

Election Funding and Disclosure Report

Federal Election 2019

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Federal Election 2019

Report pursuant to subsection 17(2) of the
Commonwealth Electoral Act 1918

November 2020

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The report should be attributed Election Funding and Disclosure Report, Federal Election 2019.





Our Ref: A496315

19 November 2020

Senator the Hon Zed Seselja
Assistant Minister for Finance, Charities and Electoral Matters
Parliament House
CANBERRA ACT 2600

Dear Assistant Minister

In accordance with subsection 17(2) of the *Commonwealth Electoral Act 1918* (Electoral Act) we submit the Australian Electoral Commission's report of the operation of Part XX of the Electoral Act in relation to the general election and Senate election held on 18 May 2019.

In accordance with subsection 17(2C) particulars of the operation of subsection 316(2A) of the Electoral Act are included in the report.

Yours sincerely

Signed

The Hon Justice Susan Kiefny AM
Chairperson

Mr Tom Rogers
Electoral Commissioner

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Australian Statistician

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Key terms

AEC	Australian Electoral Commission
CPI	Consumer Price Index
Disclosure threshold	The disclosure threshold applied to the 2019 federal election is amounts of “more than \$13 800”
Endorsed candidate or Senate group	A candidate or Senate group that was endorsed by a registered political party
FAD	Funding and Disclosure. A descriptor for the election funding and financial disclosure provisions of Part XX of the Electoral Act. There is also a Disclosure and Compliance section within the Disclosure, Assurance and Engagement Branch in the AEC which is responsible for administering Part XX of the Electoral Act.
Independent candidate or Senate group	A candidate or Senate group that was not endorsed by a registered political party
Electoral Act	<i>Commonwealth Electoral Act 1918</i>
The Register	The Register of Political Parties

This report is published in full on the AEC website at www.aec.gov.au

Data used to collate this report is current at 6 November 2020.

Background

General reporting obligations

Section 17(2) of the *Commonwealth Electoral Act 1918* (Electoral Act) prescribes reports which are to be made by the Australian Electoral Commission. The section is as follows:

17 Reports by the Commission

- (1A) A report prepared by the Electoral Commissioner and given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013* for a period must include particulars for the period of:
 - (a) each person or organisation to whom the Commission has provided a copy of a Roll under subsection 90B(1); and
 - (b) each person or organisation to whom the Commission has given a copy of a Roll, or an extract of a Roll, under subsection 90B(4).
- (2) The Commission shall, as soon as practicable after the polling day in:
 - (a) a general election and any Senate election that had the same polling day as that general election; or
 - (b) a Senate election (other than a Senate election referred to in paragraph (a));prepare and furnish to the Minister a report on the operation of Part XX in relation to that election or those elections.
- (2A) A report under subsection (2) in relation to an election must include a list of the names of all persons who, in the opinion of the Commission, are or may be required to furnish a return under subsection 305A(1) or (1A) in relation to that election.
- (2B) The Commission may prepare and furnish to the Minister, otherwise than under subsection (2), such reports on the operation of Part XX as the Commission thinks appropriate.
- (2C) Subject to section 17A, the Commission must include in any report referred to in this section particulars of the operation of subsection 316(2A) since the preparation of the last report referred to in this section that included particulars of the operation of that subsection.
- (3) Section 34C of the *Acts Interpretation Act 1901* does not apply in relation to a report under subsection (2).
- (4) The Minister shall cause a copy of a report furnished under subsection (2) or (2B) to be laid before each House of the Parliament within 15 sitting days of that House after the day on which he or she receives the report.
- (5) A report referred to in this section need not include particulars of a matter if those particulars have been included in an earlier report referred to in this section.

The report

This report has been prepared and is furnished to the Minister pursuant to s 17(2) of the Electoral Act. It reports on the operation of Part XX of the Electoral Act in relation to the federal election held on 18 May 2019 (the 2019 federal election). Information required to be provided in accordance with sections 17(2A) and 17(2C) is also included in this report.

The 2019 federal election consisted of a general election for the House of Representatives and a half Senate election. The scope of the federal election and relevant key dates in relation to the operation of Part XX are provided at Appendix A.

Part XX

Part XX prescribes a legislative regime for the election funding and financial disclosure which applies to federal elections. Part XX is structured as follows:

Division 1: Preliminary

Division 1A: Registration of political campaigners and associated entities and the Transparency Register

Division 2: Agents and financial controllers

Division 3: Election funding

Division 3A: Requirements relating to donations

Division 4: Disclosure of donations

Division 5: Disclosure of electoral expenditure

Division 5A: Annual returns by registered political parties and other persons

Division 6: Miscellaneous

The relevant provisions of Part XX for the purposes of this report are:

Division 3: sections 293, 294 and 295 (Election funding entitlements)

Division 4: sections 304 (Disclosure of gifts) and 305A (Gifts to candidates)

Division 5: section 309 (Returns of electoral expenditure)

Division 6: section 316 (Investigation).

Election funding

Authority

Division 3 of Part XX of the Electoral Act provides for the payment of election funding to those who have contested as a candidate for the House of Representatives or as a candidate or group for the Senate in a federal election that reached the threshold of first preference votes which attracts election funding payments.

