



Compliance Review of Disclosure Returns for candidates, publishers and broadcasters in relation to the 2016 Legislative Assembly election.

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1. EXECUTIVE SUMMARY

BDO (NT) performed a compliance review with a focus on political disclosure returns in relation to candidate donors, publishers, broadcasters and candidates during the 27 August 2016 Legislative Assembly Election.

The compliance review selected a sample of documents from across the following areas.

- Candidates of Political Parties registered in the Northern Territory incorporating:
 - Australian Labor Party (NT);
 - 1 Territory Party;
 - Citizens Electoral Council (NT Division);
 - Country Liberals;
 - Shooters and Fishers Party; and
 - The Greens;
- Independent Candidates.
- Individual Donors through the Donor Candidate Returns.
- Broadcasters and publishers through their respective annual returns.

The overall findings in relation to the compliance review are as follows:

- a. 17 out of 115 candidates did not lodge their elections returns as required by the *Northern Territory Electoral Act*.
- b. 27 out of 115 candidates did not lodge their elections returns within the stipulated period being 15 weeks after the relevant polling day.
- c. Not all individual donors are lodging Donor Candidate Returns so as to comply with the requirement of Part 10 of the *Northern Territory Electoral Act*.

The key recommendations for the overall finding above include the following:

- a. The Northern Territory Electoral Commission should conduct further education/awareness initiative to ensure that more people and organisations are versed in the provisions of the *Northern Territory Electoral Act* especially on the lodgement of election returns in a timely manner and whilst ensuring that the details included therein is complete and accurate. We noted that the Electoral Commission were proactive in sending reminders to candidates. The reminders included information detailing their disclosure obligations under the *Northern Territory Electoral Act*
- b. Consideration should be made of whether the requirement to lodge candidate donor returns is still relevant considering the very low threshold amount involved and the cost of enforcing this compliance process when compared to any benefits this may provide.
- c. In relation to the late lodgements and inaccurate and inadequate information provided by relevant stakeholders, the Northern Territory Electoral Commission should ensure strict application of the provisions of the *Northern Territory Electoral Act*. We acknowledge that the culture of compliance is important so that public confidence in the process is maintained; however, the low threshold in the amounts which the candidates have to report in their returns may bring into question the likely benefit when compared to the cost of enforcement as imposed by the current set up. It is recommended that the Northern Territory Election Commission be provided with the capacity to levy statutory defined fines for candidates submitting incomplete or late returns.

MAIN REPORT

INTRODUCTION

1. BACKGROUND

The Northern Territory Electoral Commission (NTEC) is an independent government agency responsible for the impartial conduct of Northern Territory Legislative Assembly and local government (Council) elections.

Other functions include:

- Assistance with maintenance of electoral rolls;
- Provision of information and advice on election matters to the Minister, Cabinet, political parties, candidates and Territory authorities;
- Undertaking public awareness to educate and provide information to the public including school children on electoral matters;
- Researching electoral matters;
- Registration of political parties;
- Administration of financial disclosure by political parties, candidates and related entities; and
- Assistance towards redistribution of electoral boundaries.

The NT *Electoral Act* (NTEA) embodies the legislation which gives the NTEC its powers.

As noted above, one of the NTEC functions is to administer the disclosure of information following an election regarding political contributions and electoral expenditure above prescribed thresholds by:

- candidates in the election;
- broadcasters, publishers; and
- donors.

In addition to election event reporting, annual reporting requirements are placed on registered political parties, their associated entities and donors.

Such financial disclosure increases accountability, transparency and information in the public domain about the financial dealings of those involved in the electoral process. The onus is on the person disclosing to get it right.

The NTEA Part 10 sets out who should disclose, what should be disclosed, by when and how. It defines the terms used in the legislation and details offences under the legislation and the kind of records that should be maintained in order to comply with requirements. Unlike the *Commonwealth Electoral Act*, there are no provisions for public funding in the Northern Territory.

