



**NORTHERN  
TERRITORY  
ELECTORAL  
COMMISSION**  
*EVERY vote counts!*

## **Submission to political donation enquiry**

# Submission to the Inquiry into Options for the Reform of Political Funding and Donations in the Northern Territory

## 1 Background

The NT *Electoral Act* (NTEA) Part 10 requires:

- Annual disclosure by registered political parties, their associated entities and donors of gifts, donations, loans, payments etc. in relation to the electoral processes.
- Election specific disclosure returns from candidates, donors, broadcasters and publishers.

The Act sets out disclosure requirements, defines the terms used in the legislation, details disclosure offences and penalties and the kind of records that should be maintained in order to comply with requirements. There are no disclosure requirements for local government elections.

The Act does not prescribe any public funding levels, caps on political donations (though anonymous donations  $\geq$ \$1000 are illegal), nor prohibit donations from any particular class of person or entity or provide public funding to political parties or candidates.

### 1.1 Disclosure thresholds

Disclosure regimes increase 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 current disclosure thresholds were introduced in 2004 and were then in line with the provisions under the *Commonwealth Electoral Act 1918* (CEA). The alignment ceased in 2006 when the Commonwealth threshold limits for disclosure were significantly increased. The loss in parity means that NT parties cannot submit a Commonwealth return for NT purposes. See Attachment A for a summary of the provisions. Attachment B contains a glossary of disclosure terminology.

The NT thresholds are not indexed to inflation and there has been no increase since 2004. The threshold limits for the NT jurisdiction, while currently low, do take into account its smaller electorates.

### 1.2 Reporting timeframes

The *Electoral Act* Part 10 stipulates timeframes for disclosure:

- **Annual returns** by parties and associated entities are due within 16 weeks of the financial-year end (donors by 20 weeks after) and are to be publicly available by 1 March of the following year.

As fixed term elections are conducted early in the financial year (fourth Saturday in August) registered political parties and their entities are not required to lodge returns until approximately *14 months after polling day*. Following the August 2012 LA elections, records for these were not made publicly available until almost 18 months after the polling day i.e. February 2014. For the 2016 LA election, party and associated entity returns become available in February 2018.

- **Election returns** by candidates and donors are due 15 weeks after polling day, and by broadcasters and publishers eight weeks after polling day. Returns relating to the 2016 Legislative Assembly elections were published approximately *six months after polling day*, in March 2017.

## **2 Suggestions for reform of current public funding levels, donation caps or disclosure requirements affecting political parties, candidates and donors**

### **2.1 Northern Territory Electoral Commission (NTEC) reports on the 2012 and 2016 LA elections**

The '2012 NT General Election Report' Section 4.15 made some observations and recommendations for change:

- The thresholds for disclosure of donations and loans should be reviewed in the light of inflation and increased as follows:
  - Political parties and associated entities: \$3000 for donations and loans.
  - Candidates: Donations \$300, loans \$3000.
  - Donors to candidates/political parties: \$300 to candidates and \$3000 to parties.
- Registered political parties should be required to provide donor returns covering the election period in a timelier manner. Options include having registered political parties prepare a separate return covering the election period or extending the time period in an election year to 30 September in a general election year (rather than 30 June the following year).

The '2016 Territory Election Report' Section 10 (10.39 to 10.52) made similar recommendations:

#### **Recommendation 19 - Financial disclosure thresholds**

The Commission recommends that the disclosure thresholds for political parties and associated entities, candidates and donors are reviewed and increased in line with inflation to keep them in accord with the original benchmarks.

#### **Recommendation 20 - Timing of disclosure returns**

The Commission recommends that:

- Registered political parties and associated entities are required to provide disclosure returns covering the election period in a timely manner. Options include having registered political parties prepare a separate return covering the election period or extending the time period to 30 September in a general election year (rather than 30 June the following year).
- Annual and election returns are released on the same day, 1 March, in the relevant year.

#### **Recommendation 21 - Disclosure returns timeframe**

The Commission recommends that the timeframe within which candidate election returns are due is amended to eight weeks after election day to support timely lodgement and follow-up processes.

#### **Recommendation 22 - Donor thresholds**

The Commission recommends that candidate returns should still report donations of \$200 or more, but the reporting threshold for donors be increased to \$1,500 or more.

#### **Recommendation 23 - Broadcasters' and publishers' election advertising**

The Commission recommends that the requirement for broadcasters and publishers to provide election advertising returns is removed. Political party and candidate returns to provide details of all election advertising expenditure (including internet and social media).

#### **Recommendation 24 - Fines for late or incomplete disclosure returns**

The Commission recommends that the financial disclosure compliance provisions under Part 10 of the *Electoral Act* are amended to provide the Commission with the ability to issue statutory determined fines for late or incomplete disclosure returns.

The recommendations are shown on Attachment A where relevant.

## 2.2 McGuinness report

In late 2014 the NT parliament appointed an independent special investigator, Frank McGuinness (former NT Auditor General), to look into existing donation legislation and the administration of political donation models for possible application in the Northern Territory.

The McGuinness Report was tabled in the Parliament on 28 April 2015<sup>1</sup>. It noted that 'electoral funding and spending had not received close attention in the NT, with the result that a gap has emerged between legislative provisions in the NT and those of other jurisdictions'.

Inter alia, the report contained the following specific recommendations on disclosure:

1. Audited annual returns - political parties and associated entities should be required to lodge audited annual financial statements with the Electoral Commission, prepared on the basis of the Australian accounting standards. The term 'Auditor' to be defined in the act and the prescribed qualifications of an auditor could be similar to those set out in paragraph five of the *Associations Act (NT)*, so that costs of the audit by smaller entities are not excessive.  
*Supported by the NTEC*
2. Gifts and donations - the existing definition should be strengthened by including a reference to the value of expenditure incurred on a party's behalf by a third party.  
*Supported by the NTEC*
3. Frequency of reporting - parties, associated entities and third party campaigners or the agent of a campaigner should lodge donation details:
  - Annually or bi-annually on an ongoing basis and
  - Weekly during an election period.

*With fixed term elections, donations over the threshold received prior to and during the election period should be publically available in a timely manner. While it could be difficult for both political parties and the NTEC to administer, the Commission supports bi-annual returns, with more regular returns in an election year, possibly weekly in the 8 weeks leading up to a general election, or from the announcement of a by-election. Though the value of donations outside an election period is not material, to ensure significant donations are disclosed in a timely manner, any donation of \$25 000 or more should be disclosed to the Commission within a reasonable period, say 10 working days.*

4. On-line reporting - the reporting of donations by a political party or candidate should be changed from a paper-based system to one that requires completion of an online template that would permit immediate uploading onto the Commission's website.