Changes to election funding scheme

The 2019 federal election funding payments were the first payments subject to the changes of the *Electoral Legislation Amendment (Electoral Funding and Disclosure Reform) Act 2018* (FAD Reform Act) that came into effect on 1 January 2019. The changes to Division 3 Part XX of the Electoral Act included:

- an automatic payment of election funding of \$10,000 (indexed for CPI every six months) to candidates and Senate groups that receive at least four per cent of the formal first preference votes in an election as soon as practicable after 20 days after polling day
- the requirement for eligible political parties, candidates and Senate groups to lodge a claim for election funding with the AEC setting out electoral expenditure incurred, no earlier than 20 days after polling day and no later than six months after polling day, to receive election funding greater than the automatic payment.

Operation of the relevant provisions

Eligibility and entitlement

Sections 293, 294 and 295 provide for the payment of election funding for each formal first preference vote given to a candidate for the House of Representatives or a candidate or group for the Senate in a federal election.

To be eligible to receive a payment of election funding a candidate for the House of Representatives or a candidate or group for the Senate must receive at least four per cent of the formal first preference votes cast in a federal election.

Election funding entitlement is calculated by multiplying the number of formal first preference votes received by relevant candidates or Senate groups by the funding rate applicable to the period in which the election is held.

For entitlements greater than the automatic payment of \$10,000 (indexed) the amount of election funding payable is the lesser of:

- the calculated election funding entitlement; or
- the amount of demonstrated electoral expenditure.

Indexation is calculated in accordance with the provisions contained in s 321 of the Electoral Act.

For the 2019 federal election the funding rate was 275.642 cents per eligible vote¹.

For the 2019 federal election the automatic payment amount was \$10,080.

¹ This represents an increase of 4.9 per cent compared to the 2016 federal election rate of 262.784 cents per eligible vote.

Election payment arrangements

Under s 287A a campaign committee of an endorsed candidate or endorsed group is to be treated as a division of the relevant state branch of the political party that endorsed the candidate or members of an endorsed group. The effect of this provision is to allow campaign committees to incur and recover electoral expenditure.

Under s 296 the AEC must pay an automatic payment to the agent of each registered political party, candidate or Senate group as soon as practicable after 20 days after the polling day for a federal election.

There are specific arrangements for federal parties. Under s 287 a federal party means a registered political party that has a federal branch and two or more State branches that are registered political parties.

The federal party agent will receive the automatic payment unless the agent advises the AEC of their agreement that the state branch should receive the amount. The agent of the federal party must advise the AEC in writing of any such agreement prior to the time of the automatic payment, otherwise it will be paid to the agent of the federal party.

For an independent candidate, where no candidate agent is appointed under s 289(2) a candidate is taken to be their own agent.

For an independent Senate group, where no Senate group agent is appointed under s 289(4)(b), the candidate listed first on the ballot papers is taken to be the agent for the group.

Under s 297 to receive election funding greater than the automatic payment a claim must be lodged with the AEC by the agent of the political party, candidate or Senate group. The agent may make an interim; or both an interim and final; or a final claim.

A claim must be lodged with the AEC beginning 20 days after polling day and ending six months after that polling day. For the 2019 federal election claims could be lodged between 7 June 2019 and 17 November 2019.

Section 298C(1) requires the AEC to decide whether to accept, in whole or in part, a claim for election funding within 20 days of receiving the claim. To the extent that the AEC accepts the claim, the AEC will pay the claim within this time period.

Section 298F requires the AEC, if a final claim is refused, in whole or in part, to notify the agent in writing that the claim has been refused and provide reasons for the refusal and the opportunity for the agent to apply to the Electoral Commission to reconsider the decision.

Where a final claim has been refused in whole or in part, s 298G allows for the agent to apply to the Electoral Commission for reconsideration of the decision. The application must be in writing, set out the reasons for the application and be made within 28 days of the agent being notified of the Electoral Commission's refusal decision, unless a written extension has been granted by the AEC.

Under s 298H, if an application for reconsideration of a decision is received, the Electoral Commission must reconsider the delegate's decision that refused all or part of a final claim for election funding. The Electoral Commission has the power to affirm, vary, or set aside and replace that decision with another decision.

The Electoral Commission is required to give the agent written reasons for its decision on the application. If the Electoral Commission's decision results in any additional payment of election funding, that payment must be made within 20 days of its decision. Alternatively, if the Electoral Commission becomes satisfied that there was an overpayment of election funding, the excess funds may be recovered under s 299 as a debt due to the Commonwealth. An application can be made to the Administrative Appeals Tribunal to review the Electoral Commission's decision.

Method of payment

Section 299A allows for the payment of election funding to be made by direct credit or by cheque.

Claims subject to review post payment

Section 316(2A) provides for the AEC to conduct compliance reviews of claims for election funding.

If, during a review of an election funding claim, the AEC finds that there was an overpayment of election funding, the AEC may vary the claim decision in accordance with section 301(1) of the Electoral Act. If such a decision is made, the excess funds paid may be recovered as a debt to the Commonwealth under section 299 of the Electoral Act.

Section 298G provides for the agent of a registered political party, candidate or group to apply, within 28 days of receiving a notice of refusal, to the Electoral Commission for reconsideration of the decision to vary an election funding claim.

Publication of election funding determinations and refusal notices

The AEC must publish claim determinations, refusals and reconsiderations on the *Transparency Register* as soon as reasonably practicable after making the determination. A person may not peruse or obtain a copy of a determination or notice before the determination or notice is published.

Payments for the 2019 federal election

For the 2019 federal election the AEC made election funding payments to 24 registered political parties and 34 independent candidates (including Senate groups). All political parties and candidates chose to receive election funding by direct credit and had nominated bank accounts that met the eligibility criteria under s 299(A)(2) of the Electoral Act.

