not comply with the provisions of ss.314AB(2)(a) and 314AB(2)(b) of the Act.

In view of the subsequent lodgement of the amendment to the Party's 2013–14 annual disclosure return by Mr Dowling on 4 December 2015, the AEC is of the opinion that the disclosure return (as amended) now accurately sets out the information required to be disclosed by a political party under the provisions of ss.314AB(2)(a) and 314AB(2)(b) of the Act.

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Tim Courtney
A/g First Assistant Commissioner
Australian Electoral Commission

17 December 2015

Extracts from the *Commonwealth Electoral Act 1918***314AB Annual returns by registered political parties**

- (1) Subject to this Division, the agent of each registered political party and of each State branch of each registered political party must, within 16 weeks after the end of each financial year beginning on or after 1 July 1992, furnish to the Electoral Commission a return:
 - (a) that is in an approved form; or
 - (b) that is constituted by the audited annual accounts of the registered political party or the State branch, in a form that is approved by the Electoral Commission.
- (2) A return under paragraph (1)(a) or (1)(b) must set out the following:
 - (a) the total amount received by, or on behalf of, the party during the financial year, together with the details required by section 314AC;
 - (b) the total amount paid by, or on behalf of, the party during the financial year;
 - (c) 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 required by section 314AE.

314AC Amounts received

- (1) 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 \$10,000, the return must include the particulars of that sum.

Note: The dollar amount mentioned in this subsection is indexed under section 321A.
- (2) In calculating the sum, an amount of \$10,000 or less need not be counted.

Note: The dollar amount mentioned in this subsection is indexed under section 321A.
- (3) The particulars of the sum required to be furnished under subsection (1) are the amount of the sum and:
 - (a) if the sum was received from an unincorporated association, other than a registered industrial organisation:
 - (i) the name of the association; and
 - (ii) the names and addresses of the members of the executive committee (however described) of the association; or
 - (b) if the sum was purportedly paid out of a trust fund or out of the funds of a foundation:
 - (i) the names and addresses of the trustees of the fund or of the foundation; and
 - (ii) the title or other description of the trust fund, or the name of the foundation, as the case requires; or
 - (ba) if the sum was received as a result of a loan—the information required to be kept under subsection 306A(3), or the name of the financial institution, as the case requires; or
 - (c) in any other case—the name and address of the person or organisation.

Extracts from the *Commonwealth Electoral Act 1918***314AB Annual returns by registered political parties**

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 - (a) that is in an approved form; or
 - (b) that is constituted by the audited annual accounts of the registered political party or the State branch, in a form that is approved by the Electoral Commission.
- (2) A return under paragraph (1)(a) or (1)(b) must set out the following:
 - (a) the total amount received by, or on behalf of, the party during the financial year, together with the details required by section 314AC;
 - (b) the total amount paid by, or on behalf of, the party during the financial year;
 - (c) 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 required by section 314AE.

314AC Amounts received

- (1) 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 \$10,000, the return must include the particulars of that sum.

Note: The dollar amount mentioned in this subsection is indexed under section 321A.
- (2) In calculating the sum, an amount of \$10,000 or less need not be counted.

Note: The dollar amount mentioned in this subsection is indexed under section 321A.
- (3) The particulars of the sum required to be furnished under subsection (1) are the amount of the sum and:
 - (a) if the sum was received from an unincorporated association, other than a registered industrial organisation:
 - (i) the name of the association; and
 - (ii) the names and addresses of the members of the executive committee (however described) of the association; or
 - (b) if the sum was purportedly paid out of a trust fund or out of the funds of a foundation:
 - (i) the names and addresses of the trustees of the fund or of the foundation; and
 - (ii) the title or other description of the trust fund, or the name of the foundation, as the case requires; or
 - (ba) if the sum was received as a result of a loan—the information required to be kept under subsection 306A(3), or the name of the financial institution, as the case requires; or
 - (c) in any other case—the name and address of the person or organisation.

314AE Outstanding amounts

- (1) 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 \$10,000, the return must include the particulars of that sum.

Note: The dollar amount mentioned in this subsection is indexed under section 321A.

- (2) The particulars of a sum required to be furnished under subsection (1) are the amount of the sum and:
- (a) if the sum was owed to an unincorporated association, other than a registered industrial organisation:
 - (i) the name of the association; and
 - (ii) the names and addresses of the members of the executive committee (however described) of the association; or
 - (b) if the sum was purportedly incurred as a debt to a trust fund or to a foundation:
 - (i) the names and addresses of the trustees of the fund or of the foundation; and
 - (ii) the title or other description of the trust fund, or the name of the foundation, as the case requires; or
 - (c) in any other case—the name and address of the person or organisation.

316 Investigation etc.

- (1) In this section:

authorised officer means a person authorised by the Electoral Commission under subsection (2).

prescribed person means a person whose name is included in a list in a report mentioned in subsection 17(2A).

