

June 2017

Compliance Review Report

Nick Xenophon Team

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Purpose of this report

Pursuant to sub-section 316(2A) of the *Commonwealth Electoral Act 1918* (the Electoral Act), this report provides the party agent of the Nick Xenophon Team (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 sections 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 section 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 section 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 sub-section 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.

Sub-section 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 sub-section 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 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 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 15 June 2017. The party was provided with an opportunity to comment on the draft report by 29 June 2017. The party did not provide any comment prior to this date and lodged a request for amendment on 29 June 2017.

Review outcomes

1. Timely lodgement

Sub-section 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 sections 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 section 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.

Sub-section 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 payments to avoid inflating the total amount 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 under-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 3 :Total payments – amendments | | |
|--|-----------------------|-----------------------|
| | Total receipts | Total payments |
| Total disclosed in return | \$1,103,317 | \$678,791 |
| Amended total | \$1,126,616 | \$706,205 |

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. Two receipts exceeding the \$13,000 threshold are required to be disclosed in order to ensure compliance with the Electoral Act. The relevant amendments are set out below.

| Part B : Amounts of more than \$13,000 received – amendments | | | | |
|--|------------|-------------------|-----------------|--------------|
| Entry | Name | Address | Amount received | Receipt Type |
| New entry no. 1 | C J Bossie | <PARTY TO INSERT> | \$15,000 | Other |
| New entry no. 2 | S Grant | <PARTY TO INSERT> | \$23,007 | Other |

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.

The particulars of the following debt require amendment.

| Part C : Debts of more than \$13,000 – amendments | | | | |
|---|---|---------------------------|-------------|-------------------------------------|
| Entry | Name | Address | Amount Owed | Financial/Non-financial institution |
| Original entry no. 1 | Wright Street Nominees Pty Ltd | PO Box 3015 Unley SA 5061 | \$250,000 | Non-financial |
| Amended entry no. 1 | Wright Street Nominees Pty Ltd ATF Wright Street Unit Trust | PO Box 3015 Unley SA 5061 | \$250,000 | Non-financial |

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:

- calculating total receipts and payments from a complete listing of bank account receipts and payments respectively
- including all amounts received in the calculation of total receipts, regardless of the nature of the amounts received
- including all amounts paid in the calculation of total payments, regardless of the nature of the amounts paid
- examining all amounts received by the party in identifying receipts above the threshold for disclosure
- ensuring debts above the threshold are disclosed with the correct particular

Conclusion

The authorised officer of the AEC for the purposes of sub-section 316(2A) of the Electoral Act has assessed the 2015–16 annual disclosure return for the party lodged with the AEC on 12 October 2016 complied with the requirement under ss 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 did not comply with the provisions of sections 314AB, 314AC and 314AE of the Electoral Act.

In view of the lodgement by the party on 29 June 2017, 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 and 314AC of the Electoral Act.