Payments made

Total election funding paid for the 2019 federal election was \$69,622,617.44². This amount includes \$584,640 in automatic payments and \$69,037,977.44 in claims accepted.

The automatic payments of election funding were made on 12 June 2019, and payments based on claims accepted were made within 20 days of receipt of a claim. For the 2019 federal election, the period for lodging claims for election funding was 7 June 2019 to 17 November 2019.

Table 1 provides a list of the election funding payments distributed to registered parties and independent candidates (including the Senate group). The totals include the automatic payment of \$10,080.

² The total election funding paid includes variations made after the initial determinations of claims.

Table 1: Summary of payments – 2019 federal election

Political Party	Total Election Funding Paid
Liberal Party of Australia	\$27,569,610.09
Australian Labor Party (ALP)	\$24,684,039.58
Pauline Hanson's One Nation	\$2,840,766.45
National Party of Australia - N.S.W.	\$2,570,290.39
The Australian Greens - Victoria	\$2,295,761.78
The Greens NSW	\$2,127,188.89
Queensland Greens	\$1,573,775.22
National Party of Australia - Victoria	\$1,321,417.93
Australian Greens	\$1,146,203.86
The Greens (WA) Inc	\$919,806.74
United Australia Party	\$638,802.00
Country Liberals (Northern Territory)	\$213,176.60
Katter's Australian Party (KAP)	\$164,342.19
Centre Alliance	\$120,847.84
Shooters, Fishers and Farmers Party	\$84,093.82
Christian Democratic Party (Fred Nile Group)	\$77,862.51
Liberal Democratic Party	\$62,280.00
Jacqui Lambie Network	\$54,875.42
National Party of Australia (WA) Inc	\$51,462.79
Victorian Socialists	\$34,320.47
Derryn Hinch's Justice Party	\$24,542.18
Reason Australia	\$13,107.54
Animal Justice Party	\$12,107.11
Australia First Party (NSW) Incorporated	\$10,080.00
Total	\$68,610,761.40

Table 1: Summary of payments – 2019 federal election (cont)

Independent Candidate / Senate Group	Total Election Funding Paid
Zali Steggall	\$110,333.70
Andrew Wilkie	\$93,045.32
Helen Haines	\$90,021.98
Kerryn Phelps	\$80,224.40
Robert Oakeshott	\$71,234.33
Kevin Mack	\$54,916.06
Adam Blakester	\$38,043.82
Julia Banks	\$36,839.45
Senate Group - Anthony Pesec and Gary Kent	\$34,736.62
Alice Thompson	\$33,003.10
Oliver Yates	\$24,500.84
Jason Modica	\$24,239.02
Ray Kingston	\$23,759.48
Jamie Christie	\$21,174.35
Craig Brakey	\$20,997.96
Grant Schultz	\$20,904.26
Louise Stewart	\$19,021.91
Jarrold Bingham	\$17,844.47
Huw Kingston	\$16,723.41
Nathan Herbert	\$15,083.59
Van Tran	\$14,623.34
Fiona Leviny	\$14,441.44
Innes Larkin	\$14,234.74
Damien Cole	\$14,141.00
Andrew Bock	\$12,625.24
Arthur Chesterfield-Evans	\$11,837.02
Tim Jerome	\$11,630.32
Tim Bohm	\$11,194.87
Alex Dyson	\$10,080.00
Hamish MacFarlane	\$10,080.00
Jeremy Miller	\$10,080.00
Simone Karandrews	\$10,080.00
Sue Fraser-Adams	\$10,080.00
Will Landers	\$10,080.00
Total	\$1,011,856.04

Financial disclosure

Authority

Divisions 4 and 5 of Part XX of the Electoral Act set out the requirements for financial disclosure. The relevant provisions which apply in respect to an election are sections 304, 305A, 307, 309 and 313. Section 320 provides for the publication of disclosure returns.

Changes to financial disclosure relevant to the 2019 federal election

The FAD Reform Act made changes to financial disclosure for federal elections. These changes are outlined below.

Change to the definition of electoral expenditure

From 1 December 2018, section 287AB of the Electoral Act replaces the previous definition of electoral expenditure (formerly under section 308) and defines electoral expenditure as expenditure incurred for the dominant purpose of creating or communicating electoral matter. Section 4AA defines electoral matter as matter communicated or intended to be communicated for the dominant purpose of influencing the way electors vote in a federal election. Under subsections 309(2) and (3), candidates and groups in an election must disclose all electoral expenditure in relation to the election.

Requirement for discretionary benefits to be disclosed

Subsection 309(4) of the Electoral Act provides that candidates and members of Senate groups are required to disclose discretionary benefits received within 12 months before polling day in the election.

Discretionary benefits include grants, contracts, payments and other benefits requiring the exercise of discretion by the Commonwealth or a state or territory. Discretionary benefits are different to statutory entitlements, which are provided automatically if specified criteria are met.

Restrictions on foreign donations

Division 3A was inserted into Part XX of the Electoral Act to restrict foreign donations.

Section 302D of the Electoral Act provides that candidates are restricted from receiving foreign donations of over \$1,000 unless an exception applies.

Exceptions to the restriction are set out under subsections 302D(1A)–(1C). Exceptions include circumstances where the recipient has obtained an affirmation or information about the foreign donor's status; donations are made in a private capacity for the recipient's personal use; or donations are provided on terms inconsistent with incurring electoral expenditure, or creating or communicating electoral matter.

