

July 2024

Compliance Review Report

Liberal Party of Australia

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Purpose of this report

Pursuant to s 316(2A) of the *Commonwealth Electoral Act 1918* (Electoral Act), this report provides the party agent of the Liberal Party of Australia (the party) with the Australian Electoral Commission's (AEC) assessment of the level of compliance of the 2021–22 annual disclosure return lodged on behalf of the party with disclosure obligations under Part XX of the Electoral Act.

Disclosure obligations and foreign donation restrictions

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;
- 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; and
- details of any discretionary benefits received by, or on behalf of the political party from the Commonwealth, a State or a Territory during the financial year.

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 2021–22 financial year, the threshold was for sums in excess of \$14,500.

Section 302D of the Electoral Act restricts political parties from receiving gifts from foreign donors. Section 302F further restricts gifts from foreign donors to political parties for the purpose of incurring electoral expenditure.

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 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 2021–22.

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 and foreign donation restrictions under Part XX of the Electoral Act:

- the timeliness of lodgement of the annual disclosure return
- that the party has not received foreign donations restricted by ss 302D and 302F of the Electoral Act.
- the completeness and accuracy of the following information disclosed in the party's annual disclosure return (as amended on 21 January 2023) for the 2021–22 financial year:
 - total receipts
 - total gifts in kind
 - individual receipts above \$14,500
 - total payments
 - total debts
 - individual debts above \$14,500
 - discretionary benefits.

With exception to assessing the controls in place to identify and appropriately manage potential donations received from foreign donors, 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 20 June 2024. The party was provided with an opportunity to comment on the draft report by 26 June 2024. The party did not provide any comment and lodged a request for amendment on 26 June 2024.

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 20 October 2022 which is on the due date of 20 October 2022, 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. Foreign donations

Under sections 302D and 302F of the Electoral Act, political parties are restricted from:

- receiving gifts of \$100 or more where:
 - the recipient knows the donor is a foreign donor; and
 - the recipient knows that the foreign donor intends the gift to be used to incur electoral expenditure, or for the dominant purpose of creating or communicating electoral matter; and
- receiving gifts of \$1,000 to the disclosure threshold without obtaining a written affirmation that the donor is not a foreign donor; and
- receiving gifts equal to or above the disclosure threshold without obtaining written affirmation and appropriate information to establish that the donor is not a foreign donor.

If a political party receives a donation from a foreign donor in contravention of the restrictions in the Electoral Act, the Electoral Act provides six weeks from the gift being made for it, or an equivalent amount, to be returned to the donor or transferred to the Commonwealth.

Enquiries were made of the party to determine if effective controls exist to ensure foreign donations are identified and treated correctly for the purposes of this division. After examining the information provided by the entity for the review, the authorised officer of the AEC identified no issues relating to compliance with foreign donation provisions under ss 302D and 302F of the Electoral Act. Further, there were no foreign donations in contravention of the Electoral Act in the 2021-22 financial year.

3. 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 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)(a) 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 2021–22 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 2021–22 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	\$23,219,760	\$22,164,598
Amended total	\$20,788,021	\$21,701,733

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 2021–22 annual disclosure return. The relevant amendment is set out below.

Part 1b: Total Gifts in kind – amendment	
Total disclosed in return	\$632,400
Amended total	\$645,112

Total Debts

Paragraph 314AB(2)(a) 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 under-stated in the party's 2021–22 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.

Part 4: Total Debts – amendment	
Total disclosed in return	\$20,319,820
Amended total	\$20,593,453

Debts of more than \$14,500

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 under-disclosed in the party's 2021–22 annual disclosure return. A number of amendments to individual debts exceeding the \$14,500 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 \$14,500 – amendments				
Entry	Name	Address	Amount Owed	Financial/Non-financial institution
New Entry No.1	Tele Town Hall	383 Madison Avenue New York United States 10017	\$207,356	Organisation
New Entry No.2	CT Group	Level 30 20 Bond Street Sydney Australia	\$66,000	Organisation
New Entry No.3	Thomson Geer	Level 14 60 Martin Place Sydney NSW Australia 2001	\$19,955	Organisation
New Entry No.4	Marsh Advantage Insurance	727 Collins Street Melbourne VIC Australia 3008	\$37,102	Organisation
New Entry No.5	Marsh Advantage Insurance	727 Collins Street Melbourne VIC Australia 3008	\$26,771	Organisation
Original entry no. 1(to be removed)	Australian Taxation Office	Locked Bag 1793 Penrith NSW 1793	\$115,600	Organisation
Amended entry no. 1	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:

- 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,
- including all debts listed in the trial balance as owing to other persons and entities in the calculation of total debts, other than amounts owed for staff entitlements, regardless of the age of the debt,
- examining all debts listed in the trial balance as owing to other persons and entities in identifying individual debts exceeding the threshold for disclosure, and
- 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 2021–22 annual disclosure return for the party lodged with the AEC on 20 October 2022 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 party agent on 26 June 2024 of an amendment to the party's 2021-22 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 and 314AE of the Electoral Act.

An authorised officer of the AEC has assessed the party's compliance with foreign donation requirements under ss 302D and 302F of the Electoral Act in relation to the financial year 2021-22. No issues have been identified.

Joanne Reid
Assistant Commissioner
Australian Electoral Commission

1 July 2024