

June 2021

# Compliance Review Report

**Dick Smith**

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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 Dick Smith (the political campaigner) with the Australian Electoral Commission's (AEC) assessment of the level of compliance of the 2018-2019 annual disclosure return lodged on behalf of the political campaigner with disclosure obligations under ss 314AB, 314AC and 314AE of the Electoral Act.

Mr Smith is an individual registered as a political campaigner. The Electoral Act requires each political campaigner to have a financial controller, which in this case is Mr Smith.

## Disclosure obligations

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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

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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 campaigners 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 Mr Smith under s 316(2A) requiring him to provide financial records and other documents in relation to its Political campaigning activities for 2018–19.

## Scope of the review

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The records which were requested by the AEC from Mr Smith were limited to those which enabled the AEC to assess the following aspects of compliance with 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 political campaigner'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

Records requested were limited to information directly related to political campaign activities.

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

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

During the review Mr Smith 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 15 June 2021. The financial controller was provided with an opportunity to comment on the draft report by 25 June 2021. The financial controller did not provide any comment.

## Review outcomes

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### 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 24 September 2019 which is before the due date of 21 October 2019, the return complied with the requirement under s 314AB(1) to lodge a return for the political campaigner within 16 weeks after the end of the financial year.

## 2. Accuracy in reporting – amendments

After examining the documents provided for the review, the authorised officer of the AEC identified no issues relating to compliance with disclosure obligations under ss 314AB, 314AC and 314AE of the Electoral Act.

There were no indicators brought to our attention or uncovered during the review to suggest that the disclosures were not complete.

## 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 2018–19 annual disclosure return for the political campaigner lodged with the AEC on 24 September 2019 complied with the requirement under s 314AB(1) of the Electoral Act to lodge a return for political campaigner within 16 weeks after the end of the financial year.

An authorised officer of the Australian Electoral Commission has assessed the 2018–19 annual disclosure return lodged on behalf of the political campaigner accurately includes the information required to be disclosed under the provisions of sections 314AB, 314AC and 314AE of the Electoral Act.

Joanne Reid  
Assistant Commissioner  
Australian Electoral Commission

30 June 2021