Introduction of civil penalties

Subsection 384A(1) provides that civil penalty provisions of the Electoral Act are enforceable under Parts 4 and 6 of the *Regulatory Powers (Standard Provisions) Act 2014*. Part XX of the Electoral Act provides for criminal offences and civil penalties for contravention of certain provisions.

Failure to lodge a candidate or group return for an election under section 304 carries a civil penalty of either 60 penalty units or three times the amount or value of gifts not disclosed.

Similarly, failure to lodge an election donor return when required to do so under section 305A carries a civil penalty of either 60 penalty units or three times the amount or value of gifts not disclosed.

Operation of the relevant provisions

Candidates and Senate groups

Subsection 304(2) provides that the agent of each person (including a member of a group) who was a candidate in an election or by-election shall, within 15 weeks after the polling day in the election, furnish to the Electoral Commission a return, in an approved form and in accordance with this section, setting out the total amount or value of all gifts, the number of persons who made gifts, and the relevant details of each gift above the disclosure threshold, received by the person while the person was a candidate in the election.

Section 321A of the Electoral Act provides for the indexation of the disclosure threshold referred to in sections 304 and 305A. For the 2019 federal election the disclosure threshold was \$13,800.

Subsection 304(3) provides that subject to subsection (3A), the agent of each group shall, within 15 weeks after the polling day in the election, in relation to the members of the group who had their names grouped in the ballot papers, furnish to the Electoral Commission a return in an approved form.

The return must set out the total amount or value of all gifts, the number of persons who made gifts, and the relevant details of each gift above the disclosure threshold received by the group in the election.

Paragraph 304(4)(c) provides that the relevant details to be provided for a gift that exceeds the disclosure threshold are the name and address of the person who made the gift. However, paragraphs 304(4)(a) and (b) require that in providing relevant details of various organisations (such as an unincorporated association or a trust fund) which make gifts, names and addresses of members of the executive committee or names and addresses of the trustees of the trust must be provided.

Paragraph 304(3A)(a) provides that in the case of a group, all of whose members were endorsed by the same registered political party, a gift will be taken to have been received by the relevant state branches of the party where there are two or more branches. Under paragraph 304(3A)(b) it will be taken, in any other case, to have been received by the party.

Subparagraph 304(5)(b)(i) provides an exception to the general disclosure requirements of section 304, where the gift is made in a private capacity to a candidate for their personal use and the candidate has not and will not use the gift solely or substantially for a purpose related to an election.

Subsection 309(2) requires returns of electoral expenditure by agents of each candidate in an election (not being a member of a group) to be furnished within 15 weeks of polling day.

Subsection 309(3) requires returns of electoral expenditure by agents of each group in an election to be furnished within 15 weeks of polling day.

Subsection 309(1) provides that section 309 does not apply to electoral expenditure incurred by or with the authority of a registered political party or a state branch of a registered political party. Subsection 309(1A) provides that where electoral expenditure is incurred by a group, all of the members of which are endorsed by the same party, section 309 applies as if the electoral expenditure was incurred by the relevant state branch of the party or the party.

Subsection 309(4) requires returns to include details of any discretionary benefits (however described) received by, or on behalf of, the person or any of the members of the group from the Commonwealth, or a state or territory, during the period of 12 months before polling day in the election.

Under sections 304 and 309, returns by candidates and Senate groups that are either jointly-endorsed or are not endorsed by a party, are required in an approved form and in accordance with these sections. The AEC provides one form for both returns under sections 304 and 309 so that candidates and Senate groups can furnish both returns simultaneously.

Sections 307 and 313 of the Electoral Act provide that where no details are required to be included in a return by a candidate or Senate group under the applicable Division³ the candidate or Senate group shall, nevertheless, lodge a return and include a statement to the effect that no gifts or expenditure of a kind that is required to be disclosed were received or expended. These returns are termed 'nil' returns.

Historically, in the majority of cases, candidates endorsed by a registered political party have lodged a 'nil' return as their financial transactions are made by their party campaign committees. Subsection 287A(1) provides that campaign committees are to be treated as part of a state branch of a party under Divisions 4, 5 and 5A of the Electoral Act. This means that details concerning gifts received by candidates through a campaign committee (sometimes described as a party unit) are included in the annual return lodged by the party under section 314AB of the Electoral Act. Section 314AB requires disclosure of such information to the AEC within 16 weeks of the end of the financial year in which the gift is received.

Subsections 304(3A) and 309(1) require financial transactions in respect of Senate groups endorsed by a single party (the majority of Senate groups) are incorporated into the annual return of the endorsing party lodged under section 314AB. These financial transactions are therefore not included in a return under sections 304 or 309.

Donors to candidates or Senate groups

Section 305A provides that a person or entity⁴ that makes a gift or gifts equal to or more than the disclosure threshold to candidates, including members of Senate groups, must provide a return before the end of 15 weeks after polling day in the election setting out the required details of the gifts. Under paragraph 305A(2)(b), election donors are also required to disclose donations that they received above the disclosure threshold and used, in whole or in part, to make donations to candidates including to members of Senate groups.

Paragraph 305A(4)(c) provides that the required details to be disclosed for gifts that are equal to or more than the disclosure threshold are the amount and value of the gift, the date on which the gift was made, and the name and address of the person or entity. However, paragraphs 305A(4)(a) and (b) require that in providing relevant details of unincorporated associations or trust funds, names and addresses of members of the executive committee or names and addresses of the trustees of the trust must be provided.