*In line with this recommendation, the NTEC developed and implemented, prior to the 2016 Territory election, an electronic system for lodging disclosure returns using template spreadsheets.*

*Such a system is significantly cheaper to develop and maintain than an online portal system.*

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<sup>1</sup> Review on the Process of Political Donations in the Northern Territory (The McGuinness Report)

6. Political parties and 'third party' campaigners to be registered:

- Registration to be a precondition to the ability to participate in an election.
- A scheme, approved by the NTEC, be adopted to regulate their financial affairs.
- Third parties should be required to lodge audited annual financial statements with the Electoral Commission, prepared on the basis of the Australian accounting standards.

Third party campaigner:

- A definition to be provided to supplement the existing definition of 'associated entity'.
- Registration of a third party campaigner to be a prerequisite for that individual or organisation to undertake activities of a political nature.
- Each campaigner to maintain a campaign account that should be credited with all cash donations and from which all campaign expenditure is paid.
- A third party campaigner can only make payments for electoral communication expenditure or use political donations for any such purpose if the payments for that expenditure are made by the official agent of the third party campaigner from a campaign account maintained by the third party campaigner.
- A third party campaigner should only be permitted to incur political communication expenditure, if it has received donations for the purpose and reported those donations to the Electoral Commission in the same way as any party or candidate.
- The campaign account of a third party campaigner to be a separate account maintained by an approved deposit-taking institution.
- All donations to be paid by the official agent into the campaign account of the third party campaigner.

*Given the small size of NT divisions it is likely to be difficult and politically contentious to define an entity as a third party campaigner, especially when disputes occur during an election. For example, single issue organisations such as 'Friends of Mitchell Creek' would unlikely be deemed a third party campaigner at a federal election, where the division of Solomon has >60 000 electors, but may be so for a NT division that only has 5000 electors.*

*Freedom of expression should allow individuals and organisations the ability to comment on matters that may be deemed political in nature without having to register as a third party campaigner to comply with electoral legislation. This would be onerous for both the individual/ organisation and the Electoral Commission and, in the middle of an election campaign, it would be difficult for the Commission to determine whether political comment would fall under the definition of third party campaigner.*

Should a public funding scheme be contemplated for the NT, the McGuinness report made the following observations:

- A political party must be registered if it is to benefit from public funding.
- The basis for public funding to candidates and political parties would need to be determined.
- Controls or restrictions could be placed on the amounts of private donations and electoral spending to allay concerns about potentially large donors influencing policy formulation.

### **2.3 Electoral Amendment Bill 2016 (Serial 155), tabled by Mr G Wood MLA**

The above Bill, tabled on 10 February 2016, proposed to replicate NSW legislation on prohibiting donations from certain classes of prospective donors, including the liquor/gambling industry, property developers and the tobacco industry.

In response, the NTEC provided an information paper<sup>2</sup> to clarify issues raised in the Bill and the potential impact for implementation and administration of the proposed amendments. It is available on the NTEC website.

The Bill has now lapsed.

### **3 Breaches of the *Electoral Act* in relation to political donations in the last 10 years**

During the first 10 years following the 2004 implementation of NT disclosure provisions, no formal investigations of breaches of disclosure provisions under the Act were undertaken. Non-compliance with deadlines for returns, particularly candidate returns, was commonplace and follow up activities were then pursued. Checks were made against both donor returns and the larger donations reported to the Australian Electoral Commission (AEC).

#### **Foundation 51**

In May 2014, a formal complaint lodged by the Australian Labor Party (NT) (the ALP) alleged that Foundation 51 Pty Ltd failed to comply with the financial disclosure provisions of the NT *Electoral Act* as it was an associated entity of the Country Liberals.

Following its investigations, the NTEC reached the view that there had been a 'possible breach of the compliance provisions' of the NT's *Electoral Act*, based on information collected and also legal advice from the Solicitor-General for the Northern Territory. In April 2015 the information was referred to the Northern Territory Police for further consideration.

The NT Police investigated and subsequently referred the matter to the Director of Public Prosecutions (DPP) to determine whether the matter should be prosecuted. The DPP determined that although there was a likely breach of the Act, as Foundation 51 had subsequently submitted the required disclosure returns, it was not in the public interest to prosecute the matter.

The ALP also lodged a complaint with the AEC, which did not refer the matter further after Foundation 51 submitted the requested returns. The Senate conducted an inquiry<sup>3</sup> into associated entities that included the AEC's handling of this matter.

#### **Compliance reviews**

In December 2014, the accounting firm BDO Pty Ltd (NT) was appointed to conduct a compliance review of all political disclosure returns submitted for the 2012-13 (retrospective) and 2013-14 financial years. Its scope was to establish whether registered political parties, donors, associated entities, broadcasters and publishers had complied, accurately and completely, with the disclosure provisions of Part 10 of the Act in relation to annual political party returns and election contributions. Follow-up reviews were undertaken for the 2014-15, 2015-16 reporting years and the candidate, publisher and broadcaster returns for the 2016 LA election.

The reviews identified a number of instances of non-compliance, mainly due to a failure to maintain accurate records. Recommendations for consideration by the NTEC included:

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<sup>2</sup> Information Paper, Gerry Wood MLA – Private Member's Bill Electoral Amendment Bill 2016 (Serial 155)

<sup>3</sup> Commonwealth legislative provisions relating to oversight of associated entities of political parties, 4 May 2016

1. The Commission should initiate more awareness in people and organisations of the disclosure provisions of the NTEA, especially of the necessity to lodge timely, accurate and complete annual returns.

*Further information was provided to political party on their disclosure requirements and public notices placed in the NT News informing donors to political parties of their disclosure obligations.*

2. In relation to the late lodgment and inaccurate and inadequate information provided by some stakeholders, the Commission should consider stricter application of the provisions of the NTEA to penalise instances of non-compliance.

The review of returns for the 2014-15 financial year noted that:

- Whilst there had been improvements in the level of compliance compared to previous reporting years, the accuracy of the political party and branch returns sampled for review was still of concern.
- The level of compliance by donors was unsatisfactory.

The ALP and Country Liberals were required to submit amended returns with a number of donors still not submitting donor returns (as listed in BDO's report).

The reviews of political disclosure returns for the 2015-16 financial year and election returns for the August 2016 Territory election noted that, as found previously, a number of donor returns were not submitted and recommended that the threshold for donor returns for candidates be increased. BDO also recommended that the *Electoral Act* be amended to enable the NTEC to issue statutory fines for late or incomplete returns.

