

January 2020

# Compliance Review Report

**Liberal Party of Australia (Tasmanian Division)**

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## Purpose of this report

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Pursuant to s 316(2A) of the *Commonwealth Electoral Act 1918* (the Electoral Act), this report provides the party agent of the Liberal Party of Australia (Tasmanian Division), (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 ss 314AB, 314AC and 314AE of the Electoral Act.

## Disclosure obligations

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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

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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.

## Scope of the review

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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 AEC did not examine other aspects of the financial operations of the party such as the existence or effectiveness of internal controls.

## Stakeholder engagement

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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 12 December 2019. The party was provided with an opportunity to comment on the draft report by 24 December 2019. The party did not provide any comment and lodged a request for amendment on 23 December 2019.

## Review outcomes

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### 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 18 October 2018 which is before 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.

#### 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.

Individual receipts exceeding the threshold were under-disclosed in the party's 2017–18 annual disclosure return. 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.

<b>Part 2: Amounts of more than \$13,500 received – amendments</b>				
<b>Entry</b>	<b>Name</b>	<b>Address</b>	<b>Amount received</b>	<b>Receipt Type</b>
New entry no. 1	Australian Taxation Office	To be advised	\$123,672	Other Receipt
New entry no. 2	Tasmanian Hospitality Association	PO Box 191 Battery Point TAS 7004	\$50,000	Donation
Original entry no. 1	Pathology Australia	Level 1, 16 Napier Close Deakin ACT 2600	\$25,000	Other Receipt
Amended entry no. 1 (receipt type)	Pathology Australia	Level 1, 16 Napier Close Deakin ACT 2600	\$25,000	Donation
Original entry no. 2	Insurance Council of Australia	Level 4, 56 Pitt Street Sydney NSW 2000	\$30,000	Other Receipt
Amended entry no. 2 (receipt type)	Insurance Council of Australia	Level 4, 56 Pitt Street Sydney NSW 2000	\$30,000	Donation
Original entry no. 3	Pharmacy Guild of Australian (Tasmanian Branch)	PO Box 215 Battery Point TAS 7004	\$16,500	Other Receipt
Amended entry no.3 (receipt type)	Pharmacy Guild of Australian (Tasmanian Branch)	PO Box 215 Battery Point TAS 7004	\$16,500	Donation
Original entry no. 4	Financial Services Council	Level 24, 44 Market St Sydney NSW 2000	\$16,500	Other Receipt
Amended entry no.4 (receipt type)	Financial Services Council	Level 24, 44 Market St Sydney NSW 2000	\$16,500	Donation

## 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 gifts-in-kind of \$98,000 reported in the party's 2017–18 annual disclosure return could not be verified because the party was unable to provide supporting documentation to substantiate gift-in-kind calculations.

## Matters requiring future action

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Section 317 of the Electoral Act requires records to be kept in relation to matters required to be set out in a return. 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 adequate records are kept.

## Conclusion

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The authorised officer of the AEC for the purposes of s 316(2) of the Electoral Act has assessed whether the 2017–18 annual disclosure return for the party lodged with the AEC on 18 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 s 314AC of the Electoral Act.

In view of the lodgement by the party agent on 23 December 2019, 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 section 314AC of the Electoral Act.

As part of the *Electoral Legislation Amendment (Electoral Funding and Disclosure Reform) Act 2018* (FAD Reform Act) introduced in December 2018 s 317 was expanded to include a requirement to keep records for five years in relation to annual returns. As a result, the party is required to keep records of gifts-in-kind disclosed in future annual returns.