³ These being Divisions 4 and 5, which respectively concern disclosure of donations and disclosure of electoral expenditure.

⁴ Under paragraph 305A(1)(c), this excludes a political entity or an associated entity. A political entity is defined in subsection 4(1) as a registered political party or state branch of a party, a candidate, or a member of a group.

Table 2 summarises the information required under Divisions 4 and 5 of Part XX of the Electoral Act in candidate, Senate group and election donor returns for the 2019 federal election.

Table 2: Information disclosed in candidate, Senate group and election donor returns – 2019 federal election.

Election returns	
Candidates	
s 304(2)	Total amount or value of all donations
s 304(2)	Number of persons who made donations
s 304(2)	Relevant details of donations over \$13,800
s 309(2)	Amount of electoral expenditure
s 309(4)	Details of discretionary benefits
Senate groups	
s 304(3)	Total amount or value of all donations
s 304(3)	Number of persons who made donations
s 304(3)	Relevant details of donations over \$13,800
s 309(3)	Amount of electoral expenditure
s 309(4)	Details of discretionary benefits
Note: For endorsed groups (other than jointly-endorsed groups) transactions are included on the party's annual return.	
Donors	
s 305A(2) and (4)	Details of donations over \$13,800 made to candidates or groups
s 305A(2) and (4)	Details of donations received over \$13,800 used to make donations

Table 3 shows the dates by which information was required to be disclosed, and the date of publication of returns which applied to the 2019 federal election, as prescribed under the Electoral Act.

Table 3: Key dates for lodging and publishing disclosure returns for the 2019 federal election.

Return	Disclosure date	Period covered	Public release
Candidates	2 September 2019 (within 15 weeks after polling day: s 304(2) and s 309(2))	<p>Donations received from the earlier of: the announce- ment by the candidate or nomination of the candidate, to 30 days after polling day</p> <p>Electoral expenditure from the issue of the writ until election day</p> <p>Discretionary benefits received during the 12 months before polling day</p>	4 November 2019 (first working day, 24 weeks after polling day)
Senate groups	2 September 2019 (within 15 weeks after polling day: s 304(3) and s 309(3))	<p>Donations received from the date of the request to the AEC to be grouped until 30 days after polling day</p> <p>Electoral expenditure from the issue of the writ until polling day</p> <p>Discretionary benefits received during the 12 months before polling day</p>	4 November 2019 (first working day, 24 weeks after polling day)
Donors	2 September 2019 (within 15 weeks after polling day: s 305A(3))	The disclosure period relating to the candidate to whom the gift was made. That is, from the announce- ment of the candidacy or nomination of the candidate, to 30 days after polling day.	4 November 2019 (first working day, 24 weeks after polling day)

Disclosure returns for the 2019 federal election

Candidate and Senate group returns

There were 1,514 candidates at the 2019 federal election, comprising 1,056 House of Representatives candidates and 458 Senate candidates. There were 163 Senate groups of which nine were independent or jointly-endorsed groups and therefore were required to furnish election disclosure returns.

Subsections 304(2), 304(3), 309(2) and 309(3) of the Electoral Act require candidate and Senate group returns to be lodged within 15 weeks after polling day. For the 2019 federal election, this date was 2 September 2019.

For the 2019 federal election 1,044 candidates (69 per cent) lodged a 'nil' return. The high percentage of 'nil' returns was due to the majority of gifts being made directly to political parties or their campaign committees and those political parties and campaign committees incurring expenditure on behalf of their endorsed candidates. Annual returns for the financial year during which the 2019 federal election occurred were due to be lodged by political parties, pursuant to section 314AB, by 21 October 2019.

Table 4 lists the number of candidate, Senate group and election donor returns lodged for the 2019 federal election. As at 6 November 2020, there are 5 outstanding candidate returns that are subject to enforcement action.

Table 4: Candidate, Senate group and election donor returns – 2019 federal election.

Returns	Number	% of total
Candidate returns		
Number of candidates	1,514	-
Number of returns received	1,509	> 99%
Number of outstanding returns	5	< 1%
Number of 'nil' returns	1,044	69%
Number of returns disclosing transactions	465	31%
Senate Group returns		
Number of groups	163	-
Number of groups required to lodge a return	9	-
Number of returns received	9	100%
Number of outstanding returns	0	0%
Donor returns		
Number of donors required to lodge a return	29	-
Number of returns received	29	100%
Number of outstanding returns	0	0%
Total election returns received as at 6 November 2020	1,547	-

Table 5 provides a summary of data reported in candidate and Senate group returns for the 2019 federal election.

Table 5: Summary of donations – 2019 federal election.

Returns	
Candidate returns	
Total number of donors reported	5,515
Total amount of donations reported	\$4,653,989
Number of individually detailed donations	135
Percentage of number of donations individually detailed	2%
Total of individually detailed donations	\$1,393,711
Percentage of amount of donations individually detailed	30%
Total electoral expenditure reported	\$6,472,096
Total discretionary benefits reported	\$1,402
Senate group returns	
Total number of donors reported	58
Total amount of donations reported	\$118,039
Number of individually detailed donations	6
Percentage of number of donations individually detailed	10%
Total of individually detailed donations	\$70,000
Percentage of amount of donations individually detailed	59%
Total electoral expenditure reported	\$433,172
Total discretionary benefits reported	\$0

Publication

Subsection 320(1) of the Electoral Act requires the Electoral Commission to publish election returns on the Transparency Register before the end of 24 weeks after the polling day for the election. Returns relating to the 2019 federal election were published on the Transparency Register on 4 November 2019.