Copies of BDO reports are available on the NTEC website.<sup>4</sup>

## **4 Comments on other matters relevant to political donations and funding in the NT**

### **4.1 Current national funding and disclosure issues**

The role of money in politics and the perception, rightly or wrongly, that money buys access, favours and influence, has latterly again come under scrutiny in the public domain. Interest has centered on the relationships between donors (from within and outside Australia), parties, MPs and political influence and has led to calls for greater transparency, more comprehensive accountability and more rapid disclosure of donations.

The *Electoral Reform Green Paper - Donations, Funding and Expenditure*, Australian Government, December 2008 examined the then national and sub-national funding and disclosure requirements and mooted harmonization of the electoral legislation. Such a step, requiring agreement by federal, state and territory jurisdictions and a common start date, would simplify the playing field for all participants. Since 2008, developments have only increased the differences between jurisdictions.

A Commonwealth parliamentary committee is looking at improving federal donation rules, with a report due in December 2017<sup>5</sup>.

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<sup>4</sup> [BDO Compliance Review Report on Political Disclosure Returns 2012-13 and 2013-14](#)  
[BDO Compliance Review of Political Parties and Associated Entities to the Political Disclosure Returns 2014-15](#)  
BDO Compliance Review of political party disclosure returns in relation to year ended 30 June 2016  
[BDO Compliance Review of disclosure returns for candidates, publishers and broadcasters: 2016 Territory election](#)

<sup>5</sup> Select Committee into the Political Influence of Donations

In NSW, it has been unlawful since December 2009 to accept a donation from a property developer or a close associate of a property developer (also known as a prohibited donor), or to accept a donation made on behalf of a property developer. Three additional categories of prohibited donors were added in 2011: liquor, gambling and tobacco entities and their close associates. A ban on donations from unions was deemed unconstitutional by the High Court on the basis that it was a limitation on the freedom of political expression<sup>6</sup>. However, in the McCloy case<sup>7</sup>, it confirmed that parliament has the right to exclude classes of prospective donors due to corruption concerns and determined such exclusions as lawful.

NSW is currently the only administration to place caps on donations (indexed). Donations made between 1 July 2016 and 30 June 2017 were capped as follows:

- \$5900 to or for the benefit of a registered political party or group.
- \$2600 to or for the benefit of an unregistered party, candidate, elected member or a third-party campaigner.

Any disclosure system has to be equitable, timely and fair though whatever rules are in place will present challenges to those searching for means to evade regulation. Reforming the timelines for disclosure offers some solutions e.g. donations to be on-line in real time, especially during an election period and periodic reporting to be immediate to the timeframe being reported on. The current timetable in the NT means donations to political parties in July and August of an election year are not made public for 18 months.

Suggested amendments to disclosure issues so as to level the playing field and provide more transparency have included:

- Prohibitions on 'splitting' donations to pre-empt multiple donations being lodged at below, or just-below threshold values in order to beat donation caps and/or to avoid revealing donor identity.
- Banning donations from foreign interests to political parties.
- Limiting donations to persons on the electoral roll, though a problem would occur with citizens of dual nationality.
- An 'anonymity threshold', to encourage potential donors who otherwise could be exposed to bullying and intimidation should their support become known.
- Encouraging higher volumes of donations but at lower values by placing caps on gift amounts, e.g. from a large company or union, so that a donation from an individual or small business is worth the same as that from a larger entity. A cap or limitation on funding eg of \$5000 rather than a total ban could allay/lessen undue influence.
- Restricting donations going to branches or divisional offices of political parties.
- Limiting 'in kind' donations to, say, \$1000.
- Consideration of unions as associated entities (as in SA) and broadening the definition of associated entities to include third parties incurring political expenditure, such as activist groups like GetUp!
- Real-time reporting to increase transparency and accountability particularly at an election time—disclosure 24 hours/ days/ weeks later, or a year or more, is too long.
- Requiring a separate bank account for parties during general elections to facilitate transparency and corporate governance.
- Setting up an independent tribunal to maintain a distance between protagonists i.e. parties, candidates and donors.

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<sup>6</sup> Unions NSW v New South Wales 2013 HCA 58

<sup>7</sup> McCloy v New South Wales [2015] HCA 34



Funding discussions have generated the following suggestions:

- Caps on expenditure e.g. the ACT had a \$40 000 cap (indexed) per party grouping, non-party candidate grouping, associated entities, non-party MLAs (if any) and third party campaigners for each of its 5 electorates for the October 2016 elections. Where a cap is exceeded, access to public funding can be truncated or penalties may apply (ACT and SA).
- Limiting or capping donations from companies and /or individuals may lead to an increase in public funding of political campaigns, funded by the taxpayer, and increased government authority over political parties.
- Public funding should not exceed campaign expenditure.

Challenges associated with the management and enforcement of compliance with exclusions embrace not only the ability to adequately identify excluded donors but also the additional resources required for the administrators responsible for maintaining a management system and enforcing compliance.

## **4.2 Disclosure**

Electoral expenditure generally relates to advertising, broadcasting and publishing costs, production and material costs, distribution, consultancy and polling/research expenses.

As at 2017, Tasmania and Victoria were exceptions to jurisdictions with disclosure requirements. Tasmania does require its Legislative Council (LC) candidates to disclose and provide receipts for all expenditure items with a few exceptions such as 'driving electors to the polling place', cost of business cards and pens. Parties cannot incur expenditure but their staff can volunteer their time. Election expenditure by a candidate is capped at \$16 000 (2017) with an annual increase of \$500.

In Victoria, registered parties must provide a copy of the annual return lodged with the AEC. Returns are required to be audited in order for election expenditure to be reimbursed. Holders of casino and gambling licences and their related companies are prohibited from donating more than \$50 000 in any one financial year.

The Victorian government (September 2017) flagged its intention to reform the state's political donations system, proposing:

- A cap of \$4000 on donations by individuals, unions and corporations over a 4 year parliamentary term, including tickets to associated entity fundraising events (costs excluded). Union affiliation fees would be exempt.
- A reduction in public disclosure of donations from \$13 200 to \$1000.
- A ban on foreign donations.
- Real-time disclosure of donations.
- A penalty regime for breaches of the rules.
- More funding to the Electoral Commission.

See Attachment B for an overview of disclosure provisions applying to lower house elections.

