

July 2021

Compliance Review Report

Australian Council of Trade Unions (ACTU)

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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 financial controller of the ACTU (the political campaigner) with the Australian Electoral Commission's (AEC) assessment of the level of compliance of the 2018–19 annual disclosure return lodged on behalf of the political campaigner with disclosure obligations under ss 314AB, 314AC and 314AE of the Electoral Act.

Disclosure obligations

Registered political campaigners are required under Part XX of the Electoral Act to furnish annual returns.

Section 314AB of the Electoral Act requires the financial controller of the political campaigner 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 political campaigner, 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 political campaigner 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 political campaigner together with the details specified by s 314AE of the Electoral Act;
- the total amount of electoral expenditure incurred by or with the authority of the political campaigner; and
- details of any discretionary benefits received by, or on behalf of the political campaigner 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 political campaigner 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 314AC(4) of the Electoral Act provides that where the political campaigner is a person or organisation registered under the *Australian Charities and Not-for profits Commission Act 2012*, an amount received greater than the threshold does not need to be disclosed if no part of it was used during the financial year to:

- incur electoral expenditure; or
- create or communicate electoral matter; or
- reimburse the political campaigner for incurring electoral expenditure or creating or communicating electoral matter.

Section 314AE of the Electoral Act provides that if the sum of all outstanding debts incurred by, or on behalf of, the political campaigner 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 2018–19 financial year, the threshold was for sums in excess of \$13,800.

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 financial controller of a political campaigner 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 financial controller under s 316(2A) requiring the political campaigner to provide its financial records and other documents in relation to its financial operations for 2018–19.

Scope of the review

The records which were requested by the AEC from the financial controller 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 entity's annual disclosure return for the 2018–19 financial year:
 - total receipts
 - total gifts in kind
 - individual receipts above \$13,800
 - total payments
 - total debts

- individual debts above \$13,800
- total electoral expenditure
- discretionary benefits

The AEC did not examine other aspects of the financial operations of the entity 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 entity by phone, email and/or face to face meetings as appropriate to cover the following topics:

- financial reports and documentation available from the entity's accounting system
- compliance issues arising from the AEC review of the financial reports and documentation provided by the entity
- required and suggested amendments to the annual disclosure return which arise from the compliance review
- potential enhancements in the entity's understanding of disclosure obligations and accounting processes to improve future compliance.

During the review the financial controller 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 30 June 2021. The financial controller was provided with an opportunity to comment on the draft report by 12 July 2021. The financial controller did not provide any comment and lodged a request for amendment on 14 July 2021.

Review outcomes

1. Timely lodgement

Subsection 314AB(1) of the Electoral Act requires the financial controller of the political campaigner to lodge an annual disclosure return with the AEC within 16 weeks after the end of the financial year. As lodgement occurred on 21 October 2019 which is on the due date the return complied with the requirement under s 314AB(1) to lodge a return for a political campaigner within 16 weeks after the end of the financial year.

2.Accuracy in reporting – amendments

After examining the documents provided by the entity 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) of the Electoral Act requires the financial controller to report the total amount received by, or on behalf of, the entity during the financial year, together with the details required by s 314AC. To satisfy this, the entity 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 entity must also be included in total receipts.

Paragraph 314AB(2) of the Electoral Act requires the financial controller to report the total amount paid by, or on behalf of, the entity during the financial year. To satisfy this, the entity 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 entity, 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 disclosed by the financial controller were over-stated in the entity's 2018–19 annual disclosure return. The amount recorded as total receipts in the return is required to be amended by the entity in order to ensure compliance with the Electoral Act.

Total reportable payments disclosed by the financial controller were over-stated in the entity's 2018–19 annual disclosure return. The amount recorded as total payments and outlays on the entity's behalf in the return is required to be amended by the entity 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	\$24,582,154	\$30,368,325
Amended total	\$24,149,622	\$29,853,981

Amounts of more than \$13,800 received

Individual receipts exceeding the threshold were under-disclosed in the political campaigner's 2018–19 annual disclosure return. A number of amendments to individual receipts exceeding the \$13,800 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 \$13,800 received – amendments				
Entry	Name	Address	Amount received	Receipt Type
New entry no. 1	Australian Taxation Office	26 Narellan St, CANBERRA ACT 2601	464,067	Other Receipt
New entry no. 2	Department of Jobs and Small Business	10/14 Mort St, CANBERRA ACT 2601	30,607	Other Receipt
New entry no. 3	State Revenue Office Victoria	Southern Cross Tower, 121 Exhibition St, MELBOURNE VIC 3000	46,197	Other Receipt
New entry no. 4	Queensland Teachers Union	21 Graham St, MILTON QLD 4064	16,500	Other Receipt
New entry no. 5	Unions WA	4/445 Hay St, Perth WA 6000	16,313	Other Receipt
Original entry no. 1	Australian Education Union (AEU) Federal Office	Ground Floor, 120 Clarendon Street SOUTH BANK VIC 3006	1,766,818	Other Receipt
Amended entry no. 1	Australian Education Union (AEU) Federal Office	Ground Floor, 120 Clarendon Street SOUTH BANK VIC 3006	2,148,617	Other Receipt
Original entry no. 2	Construction, Forestry, Maritime, Mining & Energy Union (CFMMEU) National Office	Level 2 165 Bouverie Street CARLTON VIC 3053	3,077,970	Other Receipt
Amended entry no. 2	Construction, Forestry, Maritime, Mining & Energy Union (CFMMEU) National Office	Level 2 165 Bouverie Street CARLTON VIC 3053	2,645,438	Other Receipt
Original entry no.3	Independent Education Union of Australia (IEU) QLD/NT Branch	346 Turbot Street BRISBANE QLD 4000	124,500	Other Receipt
Amended entry no. 3	Independent Education Union of Australia (IEU) QLD/NT Branch	346 Turbot Street BRISBANE QLD 4000	108,000	Other Receipt