- (2) The Electoral Commission may, by instrument in writing signed by the Electoral Commissioner on behalf of the Electoral Commission, authorize a person or a person included in a class of persons to perform duties under this section.

(2A) An authorised officer may, for the purpose of finding out whether a prescribed person, the financial controller of an associated entity or the agent of a registered political party has complied with this Part, by notice served personally or by post on:

- (a) the agent or any officer of the political party; or
- (aa) the financial controller of the associated entity or any officer of the associated entity; or
- (b) the prescribed person or, if the prescribed person is a body corporate, any of its officers;

as the case may be, require the agent, financial controller, person or officer:
- (c) to produce, within the period and in the manner specified in the notice, the documents or other things referred to in the notice; or
- (d) to appear, at a 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.

Notice to produce documents – first notice

COMMONWEALTH ELECTORAL ACT 1918 – SECTION 316(2A)

**NOTICE TO PRODUCE DOCUMENTS
DISCLOSURE RETURN 2013–14**

To: John Dowling
Party Agent
Australian Labor Party (Tasmanian Branch)
PO Box 1115
HOBART TAS 7001

I, Seema Srivastava, an authorised officer within the meaning of s.316 of the *Commonwealth Electoral Act 1918* (the Act), for the purpose of finding out whether you, as the party agent of the Australian Labor Party (Tasmanian Branch) (the Party), have complied with Part XX of the Act, hereby require you, pursuant to s 316(2A) of the Act, to produce the information referred to below within the period and in the manner specified in this notice.

Information to be produced in relation to Financial Year ending 30 June 2014

1. Reports from the Party's accounting system in electronic format listed in Attachment A. (Attachment A to this notice lists the reports, the file format required and instructions on how to download and provide the data).
2. Reports from the Party's accounting system not listed in Attachment A but used in the compilation of the disclosure return.
3. Documents or other records not maintained as part of the accounting system but used in the compilation of the disclosure return, including, but not limited to:
 - a. excel spreadsheets;
 - b. extracts from any database system/s maintained in conjunction with the accounting system;
 - c. manual records, such as deposit slips, receipts, register of non-cash gifts received.
4. Statements of all bank / financial institutions accounts including:
 - a. any investment accounts;
 - b. loan accounts; and
 - c. broker accounts, if applicable
 for the period from 1 July 2013 to 31 July 2014 (i.e. 13 Months).
5. Bank reconciliation statements for:
 - a. each account as at 30 June 2013; and
 - b. each account as at 30 June 2014
6. Audited financial statements for the 2013–14 financial year.
7. Terms and conditions of all loans outstanding as at 30 June 2014.

8. A list of all gifts-in-kind received during the period 1 July 2013 to 30 June 2014, including the calculations of the valuation ascribed to each gift.
9. The working documents clearly demonstrating how the final total receipts, total payments and total debts figures shown on the Party's 2013–14 annual disclosure return were derived.
10. A complete list of all party units/local branches for the 2013–14 financial year (preferably in Excel format) with details of:
 - a. the party units that have lodged annual returns with the Party;
 - b. the party units that have not lodged annual returns with the Party;
 - c. total of receipts, payments and debt reported by each party unit in its annual return to the Party;
 - d. details of receipts at the disclosure threshold of more than \$12 400;
 - e. details of debts at the disclosure threshold of more than \$12 400.
11. A completed and signed *Document Checklist* provided at Attachment B.

Timing and manner of production

You are required to produce the documents referred to in this notice to:

Attention: Warren Kelly
 Compliance Section
 Funding and Disclosure Branch
 Australian Electoral Commission
 50 Marcus Clarke Street
 CANBERRA ACT 2600

by no later than **5:00pm Tuesday 16 June 2015**.

Refusal or failure to comply with this notice

It is an offence for you to refuse or fail to comply with this notice to the fullest extent capable—s.316(5) and (5A). It is also an offence to supply false or misleading evidence in purported compliance with this notice—s.316(6).

Dated: 19 May 2015

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Seema Srivastava
 Assistant Commissioner
 Funding and Disclosure Branch

An authorised officer for the purposes of section 316 of the Act.

Notice to produce documents – second notice

COMMONWEALTH ELECTORAL ACT 1918 – SECTION 316(2A)

NOTICE TO PRODUCE DOCUMENTS DISCLOSURE RETURN 2013–14

To: John Dowling
Party Agent
Australian Labor Party (Tasmanian Branch)
PO Box 1115
HOBART TAS 7001

I, Joanne Reid, an authorised officer within the meaning of s.316 of the *Commonwealth Electoral Act 1918* (the Act), for the purpose of finding out whether you, as the party agent of the Australian Labor Party (Tasmanian Branch) (the Party), have complied with Part XX of the Act, hereby require you, pursuant to s.316(2A) of the Act, to produce for the party unit listed in the table below the information referred to over-page within the period and in the manner specified in this notice.