2. COMPLIANCE REVIEW OBJECTIVES

The specific objectives of the compliance review were to:

- a. Review the election candidates, individual donors and broadcasters and publishers for compliance with political disclosure returns in relation to election contributions, as relevant, for the Territory Legislative Assembly Election held on 27 August 2016.
- b. Establish whether the disclosures are compliant with Part 10 of the Northern Territory Electoral Act.

3. METHODOLOGY

In conducting the review the following key tasks were performed:

1. Preparation of the review file incorporating candidate election returns, donor candidate returns, broadcasters and publishers returns, NT Electoral Act and the NTEC Disclosure Handbook.
2. Matching amounts of donation received by candidates to the amounts recorded in the individual donor returns.
3. For a sample of donor candidate returns, reviewing the returns for compliance with the lodgement timelines.
4. Matching donation amounts to the corresponding amount in the candidate returns on a sample of donor annual returns.
5. For a sample of election candidates, obtaining and verification of candidate election expenditure documentation covering the specified election period. The tests included, through inspection, reviewing of the supporting documentation, including invoices, receipts, and vouchers covering the specified election period.
6. Discussing the preliminary findings with the relevant candidates and the Northern Territory Electoral Commissioner and his staff.

4. OVERALL CONCLUSION

In relation to the level of compliance with Part 10 of the NT Electoral Act the conclusion of this review is that there were some issues identified and the level of compliance achieved by donors and election candidates was satisfactory.

KEY FINDINGS

SPECIFIC OBJECTIVE 1

We reviewed the candidate elections returns for the 27 August 2016 Territory Legislative Assembly Election to check for compliance with Part 10 of the *Northern Territory Electoral Act* (NTEA).

Findings

The following are points which indicate the level of compliance from our review of all candidate election returns for the 2016 Legislative Assembly Election:

- 17 candidates did not lodge their election returns as required by *Northern Territory Electoral Act* (NTEA). The list of candidates who have not yet lodged their returns is included in Appendix 2.
- 27 election returns were lodged after the stipulated period being 15 weeks after the polling day (10 December 2016).
- There was substantial compliance in the reporting of donations in the candidate election returns as relevant donations were matched to individual donor returns, with the exception of five instances where the candidates did not declare donation received from other parties.
- There were about 53 donors identified from the candidate returns who had not yet lodged their returns at the time of completing this report. Due to the sizeable number of outstanding returns, it seems evident that candidate donors are not fully aware of the requirement to complete returns for all donations above \$200.
- There were three candidates who lodged candidate election returns without providing details of the donors who had contributed to their election activities.
- From the candidates whose returns were selected for detailed verification of the declared election expenditure:
 - 3 candidates did not respond to the information request at the time this report was finalised. The fact that this review was carried out over the Christmas period made it difficult for some candidates to provide the required information on a timely basis.
 - 2 candidates could not provide all the required information to substantiate the declared election expenditure.

Recommendations

The Northern Territory Electoral Commission should continue to reinforce the message of strict compliance with the NTEA provisions to political candidates.

We acknowledge that the culture of compliance is important so that public confidence in the process is maintained; however, the low threshold in the amounts which the candidate donors have to report in their returns may bring into question the likely benefit when compared to the cost of enforcement as imposed by the current set up.

The period within which the candidates and donors have to lodge their returns may need to be amended especially where the returns due date falls close to the Christmas period as this impacts on the level of compliance since most people are on holidays around this time.

SPECIFIC OBJECTIVE 2

We obtained from Northern Territory Electoral Commission a list of Candidate Donor Returns lodged in relation to the 2016 Legislative Assembly General Election. We determined a sample size deemed appropriate to adequately test the donor annual returns compliance with Part 10 of the *Northern Territory Electoral Act*.