Election donor returns

Subsection 17(2A) provides that a report under subsection 17(2) must include a list of the names of all persons who, in the opinion of the Electoral Commission, are or may be required to furnish a return under subsections 305A(1) or (1A)⁵ in relation to that election. There were 29 election donor returns furnished pursuant to subsection 305A(1) in relation to the 2019 federal election. As at 6 November 2020, no election donor returns are outstanding.

⁵ Subsection 305A(1A) relates to donations made to any person or organisation specified by legislative instrument by the Electoral Commissioner. Currently no person or organisation is so specified.

Subsection 305(A)(3) requires that returns provided under section 305A of the Electoral Act must be provided to the Electoral Commission in an approved form before the end of 15 weeks after the polling day for the election.

Table 6: Persons required to furnish returns under subsection 305A(1) for the 2019 federal election.

Donor Name	Return Status
Aldous, Amanda	Received
Balnaves, Neil	Received
Cameron, Donald	Received
Carnegie, Mark	Received
Climate 200 Pty Limited	Received
Construction, Forestry, Maritime, Mining and Energy Union National Office	Received
DEM Australasia Pty Limited	Received
Extend Your Edge Pty Ltd	Received
Franklin, James	Received
Gemmell, Angus	Received
Haines, Nick	Received
Haines, Philip	Received
Jenman, Neil and Reiden	Received
Josephson, Anna	Received
Kaye-Hardie, Sara	Received
Koshland, Ellen	Received
Kronborg, James	Received
Manos, William	Received
McGuire Family Holdings Pty Ltd	Received
MINAX URIEL PL	Received
Modica, AF and M	Received
Nile, Rev Frederick	Received
Perini, Sally	Received
Pradella, Silvio	Received
Purves, Robert	Received
Purves, Sandra	Received
Schultz, Gloria Helen	Received
Symi Investments Pty Ltd	Received
Turnbull, Alexander	Received

Table 7 provides a summary of donations to candidates as reported in returns lodged by election donors for the 2019 federal election in accordance with section 305A.

Table 7: Summary of donations to candidates for the 2019 federal election.

Donation amount	Number and percentage of donations		Amount and percentage of donations	
	No.	%	\$	%
Less than \$13,800	55	65%	\$292,714	24%
\$13,800 or more	30	35%	\$945,667	76%
Total	85	100%	\$1,238,381	100%

Reviews: Report under section 17(2C)

The FAD Reform Act that came into effect on 1 January 2019 introduced changes to the entities that may be issued a notice under section 316(2A).

Subsection 17(2C) of the Electoral Act requires the AEC to include particulars of the operation of s 316(2A) in this report since last reporting on the section. Section 316(2A) provides as follows:

(2A) An authorised officer may, for the purpose of:

(aaa) finding out whether:

- (i) the person to whom section 305B (gifts to political parties and political campaigner) applies or may apply to; or
- (ii) a prescribed person; or
- (iii) the agent of a registered political party, candidate or group; or
- (iv) the financial controller of a political campaigner or associated entity; or
- (v) a third party;

has complied with this Part, or the *Criminal Code* to the extent that it relates to this Part: or

(aab) determining whether to give a notice under section 287S or 302H (anti-avoidance);

by notice served personally or by post on:

- (a) the agent or any officer of the political party, or the agent of the candidate or group; or
- (aa) the financial controller of the political campaigner, third party or associated entity or any officer of the political campaigner, third party or associated entity; or
- (b) the prescribed person or, if the prescribed person is a body corporate, any of its officers;

as the case may be, require the agent, financial controller, person or officer:

- (c) to produce, within the period and in the manner specified in the notice, the documents or other things referred to in the notice; or
- (d) to appear, at a 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.

Where a political party operates party units, campaign committees or local branches, a s 316(2A) notice may seek a sample of records from these party units. A report provided pursuant to s 17(2C) must comply with s 17A, which provides that particulars of any information given in evidence or contained in documents or other things produced in compliance with a notice served on a prescribed person or an officer of a prescribed person under s 316(2A) must not be reproduced.

The purpose of reviewing documents and evidence produced in response to the notices issued under s 316(2A) is to determine whether the person lodging the disclosure return has complied with their obligations under Part XX of the Electoral Act. For political parties, candidates and Senate groups the person with responsibility to lodge the return is the agent. For political campaigners and associated entities the person with responsibility to lodge the return is the financial controller. For a

person or entity to whom section 305B (gifts to political parties and political campaigners) applies, the person or entity that makes one or more donations to a political party or political campaigner totalling more than the disclosure threshold during a financial year must lodge the return. If the donor is an individual, he or she must lodge the return or if the donor is an entity, the return should be lodged by a person with the authority to do so. For a third party, the person or entity that incurred electoral expenditure over the threshold must lodge the return and if the third party is an entity the return should be lodged by a person with the authority to do so.

A s 316(2A) notice allows for any documents and evidence in the possession of the particular entity to be obtained to assess the completeness and accuracy of disclosures of:

- total receipts
- total payments
- total debts
- receipts above the disclosure threshold (detailed receipts)
- debts totalling above the threshold (detailed debts)
- electoral expenditure
- discretionary benefits.

