

July 2020

Compliance Review Report

Australian Labor Party (N.S.W. Branch)

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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 Australian Labor Party (N.S.W. Branch) (the party) with the Australian Electoral Commission's (AEC) assessment of the level of compliance of the 2017–18 annual disclosure return lodged on behalf of the party with disclosure obligations under sections 314 AB and 314AC 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 2017–18 financial year, the threshold was for sums in excess of \$13,500.

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 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 2017–18.

A draft compliance review report was issued by the authorised officer of the AEC on 19 June 2020. The party was provided with an opportunity to comment on the draft report by 3 July 2020. The party did not provide any comment and lodged a request for amendment on 3 July 2020.

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 2017–18 financial year:
 - individual receipts above \$13,500
- the completeness and accuracy of information disclosed by Head Office on behalf of the following 20 party units:

1.	Grayndler Federal Campaign	11.	Kingsgrove Breach
2.	Oatley (Camp State)	12.	Culcairn
3.	Fairfield (Camp State)	13.	Port Stephens
4.	ALP Fowler Federal Campaign	14.	Macquarie Federal Campaign
5.	The Entrance (SEC)	15.	ALP Blaxland Federal Campaign
6.	Keira (Camp State)	16.	Gilmore Campaign
7.	Lake Macquarie (Camp State)	17.	McMahon Federal Campaign
8.	Epping (Camp State)	18.	Strathfield (Camp State)
9.	Central Bankstown	19.	Summer Hill (Camp State)
10.	Ku-ring-gai SEC	20.	Campbelltown (Camp State)

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.

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 on 22 October 2018 which is the first business day after the due date of 20 October 2018, the return 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 section 314AC of the Electoral Act. The issues are discussed in detail below.

Gifts-in-kind

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. The total amount received must also include the value of a *gift* (donation), loan or bequest in accordance with the definition at s 314AA.

Section 287 of the Electoral Act defines *gift* as being:

“any disposition of property made by a person to another person, otherwise than by will, being a disposition made without consideration in money or money’s worth or with inadequate consideration and includes the provision of a service (other than volunteer labour) for no consideration or for inadequate consideration...”.

Therefore, goods or services provided free of charge or at less than commercial rates constitute a gift that must be disclosed as a receipt by the party.

Total reportable gifts-in-kind received by the party were under-stated in the party's 2017–18 annual disclosure return. The relevant amendment is set out below.

Part 1b: Total Gifts in kind – amendment	
Total disclosed in return	\$18,681
Amended total	\$54,049

Amounts of more than \$13,500 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.

A number of amendments to individual receipts exceeding the \$13,500 threshold are required in order to ensure compliance with the Electoral Act. The relevant amendments are set out below.

Part 2: Amounts of more than \$13,500 received – amendments				
Entry	Name	Address	Amount received	Receipt Type
Original entry no. 1 (to be removed)	NSW Electoral Commission for Country Labor	Level 25, 201 Kent St SYDNEY NSW 2000	\$136,724	Other
Amended entry no. 1				
Original entry no. 2	Australian Hotels Association	L15 Hudson House 131 Macquarie St SYDNEY NSW 2000	\$35,000	Donation
Amended entry no. 2 (amend amount)	Australian Hotels Association	L15 Hudson House 131 Macquarie St SYDNEY NSW 2000	\$36,000	Donation
Original entry no. 3	Country Labor Party	Level 9, 377 Sussex St SYDNEY NSW 2000	\$30,391	Other

Part 2: Amounts of more than \$13,500 received – amendments				
Entry	Name	Address	Amount received	Receipt Type
Amended entry no. 3 (amend amount)	Country Labor Party	Level 9, 377 Sussex St SYDNEY NSW 2000	\$92,228	Other
Original entry no. 4	Clubs NSW	Level 8 / 51 Druitt St SYDNEY NSW 2000	\$20,000	Donation
Amended entry no.4 (amend amount)	Clubs NSW	Level 8 / 51 Druitt St SYDNEY NSW 2000	\$23,000	Donation
Original entry no. 5	AMIEU Newcastle & Northern Branch	PO Box 2263 DANGAR NSW 2309	\$14,384	Other
Amended entry no.5 (amend amount)	AMIEU Newcastle & Northern Branch	PO Box 2263 DANGAR NSW 2309	\$14,824	Other

3. Accuracy in reporting – party units

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 section 314AB(2)(a). Gifts-in-kind totalling \$10,552 were disclosed by party units in the AEC party unit compliance review questionnaire that were not included in the total gifts-in-kind reported at Part 1b of the party's 2017-18 disclosure return. The relevant amendment to the disclosure return is provided at section 2 of this report.

The authorised officer also identified weaknesses in the internal controls over the process of reporting receipts and payments by party units to head office which need to be addressed.

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
- examining all amounts received by the party in identifying receipts above the threshold for disclosure
- checking the accuracy of all calculations of amounts for disclosure in the annual disclosure return.

The AEC also noted immaterial variances between amounts disclosed in the party unit's records and by the party in its annual return. In one instance a party unit's receipts and payments were not reported at all. 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 ensuring that all amounts received by party units are disclosed to, and accurately recorded by party headquarters.

Conclusion

The authorised officer of the AEC for the purposes of s 316(2) of the Electoral Act has assessed the 2017–18 annual disclosure return for the party lodged with the AEC on 22 October 2018 complied 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.

However, in view of the discrepancies identified, the return did not comply with the provisions of sections 314AB and 314AC of the Electoral Act.

In view of the lodgement by the party agent on 3 July 2020, of an amendment to the party's 2017–18 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 314AB and 314AC of the Electoral Act.