

February 2019

Compliance Review Report

Derryn Hinch's Justice Party

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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 Derryn Hinch's Justice Party (the party) with the Australian Electoral Commission's (AEC) assessment of the level of compliance of the 2016–17 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 2016–17 financial year, the threshold was for sums in excess of \$13,200.

The Electoral Act can be found 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 2016–17.

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 7 September 2018) for the 2016–17 financial year:
 - total receipts
 - total gifts in kind
 - individual receipts above \$13,200
 - total payments
 - total debts
 - individual debts above \$13,200

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 21 December 2018. The party was provided with an opportunity to comment on the draft report by 14 January 2019. The party did not provide any comment and lodged a request for amendment on 1 February 2019.

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 after the due date of 20 October 2017, it did not comply 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 an issue relating to compliance with disclosure obligations under section 314AC of the Electoral Act. The issue is discussed in detail below.

Amounts of more than \$13,200 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 2016–17 annual disclosure return. An amendment to individual receipts exceeding the \$13,200 threshold is required in order to ensure compliance with the Electoral Act. The relevant amendment is set out below.

Part 3: Amounts of more than \$13,200 received – amendments				
Entry	Name	Address	Amount received	Receipt Type
New entry no. 1	Derryn Hinch	197/418 St Kilda Rd Melbourne VIC 3004	\$20,000	Other Receipt

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:

- examining all amounts received by the party in identifying receipts above the threshold for disclosure
- ensuring that the value of gifts-in-kind received are reported in the annual disclosure
- checking the accuracy of all calculations of amounts for disclosure in the annual disclosure return

Conclusion

The authorised officer of the AEC for the purposes of s 316(2) of the Electoral Act has assessed the 2016–17 annual disclosure return for the party lodged with the AEC on 6 November 2017 did not comply 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.

Further to this, in view of a discrepancy identified, the return did not comply with the provisions of section 314AC of the Electoral Act.

In view of the lodgement by the party on 1 February 2019, of an amendment to the party's 2016–17 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 section 314AC of the Electoral Act.