Party Units selected for review

- 1 Glenorchy Branch
- 2 Leven Branch
- 3 Tamar Branch
- 4 Huon Branch *
- 5 Sandy Bay Branch *

* indicates those party units that either lodged a nil return or did not lodge a return

Information to be produced in relation to Financial Year ending 30 June 2014

A. For all party units

You are required to provide the following contact details for the treasurer (or other person responsible for the finances) of the party unit:

1. Name and salutation;
2. Daytime phone number;
3. Email address; and
4. Postal address.

B. For party units that lodged a disclosure return

You are required to produce a copy or original of:

1. a document such as general ledger, cash book, or equivalent containing all account transactions recorded during the 2013–14 financial year, covering:
 - a. receipts;
 - b. payments;
2. a record or listing of goods and services received as donations (i.e. gifts-in-kind) during the 2013–14 financial year;
3. bank statements for all bank accounts including investment accounts and term deposit accounts for the period from 1 July 2013 to 30 June 2014;
4. a bank reconciliation statement for the end of the 2013–14 financial year for each account held; and
5. a copy of the party unit's disclosure return for the 2013–14 financial year lodged with the Party's headquarters.

C. For party units that lodged a 'nil' return, or who did not lodge a disclosure return

You are required to:

1. distribute to each of those party units a copy of the *Questionnaire* form enclosed with this notice;
2. request each of those party units to complete and return the questionnaire form to your office;
3. forward to the AEC the completed questionnaire forms along with any documents provided; and
4. a copy of the party unit's disclosure return for the 2013–14 financial year lodged with the Party's headquarters.

D. Document Checklist

You are required to provide a completed and signed *Document Checklist* provided at Attachment A.

1. Where documentation being forwarded is incomplete, this checklist should be annotated in each instance as to whether the record wasn't provided or doesn't exist.
2. Any instances where a party unit's record has been amended by, or sourced from, the Party's Headquarters must also be noted on the checklist.

Timing and manner of production

You are required to produce the documents referred to in this notice to:

Attention: Warren Kelly
Compliance Section
Funding and Disclosure Branch
Australian Electoral Commission
PO Box 6172
KINGSTON ACT 2604

by no later than 5:00pm Friday, 18 September 2015.

Refusal or failure to comply with this notice

It is an offence for you to refuse or fail to comply with this notice to the fullest extent capable—s.316(5) and (5A). It is also an offence to supply false or misleading evidence in purported compliance with this notice—s.316(6).

Dated: 21 August 2015

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Joanne Reid
Director
Funding and Disclosure Branch
Australian Electoral Commission

An authorised officer for the purposes of section 316 of the Act.

Extract of 2009–10 Compliance Review Report

Matters requiring future action

The following matters need to be addressed before lodgement of disclosure returns in the future.

Accuracy of reporting - consolidated financial information

To ensure more accurate reporting of the total figures in the disclosure return, the Party must ensure that the reported figures are adjusted for any internal party transactions. The consolidation process, therefore, should involve the elimination of any transactions that involve movement of funds between:

- bank accounts within the State Office;
- the State Office and party units;
- within a party unit if more than one account is held; and
- various party units.

Approach to collecting information from party units

Financial information collected by the State Office from its party units plays an important role in the party's financial disclosure process. Based on the financial data provided in the course of the review, we note that party units' financial activities contributed approximately 38% to the overall Party's total receipts and payments based on the 2009/10 disclosure return.

Given the significance and volume of the party unit contributions, it is paramount that the information collected from and reported by those party units is complete and accurate. The quality of the data reported by the party units has a direct impact on the accuracy of the financial disclosures on the Party's return.

As your party unit disclosure return is the key document through which the State Office collects financial information from its party units, this document should be continually revised and updated to assist the State Office in obtaining accurate data in line with current requirements.

Our examination of the fifteen disclosure returns selected for the review suggests that the party units report data according to the guidelines included in the return with a reasonably high degree of accuracy. The inaccuracies that we identified could be eliminated if the instructions on the form were to be made more specific.

To assist you in your responsibilities as party agent, persons operating these party units should be made aware of their roles and responsibilities especially their legal responsibilities for the disclosure obligations as defined in the Commonwealth Electoral Act of 1918.

REDACTION CODES

- 1 Personal Information (name) redacted.
- 2 Personal Information (date of birth) redacted.
- 3 Personal Information (photograph) redacted
- 4 Personal Information (facsimile of signature) redacted.
- 5 Personal Information (facsimile of manuscript initialling) redacted.
- 6 Personal Information (Individual's address) redacted.
- 7 Personal Information (individual's telephone number) redacted.
- 8 Personal Information (individual's opinion) redacted.
- 9 Personal Information (opinion about individual) redacted.
- 10 Personal Information (employment history) redacted.
- 11 Personal Information (qualifications) redacted.
- 12 Personal Information (health) redacted.
- 13 Business information (Bank Account details) redacted.
- 14 Business information (Billing Account details) redacted.
- 15 Legal Professional Communication redacted.
- 16 Deliberative material redacted.
- 17 Irrelevant material redacted.

Released under the Freedom of Information Act 1982