### 4.3 Public funding

As stated, the NT does not have a public funding regime, nor Tasmania. A paper published by the Commonwealth Parliamentary Library in 2012 'Electoral and political financing: the Commonwealth regime and its reforms'<sup>8</sup> brought together a number of reasons both for and against public funding. See Table 1.

**Table 1:** Summary of arguments for and against public funding

<b>Reasons for and against public funding</b>	
<b>In support of public funding</b>	<b>Against public funding</b>
Political parties need to be adequately funded in order to perform functions that are crucial to parliamentary democracy.	May not have broad electorate support.
Party resources and energies could more appropriately be applied to matters such as policy development and research, instead of being diverted to say, fundraising, thereby fulfilling their essential functions in the democratic system more fully and effectively.	Public (i.e. taxpayers') money should not be spent to support parties promoting views with which individual taxpayers may not agree.
Redresses the financial inequality between candidates and parties.	Public expenditure has higher priorities than political parties.
Reduces parties' reliance upon large donors and parties would therefore be immune, and would be seen to be immune, from outside (and potentially improper) influence.	Public funding at the Commonwealth level (and some other jurisdictions) is only available after an election generally to parties and candidates receiving more than 4% of the formal votes—even if they are not elected. This does not result in equal treatment of candidates, and favours those who have sufficient private resources to mount electoral campaigns in the first place. It takes no account of the amount of private funding received in the course of the campaign.
Indicates to the public that political parties are valuable, indeed essential, institutions in a democratic society.	Tends to reinforce the current party status quo and entrenches existing parties to the detriment of new and small parties. Existing parties are supported out of the public purse while new parties find it a struggle to break into the funding scheme.
Counters the limitation on candidates and parties to raise funds through private donations from people discouraged from donating by disclosure requirements	Donation disclosure schemes are sufficient to ensure that campaign funds come from appropriate sources.
	Party fundraising efforts at the grassroots level may decrease and lead to lessened 'civic engagement' in the political process.
	Parties should fund themselves through membership and donations; public funding dilutes the incentive for parties to recruit actively.

Direct entitlement funding as for ACT and Commonwealth elections, sets out an amount per primary vote provided a minimum threshold of 1<sup>st</sup> preference votes is met. This is generally at least 4% of the formal vote (6% in Queensland), the level at which nomination deposits are returned in most jurisdictions. However, in the NT with its smaller electorates of around 5000 electors, a deposit is returned if a candidate is elected or receives more than 20% of the formal 1<sup>st</sup> preference vote.

Reimbursement schemes, based on actual campaign expenditure, are becoming more prevalent.

Other issues related to funding include:

- Should there be caps or limits on election expenditure?
- Should there be limits as to how much can be disbursed eg not more than the amount expended on campaigning?

<sup>8</sup>[http://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/pubs/BN/2011-2012/ElectoralFinancing#\\_Toc320870059](http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/BN/2011-2012/ElectoralFinancing#_Toc320870059)

- Should it be withheld if disclosure requirements are not met eg as in SA, NSW?
- For the NT, the value of any political funding would have to reflect the cost of conducting campaigns in its jurisdiction and the small number of electors (approximately 5000) per electorate. There is a case that a cap in remote divisions should be higher to reflect the additional travel costs to campaign in these divisions.

If entitlement funding of, say \$8 per vote as prescribed in the ACT, with a 4% or 20% threshold had been in place at the 2016 NT Territory election, Table 2 shows the amounts that could have been disbursed.

**Table 2:** Possible disbursement of entitlement funds following the 2016 NTLA election with a >4% or >20% threshold and funding of \$8 per vote

Affiliation and number of candidates standing	No. candidates receiving 1 <sup>st</sup> preference votes		No. 1 <sup>st</sup> preference votes gained by candidates receiving		Possible Funding Disbursed at \$8 per 1 <sup>st</sup> preference vote	
	> Threshold		> Threshold		> Threshold	
	4%	20%	4%	20%	4%	20%
1 Territory Party 13	11	0	3262	0	\$26096	0
Australian Labor Party 25	25	23	41476	40106	\$331808	\$320848
Citizens Electoral Council 4	0	0	0	0	0	0
Country Liberals 25	25	23	31263	30224	\$250104	\$241792
The Greens 6	6	0	2817	0	\$22536	0
Independents 40	30	7	17655	12065	\$141240	\$96520
Shooters and Fishers 2	2	0	523	0	\$4184	0
<b>Total 115</b>	<b>99</b>	<b>53</b>	<b>96996</b>	<b>82395</b>	<b>\$775968</b>	<b>\$659160</b>

In Commonwealth elections, a candidate or Senate group is eligible for election funding if they obtain at least 4% of the formal 1<sup>st</sup> preference votes in the division or the state or territory they contested. The amount is calculated by multiplying the number of votes obtained by the current election-funding rate, a rate that is indexed every six months to increases in the Consumer Price Index.

Table 3 shows the major principles of schemes managed by electoral bodies. The NT and Tasmania, with no funding provisions, are not included. South Australia's funding allocations came into operation on 1 July 2015 and as yet are untested at a general election.

Four administrations have additional funding schemes:

- ACT - Election and Administrative (latter paid quarterly), both indexed.
- NSW - Election Campaigns, Administration (parties and elected independent members) and Policy Development for parties with no elected members. All capped and indexed.
- QLD - Election and optional Party Policy Development funding.
- SA - Election and Special Assistance for party administrative spending (paid bi-annually and indexed).

Non-election funding cannot be used for election purposes.

**Table 3:** Electoral authorities with funding regimes in lower houses - overview September 2016

Funding system elements	Electoral jurisdiction						
	CW	NSW <sup>1</sup>	QLD	SA <sup>2</sup>	VIC	WA	ACT
Direct entitlement	✓						✓
Reimbursement		✓	✓	If opt in – caps apply	✓	✓	
Threshold of 1 <sup>st</sup> preference votes %	≥4%	≥4%	≥6%	≥4%	≥4%	>4%	≥4%
Amount	Indexed. 262.784c at the 2016 federal election	See below	Indexed \$1.45 to candidates per primary vote + \$2.90 to parties per primary vote	\$3 or \$3.50 see below Capped. Must apply for funding prior to the election	Indexed \$1.646 (2014) Funding to be increased if donation reform proceeds (proposed September '17)	Indexed \$1.86	Indexed \$8
Election expenditure capping	None	✓ See below	To be reimbursed must provide evidence of spending. Capped at relevant funding amount for formal 1 <sup>st</sup> preference votes	To be reimbursed, applicants must cap expenditure @\$75k for party candidate, \$100k for Ind. Indexed. Funding cannot exceed expenditure	No. Certificated & audited election expenditure returns must be provided. Reimbursement cannot exceed entitlement or be more than actual expenditure if that is <entitlement.	No – reimbursement cannot exceed actual expenditure	\$40k per candidate (max 25 cand. per party, 3 <sup>rd</sup> party & assoc. entity. Indexed Not more than \$10k from a related party can be used for ACT election expenses
Capped expenditure period	No	Election yr - 1 Oct yr before polling day (March) to polling day. By- writ issue to polling day	No	1 July year before polling day (March) to 30 days post polling day (or formal notice of casual vacancy)	Election years - 12 months before polling day.	No	Election years 1 Jan to Oct polling day