Total Debts

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

Total reportable debts of the entity were under-stated in the political campaigner's 2018–19 annual disclosure return. The amount recorded as total debts in the return is required to be amended by the political campaigner 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	\$3,742,665
Amended total	\$4,913,006

Debts of more than \$13,800

Section 314AE of the Electoral Act provides that if the sum of all outstanding debts, incurred by, or on behalf of, the political campaigner 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 political campaigner's 2018–19 annual disclosure return. A number of amendments to individual debts exceeding the \$13,800 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 \$13,800 – amendments				
Entry	Name	Address	Amount Owed	Financial/Non-financial institution
New entry no. 1	ACN 004 306 316 Limited	Level 6, 365 Queen St Melbourne Vic 3000	231,282	Non-financial institution
New entry no. 2	ACN 004 861 321 Pty Ltd	Level 6, 365 Queen St Melbourne Vic 3000	185,180	Non-financial institution
New entry no. 3	ACN 004 861 312 Pty Ltd	Level 6, 365 Queen St Melbourne Vic 3000	191,487	Non-financial institution
New entry no. 4	ACN 005 461 601 Pty Ltd	Level 6, 365 Queen St Melbourne Vic 3000	384,487	Non-financial institution
Original entry no. 1	Australian Taxation Office	26 Narellan St, CANBERRA ACT 2601	886,598	Non-financial institution
Amended entry no. 1	Australian Taxation Office	26 Narellan St, CANBERRA ACT 2601	1,149,250	Non-financial institution
Original entry no. 2	u-Communications Pty Ltd	PO Box 12280 A'Beckett St Melbourne VIC 8006	35,327	Non-financial institution
Amended entry no. 2	u-Communications Pty Ltd	PO Box 12280 A'Beckett St Melbourne VIC 8006	296,928	Non-financial institution

Total Electoral Expenditure

Section 314AB(2) of the Electoral Act provides for the disclosure of the total amount of electoral expenditure incurred by, or with the authority of the political campaigner.

Section 287AB of the Electoral Act defines electoral expenditure as being:

“expenditure incurred for the dominant purpose of creating or communicating electoral matter,…”

Section 4AA of the Electoral Act defines electoral matter as being:

“matter communicated or intended to be communicated for the dominant purpose of influencing the way electors vote in an election (a **federal election**)…”

Total electoral expenditure disclosed by the political campaigner was over-stated in the political campaigner’s 2018–19 annual disclosure return. The relevant amendment is set out below.

Part 6: Total Electoral Expenditure – amendment	
Total disclosed in return	\$21,241,307
Amended total	\$20,808,774

Discretionary Benefits

Section 314AB(2)(b) of the Electoral Act provides for the disclosure of details of any discretionary benefits received by, or on behalf of the political campaigner from the Commonwealth, a State or a Territory during the financial year.

Discretionary benefits disclosed by the political campaigner were over-stated in the political campaigner’s 2018–19 annual disclosure return. An amendment to discretionary benefits is required in order to ensure compliance with the Electoral Act. The relevant amendment is set out below.

Part 7: Discretionary Benefits – amendments			
Entry	Name	Date of discretionary benefit	Value of discretionary benefit
Original entry no. 1	State Revenue Office Victoria	13/03/2019	46,197
Amended entry no. 1	To be removed		
Original entry no. 2	Office of State Revenue Qld	13/08/2018	8,013

Part 7: Discretionary Benefits – amendments			
Entry	Name	Date of discretionary benefit	Value of discretionary benefit
Amended entry no. 2	To be removed		

Matters requiring future action

It is recommended the financial controller ensures the accuracy of future annual disclosure returns and therefore improve compliance with Part XX of the Electoral Act by:

- 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
- 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 2018–19 annual disclosure return for the political campaigner lodged with the AEC on 21 October 2019 complied with the requirement under s 314AB(1) of the Electoral Act to lodge a return for a political campaigner 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 14 July 2021, of an amendment to the political campaigner's 2018–19 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 ss 314AB, 314AC and 314AE of the Electoral Act.

Joanne Reid
Assistant Commissioner
Australian Electoral Commission

15 July 2021