

February 2021

# Compliance Review Report

**Liberal Party of Australia, NSW 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 (NSW 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 (as amended on 2 March 2020) for the 2017–18 financial year:
  - total receipts
  - total gifts in kind
  - individual receipts above \$13,500
  - total payments
  - total debts
  - individual debts above \$13,500
- the completeness and accuracy of information disclosed by Head Office on behalf of the following 3 party units:

1.	Bradfield FEC
2.	Burnside Branch
3.	North Sydney FEC

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 14 January 2021. The financial controller was provided with an opportunity to comment on the draft by 29 January 2021. On 21 January, the financial controller requested an extension regarding the response date for the draft report. The response date was extended to 12 February 2021. The financial controller provided a response on 15 February 2021 with additional information on the 17 February 2021. The financial controller agreed with the AEC's proposed amendments and lodged an amended return on 19 February 2021.

## 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 19 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 sections 314AB, 314AC and s314AE 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 s 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.

Paragraph 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 receipts and total payments to avoid inflating the total amounts reported in the return.

Total reportable receipts by the party were over-stated in the party's 2017–18 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 over-stated in the party's 2017–18 annual disclosure return. The amount recorded as total payments and outlays on the party's/ entity'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	\$ 12,367,649	\$ 11,710,426
Amended total	\$ 12,238,901	\$ 11,634,943

## 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 over-stated in the party's 2017–18 annual disclosure return. The relevant amendment is set out below.

<b>Part 1b: Total Gifts in kind – amendment</b>	
Total disclosed in return	\$ 96,346
Amended total	\$ 90,806

### 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>	
Original Entry No. 1	Sanofi-Aventis Australia Pty Ltd	24 Talavera Road MACQUARIE PARK NSW 2113	\$11,000	Other Receipt	
Amended Entry No. 1	Sanofi-Aventis Australia Pty Ltd	24 Talavera Road MACQUARIE PARK NSW 2113	\$22,000	Other Receipt	
Original Entry No. 2	Sanofi-Aventis Australia Pty Ltd	24 Talavera Road MACQUARIE PARK NSW 2113	\$11,000	Other Receipt	
Amended Entry No. 2	Remove				
New Entry No. 1	Australian Taxation Office	GPO Box 9990, SYDNEY NSW 2001	\$53,926	Other Receipt	
New Entry No. 2	Australian Taxation Office	GPO Box 9990, SYDNEY NSW 2001	\$104,177	Other Receipt	
New Entry No. 3	Australian Taxation Office	GPO Box 9990, SYDNEY NSW 2001	\$45,605	Other Receipt	

<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. 4	Australian Taxation Office	GPO Box 9990, SYDNEY NSW 2001	\$20,446	Other Receipt
New Entry No. 5	Australian Government Solicitor	Level 42, MLC Centre, 19 Martin Place, Sydney NSW 2000	\$103,157	Other Receipt
New Entry No. 6	Sterling Legal	204 Fowler Road, ILLAWONG NSW 2234	\$20,000	Other Receipt

## Total Debts

Paragraph 314AB(2)(c) of the Electoral Act requires the party agent to report the total outstanding amount as at the end of the financial year of all debts incurred by or, on behalf of, the party.

Total reportable debts of the party were over-stated in the party's 2017–18 annual disclosure return. The amount recorded as total debts in the return is required to be amended by the party in order to ensure compliance with the Electoral Act. The relevant amendment is set out below.

<b>Part 4: Total Debts – amendment</b>	
Total disclosed in return	\$ 3,690,493
Amended total	\$ 2,910,074

## Debts of more than \$13,500

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.

Individual debts exceeding the threshold were over-disclosed in the party's 2017–18 annual disclosure return. A number of amendments to individual debts exceeding the \$13,500 threshold are required in order to ensure compliance with the Electoral Act. The relevant amendments are set out below.



Part 5: Debts of more than \$13,500 – amendments				
Entry	Name	Address	Amount Owed	Financial/Non-financial institution
Original Entry No. 1	LIBERAL PARTY - FEDERAL SECRETARIAT	CNR BLACKALL & MACQUARIE STREETS, BARTON ACT 2600	\$30,484	NON-FINANCIAL
Amended Entry No. 1	Remove			
Original Entry No. 2	KPMG	300 BARANGAROO AVENUE, SYDNEY NSW 2000	\$64,175	NON-FINANCIAL
Amended Entry No. 2	Remove			

## 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:

- including all amounts received in the calculation of total receipts, regardless of the nature of the amounts received
- keeping adequate records in relation to gifts-in-kind received in accordance with s 317
- 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
- examining all debts listed in the trial balance as owing to other persons and entities in identifying individual debts exceeding the threshold for disclosure
- checking the accuracy of all calculations of amounts for disclosure in the annual disclosure return.

## Conclusion

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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 19 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 ss 314AB, 314AC and 314AE of the Electoral Act.

In view of the lodgement by the financial controller on 19 February 2021, 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, 314AC and 314AE 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 to allow a person to provide an accurate annual return. As a result, the party is required to keep adequate records of gifts-in-kind disclosed in future annual returns.

Joanne Reid  
Assistant Commissioner  
Australian Electoral Commission

23 February 2020