<sup>1</sup> **NSW** Election Campaign Fund for communication expenditure by parties and candidates receiving ≥4% threshold:

- Expenditure caps until 23.3.19:
  - LA parties with >10 candidates – \$122.9k x no. electorates for which the party endorses candidates.
  - LA party endorsed candidates – \$122.9k.
  - LA independent candidates –\$184.2k (GE), \$245.6k (By).
  - 3<sup>rd</sup> party campaigners - \$1288.5k if registered, \$644.3k unregistered.
  - Additional cap for individual seats: \$61.5k party, \$24.7k 3<sup>rd</sup> party campaign.
- Reimbursement is on a sliding scale:
  - Parties - 100% of actual expenditure for 1<sup>st</sup> 10% of cap, 75% for next 80%, 50% for final 10%.
  - LA party endorsed candidates – 100% of actual expenditure for 1<sup>st</sup> 10% of cap, 50% for next 40% of cap.
  - Independent candidates – 100% of actual expenditure for first 10% of cap, 50% for next 70% of cap.

<sup>2</sup> **SA** scheme – for applicants meeting threshold and meeting electoral expenditure caps:

- \$3 per formal vote for party candidates with MPs in Parl't & Ind. MPs recontesting seat.
- \$3.50 per vote for other candidates up to 10% of their primary vote, \$3 for next 90%.

Penalties for exceeding expenditure cap.

#### 4.4 NTEC role in regulation

The majority of breaches of the NT *Electoral Act* are likely to be criminal offences and it is the role of the NT Police to investigate breaches and, in consultation with the Director of Public Prosecutions (DPP), determine whether a matter should proceed to prosecution. An exception to this is in relation to alleged breaches of the disclosure provisions where the NTEC is required to conduct its own investigation before determining whether the matter should be referred to NT Police or DPP.

Australian electoral agencies are scrutinised, and sometimes criticised, about their level of proactivity in pursuit of compliance matters. Public, legal and political expectations have not always been clear or consistent, especially with regard to the identification and treatment of perceived minor or immaterial transgressions.

In general, electoral authorities are continually challenged in managing reporting compliance and the prosecution of offenders with respect to political donations made through indirect channels. The identification of undisclosed donations and donors is not easily achieved, and any uncertainty regarding definitions can provide grounds for disputes.

Whilst the NTEC has the full range of electoral body responsibilities, its staff numbers are small and its functions are dominated by the operational demands of running enrolment, education and election programs, the latter including Legislative Assembly and local government elections and by-elections. It does not currently have investigatory resources of note, and any undertaking of a more complex and specialised role will have significant resource implications.

The Commission has some limited compulsory investigation powers into non-compliance with return obligations (NTEA ss216-219) and has incurred expenditure to investigate major anomalies arising from inadvertent and/or non-compliant activities and to source expert independent advice for its investigations. Since the establishment of the Commission in 2004, the investigatory powers have been used once – the complaint regarding Foundation 51.

The introduction of a class of prohibited donors will generate a substantial increase in the amount of data and corporate records to be crosschecked and audited compared to that currently taking place. It will also require the creation of a new line of specialised investigatory work involving a systemic approach to the analysis of corporate structures and their key personnel.

Those States and the Commonwealth that have substantial responsibilities to manage and investigate increasingly complex financial disclosure systems are supported by specialised software, dedicated staff and their own in-house investigatory and legal expertise. NSW, with the highest State enrolment (>5.3m electors as at July 2016) has a dedicated authority to manage schemes for both State and local government elections. Any major variations to current regulatory processes for the NTEC could require additional resourcing.

The McGuiness report recommended extending the Electoral Commissioner's role to include regulating individuals and entities who are participants in the electoral process to ensure that the *Electoral Act* (NT) is not contravened.

Other regulatory issues for consideration could include:

- The imposition of a fine for late lodgment of returns and whether this should include amended returns.
- Whether the timeframe to commence prosecution be extended from its current 3 years [NTEA s215(6)] to encompass at least the now 4 year electoral cycle.
- Public notice to be given of omitted or incorrect donations in party and associated entity returns though such 'name and shame' processes might have little consequence on those not complying.

#### **4.5 Independent Anti-Corruption, Integrity and Misconduct Commission**

In late 2015, a NT inquiry was set up into the need for an independent commission against corruption (an ICAC), under Commissioner BR Martin.

The opinion of the NTEC was sought as to what would be the jurisdictional boundaries between the Electoral Commission and an ICAC regarding breaches of disclosure provisions/election funding laws/breaches to the NTEA and electoral corruption allegations.

The NTEC submission, while not offering a view on the establishment of an ICAC, emphasised to the Inquiry the importance of 'clear definitions being in place regarding which entity has jurisdiction over electoral and lobbying matters, including alleged breaches of political disclosure laws' and a clear definition of 'corrupt conduct'. In addition, a review of the *Electoral Act* would be needed to ensure that:

- No inconsistencies or overlap existed with the legislation governing any anti-corruption entity.
- Referral procedures to that entity would need clear prescription.

Commissioner Martin, in his final report<sup>9</sup>, stated that in his view that the specialised role of the NTEC should continue if an NT Anti-Corruption Commission were to be established. The ICAC should possess the discretion to investigate or refer a matter concerning a breach of the *Electoral Act* (NT) to the relevant agency for appropriate action.

### **5 Summary of the NTEC submission**

Any changes to the democratic structures of the NT need to reflect community values, the opportunity costs to the Territory and also take account of the wider national context. The NT is a small jurisdiction with finite resources and implementation of any amended disclosure and/or funding regime would be facilitated by the adoption of straightforward measures to update the current requirements.

#### **5.1 A contemporary disclosure regime**

As the McGuinness report noted, current NT legislation is lagging behind present-day standards. While disclosure documents can now be lodged electronically, there has been no change to the parameters for the disclosure regime.