Compliance reviews pursuant to s 316(2A)

The last report under s 17(2C) which included particulars of the operation of s 316(2A) was the “Election Funding and Disclosure Report, 2016 Federal Election”. That report contained particulars of the operation of s 316(2A) reviews for notices issued between 1 October 2014 and 31 March 2017 and is available on the AEC website.

This report sets out particulars of the operation of s 316(2A) between 1 April 2017 and 6 November 2020.

Between 1 April 2017 and 6 November 2020 the AEC:

- issued 83 s 316(2A) notices in respect of registered political parties, state branches of registered political parties, political campaigners, associated entities and third parties
- completed 60 compliance reviews consisting of seven in the 2016-17 financial year, 16 in 2017-18, 16 in 2018-19, 16 in 2019-20 and five in 2020-21. A further 23 compliance reviews remain active.

Table 8 lists the compliance reviews completed. It also indicates the areas where errors were identified in disclosure returns from an analysis of documents produced under s 316(2A) notices.

Table 8: Compliance reviews completed under s 316(2A) between 1 April 2017 and 6 November 2020 (amendments required are marked and the annual return that was reviewed is indicated after the entity name)

Party/Entity	Year of return	Total receipts	Total payments	Total debts	Detailed receipts	Detailed debts
Altum Pty Ltd as Trustee for Altum Property Unit Trust	2017-18					
Australian Conservatives (WA)	2017-18					
Australian Greens (South Australia)	2015-16	✓	✓	✓	✓	
Australian Greens (South Australia)	2016-17				✓	
Australian Greens Tasmanian Branch	2015-16		✓			✓
Australian Labor Party (ALP)	2017-18				✓	
Australian Labor Party (ACT Branch)	2017-18				✓	
Australian Labor Party (Northern Territory) Branch	2015-16		✓	✓	✓	✓
Australian Labor Party (Northern Territory) Branch	2016-17			✓	✓	✓
Australian Labor Party (NSW Branch)	2016-17	✓	✓	✓	✓	✓
Australian Labor Party (NSW Branch)	2017-18				✓	
Australian Labor Party (South Australian Branch)	2015-16					
Australian Labor Party (State of Queensland)	2015-16	✓	✓	✓	✓	✓
Australian Labor Party (Tasmanian Branch)	2016-17	✓		✓	✓	
Australian Labor Party (Tasmanian Branch)	2017-18				✓	
Australian Labor Party (Victorian Branch)	2016-17			✓		✓
Australian Labor Party (Victorian Branch)	2017-18				✓	
Australian Labor Party (Western Australian Branch)	2015-16	✓	✓	✓	✓	✓
Australian Labor Party (Western Australian Branch)	2016-17				✓	✓
CEPU Plumbing Victoria	2015-16		✓		✓	✓

Party/Entity	Year of return	Total receipts	Total payments	Total debts	Detailed receipts	Detailed debts
Country Labor	2017-18	✓	✓	✓	✓	✓
Country Liberals (Northern Territory)	2015-16					
Country Liberals (Northern Territory)	2016-17			✓		
Derryn Hinch's Justice Party	2016-17				✓	
EMILY's List Australia	2015-16	✓	✓	✓	✓	
Family First Party – VIC	2015-16	✓	✓		✓	
Gatenby Investment Trust	2017-18				✓	
Higgins 200 Foundation Ltd	2015-16					
Involuntary Medication Objectors (Vaccination/ Fluoride) Party	2017-18					
Katter's Australian Party (KAP)	2017-18	✓		✓		
Labor Holdings	2015-16	✓	✓	✓	✓	✓
Labor Holdings	2017-18					
Liberal National Party of Queensland	2015-16				✓	
Liberal National Party of Queensland	2016-17					
Liberal Party (WA Division)	2016-17	✓				✓
Liberal Party of Australia	2015-16			✓	✓	✓
Liberal Party of Australia – Tasmanian Division	2017-18				✓	
Liberal Party of Australia (SA Division)	2016-17			✓	✓	✓
Liberal Party of Australia (Victorian Division)	2016-17				✓	
LNP Nominees Pty Ltd as Trustee for the 6 St Paul's Terrace Trust	2017-18					✓
Menzies 200 Club	2015-16					
National Party of Australia – N.S.W	2015-16					
National Party of Australia – N.S.W	2017-18				✓	
National Party of Australia – Victoria	2015-16			✓		
National Party of Australia (WA) Inc	2016-17			✓	✓	

Party/Entity	Year of return	Total receipts	Total payments	Total debts	Detailed receipts	Detailed debts
Nick Xenophon Team	2015-16	✓	✓		✓	✓
Pauline Hanson's One Nation	2015-16		✓			
Pauline Hanson's One Nation	2017-18				✓	
Pilliwinks Pty Limited ATF The National Party Foundation	2015-16	✓	✓	✓	✓	✓
Pilliwinks Pty Limited ATF The National Party Foundation	2016-17			✓		✓
Queensland Greens	2017-18				✓	
SA Progressive Business Incorporated	2017-18			✓		
The 500 Club (WA)	2016-17	✓	✓		✓	✓
The 500 Club Inc	2017-18	✓		✓	✓	
The Australian Greens – Victoria	2015-16	✓				
The Greens NSW	2016-17				✓	
The Sydney Small Business Club (The Warringah Club)	2015-16					
Transport Workers Union of Australia - NSW Branch	2016-17			✓		
United Voice	2015-16	✓	✓	✓	✓	✓
YLNP No.1 Ltd (James Killen Foundation)	2017-18					
Total		17	16	23	36	20

Of these compliance reviews:

- 48 (80 per cent) resulted in the disclosure return requiring amendment
- 17 returns (28 per cent) required amendment to the reported total value of receipts
- 16 returns (27 per cent) required amendment to the reported total value of payments
- 23 returns (38 per cent) required amendment to the reported total value of debts
- 36 returns (60 per cent) required amendment to the details of individual receipts, either by correcting the details disclosed or adding receipts not included on the return
- 20 returns (33 per cent) required amendment to the details of outstanding debts, either by correcting the details disclosed or adding debts not included on the return.