Findings

In going through the candidate donor returns, we noted the following points which indicate the level of compliance with Part 10 of the *Northern Territory Electoral Act*:

- Only 4 candidate donor returns selected for testing were lodged after the deadline of 15 weeks after the 2016 Legislative Assembly General Election.
- In matching the donation amounts recorded in the selected candidate donor returns to the figures recorded in the election candidate returns, we noted that there were 5 instances where the election candidates did not declare donations with amounts above \$200 which had been noted in the candidate donor returns.
- 53 donors did not lodge their candidate donor returns in relation to the 2016 Legislative Assembly General Election as required under Part 10 of the *Northern Territory Electoral Act*.

Recommendations

The Northern Territory Electoral Commission should embark on a community outreach program to educate individuals and organisations about their responsibilities under the *Northern Territory Electoral Act* when donations above the \$200.00 threshold have been made to candidates.

Also consideration should be made of whether the requirement to lodge candidate donor returns is still relevant considering the very low threshold amount involved and the cost of enforcing this compliance process when compared to any benefits this may provide.

SPECIFIC OBJECTIVE 3

We reviewed selected broadcaster/publisher returns for the 2016 NT Legislative Assembly to establish the level of compliance with Part 10 of the *Northern Territory Electoral Act*.

Findings

In going through the selected broadcaster/publisher returns, we noted the following points which indicate the level of compliance with Part 10 of the *Northern Territory Electoral Act*:

- There were 12 publishers/broadcasters identified and all of them were selected for review.
- Two of the publisher/broadcaster returns reviewed did not include all required information as required by the *Northern Territory Electoral Act*.
- The growth of social media as a channel of delivery of election message by political parties and candidates is not adequately addressed in the *Northern Territory Electoral Act*.

Recommendations

In relation to inadequate information provided by broadcasters and publishers, the Northern Territory Electoral Commission should consider engaging the identified broadcasters and publishers with a view to educating them on the correct application of the provisions of the *Northern Territory Electoral Act*.

The Northern Territory Electoral Commission should consider the growing influence of social media in the electoral sphere as it is only likely to get bigger in the future.

APPENDICES

APPENDIX 1

Terms of Reference

Compliance review of the election candidates, individual donors and broadcasters and publishers for compliance with political disclosure returns in relation to election contributions, as relevant, for the Northern Territory Legislative Assembly Election held on 27 August 2016.

Approach

This review was conducted by BDO (NT) between December 2016 and February 2016.

The methodology used to conduct the audit was:

1. Preparation of the review file incorporating candidate election returns, donor candidate returns, broadcasters and publishers returns, NT Electoral Act and the NTEC Disclosure Handbook.
2. Matching amounts of donation received by candidates to the amounts recorded in the individual donor returns.
3. For a sample of donor candidate returns, reviewing the returns for compliance with the lodgement timelines.
4. Matching donation amounts to the corresponding amount in the candidate returns on a sample of donor annual returns.
5. For a sample of election candidates, obtaining and verification of candidate election expenditure documentation covering the specified election period. The tests included, through inspection, reviewing of the supporting documentation, including invoices, receipts, and vouchers covering the specified election period.
6. Discussing the preliminary findings with the relevant candidates and the Northern Territory Electoral Commissioner and his staff.

APPENDIX 2

Candidates who have not lodged their Candidate Electoral Returns

Arafura

Jon LOTU 1 Territory Party
Tristan MUNGATOPI Non-party - independent

Araluen

Adam FINDLAY Australian Labor Party NT (ALP)

Arnhem

Lance LAWRENCE Non-party - independent

Barkly

Jack GREEN Non-party – independent

Blain

Gregory John KNOWLES Non-party - independent

Daly

Joan GROWDEN 1 Territory Party
Ian Robert BARRY Citizens Electoral Council (NT Division)

Karama

Edward D SOLO 1 Territory Party

Katherine

Dean Maxwell DAVID Non-party – Independent

Nhulunbuy

Jackson ANNI Non-party - independent

Port Darwin

David CAMERON 1 Territory Party
Kenneth WU Non-party - independent

Sanderson

Andrew John ARTHUR Non-party – independent
Thomas LYNCH Non-party - independent

Spillet

Jeff NORTON 1 Territory Party

Stuart

Scott McCONNELL Australian Labor Party NT (ALP)