The NTEC is of the view that a number of disclosure issues of a non-contentious nature could be addressed in any legislation designed to update the electoral framework. Suggestions, both non-controversial and those requiring more consideration, are outlined below.

##### **i. Disclosure Thresholds**

Increase the thresholds in the Territory for disclosure of donations and loans by both donors and receivers from \$200 to \$300 and \$1500 to \$3000 as applicable, as recommended in the 2012 Territory Election report, and in line with inflation (2016 LA election report). Outside an election period, any donation of \$25 000 or more should be disclosed to the Commission within 10 working days.

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<sup>9</sup> Anti-Corruption Integrity and Misconduct Commission Inquiry 2016

## ii. Donations/gifts/loans

- Strengthen the existing definition by including a limit on gifts incurred e.g. NSW - \$5900 for a party, \$2600 for a candidate, MLA or third party campaigner.
- Place a limit on 'Donations in kind' – e.g. \$1000.
- Remove donor home address details from returns published on the net – post suburb, postcode, PO Box only (as in the ACT.)
- Maintain records of donations/expenditure under any thresholds, though these may not be disclosed.

**iii. Election campaign accounts** – Registered parties and sitting independent members to set up separate election campaign accounts with a financial institution, with confirmed signatories and all election transactions processed to this account. NB, ACT repealed this provision.

## iv. Returns

- **Audited returns** – Require third party verification of the accuracy of party returns prepared on the basis of the Australian accounting standards, with a 'Certification statement' signed by a qualified auditor, who is not and has not been a party member within the last X years, nor holds the position of a party Chief Financial Officer. Receipts for donations/gifts/loans and expenditure (vouching) to be submitted with the certification statement (NSW, QLD, SA and VIC require audited returns). The cost of compliance for minor parties could be a deterrent.
- **Timeliness of returns**  
Post-election returns to be submitted within eight weeks of polling day by political parties and associated entities, as recommended for candidates – see Recommendation 21, 2016 LA election report).

The following issues could be addressed in any broader debate on disclosure:

## v. Expenditure caps/limits

- Caps or limits on expenditure for parties and candidates eg on advertising, publishing, materials production and dissemination, consultancy fees, research.
- If expenditure caps are imposed, when should they be in place eg from 1 January to election day during a general election year and from the announcement of a by-election.

## vi. Gifts

- Clarification as to whether affiliation fees, union fees, fundraiser amounts over eg \$250 are gifts.
- Limits/restrictions on gifts from entities with a perceived interest in government policy outcomes eg casino/gambling organisations, property developers, tobacco producers and suppliers.
- Ban on donations from overseas sources and foreign interests and donors to be persons registered on the electoral roll.

## vii. Practical issues to update NT disclosure regulations

- Remove the requirement for donors to submit returns. Under the *Electoral Act*, donor details are already included in party/candidate/associated entity returns. Compliance reviews will independently verify whether donations are accurately disclosed. They no longer serve any real purpose and create an unnecessary administrative onus for donors and the electoral commission.
- Remove the requirement for broadcaster returns, for the same reasons as provided above (same as Cth).

## **5.2 A funding regime**

If funding arrangements are considered, it is suggested that consideration is given to the following issues in any broader debate on funding:

- Recipients i.e. endorsed (party) and non-endorsed candidates.
- Possible funding rates and indexation.
- Thresholds for obtaining funding and their alternatives.
- The capping of expenditure in a funded regime (and/or a disclosure regime), with a funding reduction if the cap is exceeded.
- Funding should not exceed campaign expenditure, with expenditure receipts to be provided.
- An adequate allowance for effective administration of any scheme.
- If introduced, a simple flat rate that would be both easily understood and applied.

## **5.3 Regulatory issues**

### **i. Criminal matters**

Address outcomes impacting on the NTEC that arise from the final report of the Anti-Corruption, Integrity and Misconduct Commission.

### **ii. Investigative powers**

- Delineate appropriate powers for monitoring non-compliance with the legislative framework.
- Specify the level of evidence required to pursue an investigation and the extent to which investigations can proceed with judicial support.
- Affirm if necessary, the responsibility for setting up a regulatory regime.

### **iii. Lobbyists**

- Determine whether there should be a register of 3rd party lobbyists or monitoring of a code for lobbyists.

### **iv. Third party campaigners**

- Should a definition and scope of permissible activities for third party campaigners be included in the legislation, backed by a regulatory regime that covers financial record keeping and reporting i.e. to be subject to the same controls applying to political parties, including any spending caps and public disclosure of the nature and value of donations and gifts?
- Should broadcaster/publisher disclosure stay as a check?

### **v. Timeliness of reporting**

- More regular ongoing reporting e.g. on a 6 monthly rather than annual basis.
- Frequency of reporting in an election year to commence 1 January:
  - E.g. monthly up to the election period.
  - Weekly during the election period AND/OR
  - Real-time reporting e.g. large amounts over a certain threshold to be disclosed at the time of receipt.

## **ATTACHMENTS**

**Attachment A** - Summary of NT 2016 disclosure provisions with recommended changes

**Attachment B** - Overview of lower house disclosure provisions as at September 2016

**Attachment C** - NTEC Glossary of terms relating to financial disclosure



## Summary of NT disclosure provisions as at August 2016 (NTEC recommendations indicated in blue)

Note: disclosure amounts are inclusive of GST. The onus is on the person disclosing to get it right.