The AEC's policy is to support, wherever reasonably possible, those who are required to comply so that they can meet their compliance obligations to disclose fully and accurately as required under Part XX. Therefore, where the AEC forms a view, based on its analysis of documents provided under s 316(2A) that there are errors contained in the financial returns, the AEC writes to the relevant party agent or financial controller highlighting the errors and suggests that they should consider lodging a request under s 319A(2) to amend the disclosure return in order to correct the identified errors and/or omissions.

Between 1 April 2017 and 6 November 2020 the AEC wrote to 48 party agents and financial controllers highlighting errors in financial returns lodged by them and suggesting that they consider lodging an amendment of the return pursuant to s 319A(2). As a result of the AEC's recommendations all lodged an amended return under s 319A(2) which resulted in the Electoral Commission permitting each of the amended returns to be made in accordance with s 319A(4).

Election funding claims compliance reviews pursuant to s 316(2A)

The FAD Reform Act made changes to s 316 of the Electoral Act on 1 January 2019 that enabled the AEC to review claims for election funding under s 316(2A). For the 2019 federal election, all claims for election funding were reviewed.

The purpose of the election funding review was to determine, through the examination of source documentation, whether expenditure items listed in a final claim met the criteria for acceptance and payment of election funding in section 298C(2) of the Electoral Act, namely:

- (a) whether expenditure claimed is electoral expenditure; and
- (b) if expenditure claimed is electoral expenditure—both:
 - (i) whether the electoral expenditure was incurred; and
 - (ii) whether the electoral expenditure has been specified in a claim made by another agent.

For the 2019 federal election, 23 registered political parties and 28 independent candidates (including Senate groups) lodged claims for election funding for more than the automatic payment.

Between 27 November 2019 and 30 April 2020 the AEC issued 48 s 316(2A) notices in respect of registered political parties, state branches of registered political parties and candidates that lodged a claim for election funding. Three notices were not required to be issued because source documentation was provided at the time the claim was lodged.

As at 6 November 2020, 50 reviews were complete (including three where a notice was not required to be issued) and a further one remains active. Of the 50 completed reviews, three claims required a variation to their initial election funding claim determination.

Table 9: Election funding claim reviews completed under s 316(2A) between 27 November 2019 and 6 November 2020

Number	Entity
1.	Adam Blakester
2.	Alice Thompson
3.	Andrew Bock
4.	Andrew Wilkie
5.	Animal Justice Party
6.	Arthur Chesterfield-Evans
7.	Australian Labor Party
8.	Australian Greens
9.	Centre Alliance
10.	Christian Democratic Party (Fred Nile Group)
11.	Country Liberals (Northern Territory)
12.	Craig Brakey
13.	Damien Cole
14.	Derryn Hinch's Justice Party
15.	Fiona Leviny
16.	Grant Schultz
17.	Helen Haines
18.	Huw Kingston
19.	Innes Larkin
20.	Jacqui Lambie Network
21.	Jamie Christie
22.	Jarrold Bingham
23.	Jason Modica
24.	Julia Banks
25.	Katter's Australian Party (KAP)
26.	Kerryn Phelps
27.	Kevin Mack
28.	Liberal Democratic Party
29.	Liberal Party of Australia
30.	Louise Stewart
31.	Nathan Herbert
32.	National Party of Australia - N.S.W.

Number	Entity
33.	National Party of Australia – Victoria
34.	National Party of Australia (WA) Inc
35.	Oliver Yates
36.	Queensland Greens
37.	Ray Kingston
38.	Reason Australia
39.	Robert Oakshott
40.	Senate Group - Anthony Pesec and Gary Kent
41.	Shooters, Fishers and Farmers Party
42.	The Australian Greens – Victoria
43.	The Greens (WA) Inc
44.	The Greens NSW
45.	Tim Bohm
46.	Tim Jerome
47.	United Australia Party
48.	Van Tran
49.	Victorian Socialists
50.	Zali Steggall

Appendix A – Key election dates

The electoral event held on 18 May 2019 was a combined general election for the House of Representatives and a half Senate election. Key dates for this election are detailed below.

Date	Event
Thursday 11 April 2019	Issue of the Writ
Tuesday 23 April 2019	Close of nominations
Saturday 18 May 2019	Polling Day
Friday 7 June 2019	Calculation of automatic election funding entitlement First day a claim can be lodged for election funding of more than the automatic payment (20 days after polling day)
Monday 17 June 2019	Conclusion of donations disclosure period (30 days after polling day)
Friday 21 June 2019	Writ returned
Monday 2 September 2019	Candidate, Senate group & donor returns due (15 weeks after polling day)
Monday 4 November 2019	Public Inspection of disclosure returns (24 weeks after polling day)
Sunday 17 November 2019	Last day for lodging claims for election funding of more than the automatic payment (6 months after polling day)

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