Who reports?	What is reported? <b>NTEC recommends disclosure thresholds are reviewed and increased in line with inflation</b>	Reporting period/due date for lodgement <b>NTEC recommends that it is provided with the ability to issue statutory determined fines for late or incomplete disclosure returns</b>
<b>Candidates</b>	<ul style="list-style-type: none"> <li>Details of each gift <b>≥\$200 (\$300)</b></li> <li>All persons/organisations making gifts</li> <li>Loans of <b>≥\$1500 (\$3000)</b></li> <li>Details of all expenditures by category</li> </ul>	<p><i>Independent candidate</i> – commences day candidature announced or day nominated, whichever is the earlier</p> <p><i>Newly endorsed party candidate</i> – commences from the date of endorsement</p> <p><i>Candidate from the previous election nominating again</i> – commences 30 days after the previous polling day</p> <p>Ends 30 days after polling day</p> <p>Due date - within <b>15 (8) weeks</b> of polling day</p>
<b>Registered political parties</b>	<ul style="list-style-type: none"> <li>Total amounts received and paid during year</li> <li>Loans by individual persons or parties of <b>≥\$1500 (\$3000)</b></li> <li>In-kind gifts of goods, assets and services</li> </ul> <p>Anonymous donations of <b>≥\$1000</b> &amp; loans <b>≥\$1500 (\$3000)</b> are illegal</p>	<p>Due date - <b>16 weeks</b> after financial year end</p> <p><b>A return including the election period – within 8 weeks of polling day</b></p> <p>Public inspection is available from 1 March following the due date at NTEC office/on website</p>
<b>Associated entities</b>	<ul style="list-style-type: none"> <li>Total amounts received and paid during year.</li> <li>From whom or on whose behalf payments of <b>≥\$1500 (\$3000)</b> were received</li> <li>From whom or on whose behalf liabilities totalling <b>≥\$1500 (\$3000)</b> were incurred</li> <li>Organisation/individual contributing capital and the amount</li> </ul>	<p>Reporting is by financial year (July – June)</p> <p>Due date - <b>16 weeks</b> after end financial year</p> <p><b>A return including the election period – within 8 weeks of polling day</b></p> <p>Public inspection is available from 1 March following the due date at NTEC office/on website</p>
<b>Donors to parties and candidates</b> <b>NTEC recommends removal of these returns. Reporting of donations by candidates, parties, assoc. entities to continue.</b>	<p>Donations outside elections:</p> <ul style="list-style-type: none"> <li>Direct or indirect donations of <b>≥\$1500 (\$3000)</b></li> <li>Donations of <b>≥\$1000</b> used in whole or part to make party donations of <b>≥\$1500 (\$3000)</b></li> </ul> <p>Donations during the election period:</p> <ul style="list-style-type: none"> <li>Donations totalling <b>≥\$200 (\$300)</b> to a candidate or <b>≥\$1000 (\$1500)</b> to parties and other organisations</li> </ul>	<p>Annual returns – <b>lodged within 20 (16) weeks</b> after the end of the financial year where total donations are \$1500 or more.</p> <p>Election returns - by <b>15 (8) weeks</b> after polling day <b>if retained</b></p>
<b>Broadcasters and Publishers</b> <b>NTEC recommends removal of these returns</b>	<ul style="list-style-type: none"> <li>Details of all electoral advertisement broadcast and published</li> <li>Free/below-market rate ads are classified as donations requiring separate reporting if valued at &gt;\$1000.</li> </ul>	<p><b>8 weeks</b> after polling day</p>

## Overview of lower house disclosure provisions as at September 2016

Disclosure system elements	Jurisdiction						
	CW	NSW	QLD	SA	WA	ACT	NT
<b>Returns</b>							
<b>Annual</b>	Parties + branches, Assoc. entities + donors giving & 3 <sup>rd</sup> parties spending > thresholds	Parties, MLAs, 3 <sup>rd</sup> party campaigners, major donors	Biannual for Parties, Assoc. entities	Annual - Party, Assoc. entity if >\$5k expended, 3 <sup>rd</sup> party >\$10k expended Biannual - for gifts and loans more than threshold, Weekly - pre and post election	Parties, Assoc. entities	Annual - Parties, MLAs, Assoc. entities  Gift returns - Quarterly if gift threshold of ≥\$1000 is reached 7 days after 30 June to polling day in election period	Annual - Parties, assoc. entities, donors
<b>Election</b>	Candidates + Individuals & entities donating > threshold	Candidates	Candidates, 3 <sup>rd</sup> parties, broadcasters & publishers	Parties, assoc. entities & 3 <sup>rd</sup> parties, candidates, donors	Parties, 'Other persons', candidates	Parties, groups, assoc. entities, non-party MLAs, 3 <sup>rd</sup> party campaigners, candidates, broadcasters, publishers	As above + candidates, broadcasters + publishers
<b>Special reporting</b>	No	No	Yes - gifts of ≥\$100k within 14 days, \$100k per 6 mth period from same entity, foreign property to a candidate	Yes – Gifts of >\$25000 within 7 days	No	Yes – gifts totalling \$1000 in the 3.7 months prior to the election to be declared within 7 days	No
<b>Audited statements</b>	No	✓+campaign accounts	✓	✓ parties and candidates must open State campaign account	No	No	No
<b>Broadcasters/Publishers</b>	No	No	All details re. advertising	No	No	All details re. advertising	All details re advertising

Disclosure system elements	Jurisdiction						
	CW	NSW	QLD	SA	WA	ACT	NT
<b>Reporting Thresholds</b>							
<b>Amount</b>	Gifts and debts >\$13200 (indexed)	Reportable donations and loans ≥ \$1000 inc. multiple donations by same donor that = threshold	Gift /loan ≥ \$1000,	Gifts ≥\$200, loans ≥\$1000, Details of gifts /loans >\$5000 (indexed)	≥\$2300	Gifts ≥\$1000 Debts ≥\$1000	See below
<b>Registered Political Parties</b>	Total gifts + total donors, gift details > threshold, total payments, debts.	Donations made, received & expenditure incurred re another party/ MLA/ candidate/ group of candidates/ 3 <sup>rd</sup> party campaigner. Loans	Total \$ rec'd, paid & outstanding + applies to organisations. Returns to be audited and certified.	Record gifts ≥\$200, loans ≥\$1000, disclose details of gifts & loans >\$5000; Person intending /spending \$10k from 1 Jan to 30 days post GE polling day	Annual – total of all gifts + Y + details where ≥\$2300, + multiple donations exceeding threshold. Election- party expenditure	Yes + MLAs Summary details of receipts, expenditure & debts. Details of debts & gifts ≥\$1000 Campaign expenditure - transactions	Total rec'd and paid + details of gifts and loans ≥\$1500
<b>Associated Entities</b>		MLAs – Donations made, received & expenditure incurred inc. threshold. Reportable loans					Total rec'd/ paid + details of gifts & liabilities incurred ≥\$1500
<b>Third parties</b>	Annual return if political expenditure >threshold	Reportable donations made, donations received + expend. incurred in election disclosure period	Gifts ≥\$1000 threshold in any reporting period + political expenses in election period		'Other persons' to disclose gifts/ expenditure ≥\$2300 not disclosed elsewhere	Details of campaign expenditure + gifts rec'd ≥\$1000	No
<b>Candidates</b>	Election return – sum of all gifts, total donors, donation details >threshold + expenditure writ issue to polling day	Donations made, received, reportable loans & expenditure incurred + threshold	All gifts and no. donating, loans, political expenses	Record gifts ≥\$200, loans ≥\$1000, disclose details of gifts & loans >\$5000,	Totals of all gifts and expenditure with details of gifts ≥\$2300	Non-endorsed - gifts rec'd ≥\$1000 + expenditure with details	Gifts ≥\$200 Loans ≥\$1500
<b>Donors</b>	People/entities making donations to candidates > disclosure threshold must lodge a return	1 or >1 reportable donation	No	>\$5000 to a candidate or relevant entity (political party, assoc. entity or 3 <sup>rd</sup> party)	No	No	≥\$200 to candidates ≥\$1000 to parties to meet \$1500 threshold

## NTEC glossary of terms for financial disclosure as at August 2016

The description of the terms in this glossary may differ from the formal meaning given to those terms in the Act. *Note, currently this glossary can be downloaded from the NTEC website and relevant definitions, as appropriate, are included in the various documents prepared for participants in the electoral processes who must meet disclosure obligations.*

### **Anonymous donations**

Gift made by a donor whose name or address was not known to the person receiving the gift when the gift was made. (Anonymous donations of \$1000 or more are debts to the Territory).

### **Associated entity**

An organisation controlled by, or operating for, the benefit of one or more registered political parties. This includes organisations that are independent of, but primarily for the benefit of a party. It includes companies holding assets for a political party, investment or trust funds, and fundraising organisations, groups and clubs.

### **Broadcaster**

The ABC, SBS and any holder of a licence within the meaning of the *Broadcasting Services Act 1992* or a provider of a broadcasting service under a class licence under that Act.

### **Campaign committees**

The transactions of campaign committees of endorsed candidates must be included in the annual returns of a party.

### **Candidate**

A person standing for election to the NT Legislative Assembly.

### **Capital contribution**

A capital contribution is a deposit to the capital, equity or funds of an associated entity, for example an injection of shareholders' funds into a company or a contribution to the principal of a trust. A payment made to a registered political party from an associated entity must be disclosed as a capital contribution.

### **Cash accounting**

Annual returns are to be compiled on a cash basis, that is only actual, completed transactions are disclosed. A payment by cheque is reported when the cheque has been presented and money has actually changed hands, not when it is written.

### **Detailed disclosure**

The full name, address and the total value of transactions must be disclosed for each person reaching the disclosure threshold for receipts or debts, and for all people making capital contributions.

### **Disclosure period for an election**

Independent candidate – commences day candidature announced or day nominated, whichever is the earlier

Newly endorsed party candidate – commences from the date of endorsement

Candidate from the previous election nominating again – commences 30 days after the previous polling day

Ends 30 days after polling day

### **Disclosure threshold**

Receipts of \$1500 or more, debts totalling \$1500 or more, and all capital contributions must be disclosed in detail.

### **Donation**

Any gift, whether of money or 'gifts-in-kind' for example a disposition of property or provision of a service for which no payment, or an inadequate payment, is received. The term includes cash and non-cash/gift-in-kind transactions, but does not include commercial transactions or volunteer labour. A discount given on an electoral advertisement which was not made on commercial grounds would be considered a donation. Donations of \$200 or more to a candidate or \$1500 or more to a political party must be disclosed to the NT Electoral Commission on the appropriate return.

### **Donor**

A person or organisation other than a registered political party and its associated entities, a candidate, broadcaster or publisher who is under an obligation to lodge a disclosure return for example donors of \$1500 or more to political parties, and lobby groups advertising during an election campaign.

### **Election period**

The period from the issue of the writ to the return of the writ inclusive. Electoral advertisements broadcast or published during the election period must be disclosed in a return lodged with the NT Electoral Commission.

### **Electoral advertisement**

An advertisement which is intended or likely to affect voting in an election. It includes campaign advertisements run during the election period for political parties and candidates **plus** advertisements run by persons or organisations stating their position on an election issue and/or advocating that electors vote in a certain manner. Electoral advertisements must be disclosed in a return lodged with the NT Electoral Commission. Advertising by government agencies that contains electoral matter must also be disclosed.

### **Electoral expenditure**

Electoral expenditure totalling \$200 or more incurred on goods or services for the following categories of campaign expenditure must be disclosed following each election or by-election:

- broadcasting electoral advertisements
- publishing electoral advertisements
- displaying electoral advertisements
- production of campaign material
- direct mailing
- opinion polling and election research.

### **Electoral matter**

Matter that is in printed or electronic form that is intended or likely to affect voting at an election. It includes, but is not limited to, matter that contains an express or implicit reference or comment on the election, the performance of the Government or the opposition, the performance of an MLA or former MLA, the performance of a political party in the election or an issue submitted to, or otherwise before, the electors in relation to the election.

**Financial controller**

The person responsible for lodging the annual return of an associated entity. The financial controller is the company secretary, the trustee of a trust or, in other cases, the person responsible for the accounting records.

**Financial institution**

A bank, credit union, building society or a special service provider registered with Australian Prudential Regulatory Authority.

**Gazetted body**

A person or body specified by the NT Electoral Commission in the *Northern Territory Government Gazette*. Donations to a *Gazetted* body may need to be disclosed in a return to the Commission.

**Gifts-in-kind**

Non-cash donations for example receipt of assets or services, discounts other than in the normal course of business and non-commercial or excessive payment for goods or services (including membership) are cash donations for disclosure purposes. Examples of gifts-in-kind may include free legal advice by a law firm and the donation of items or services as raffle prizes, but not volunteer labour of party members.

Gifts-in-kind must be disclosed at the appropriate value - normally this is the commercial or sale value of the item or service.

**Internal party transactions**

Transactions between party units within a NT political party.

- Internal party transactions are NOT disclosed
- Transactions with a party unit from the Federal or another State or Territory branch of the same party MUST be disclosed.

**Journal**

A newspaper, magazine or other periodical, whether published for sale or distribution without charge.

**Loan**

A loan is an advance of money, provision of credit or other financial accommodation, a payment with the expectation of repayment or a transaction, which has the effect of a loan of money. A loan of \$1500 or more must be disclosed (each credit card transaction is a single loan) as a receipt, and details of the source, terms, and conditions disclosed where the loan is not from a financial institution.

**Party agent**

A person appointed by notice in writing to the NT Electoral Commission by the relevant branch of the party. A party agent does not automatically become an agent for candidates of the party.

**Party unit**

A generic term used to describe all sections of a political party including its local branches, and campaign committees.

**Period of disclosure**

Annual returns cover the financial year 1 July to 30 June.

**Public inspection**

Copies of all disclosure returns become available for inspection by the public at the NT Electoral Commission's Darwin Office

- Annual returns are available from 1 March.
- Election returns are available at the start of the 25th week after polling day.

### **Registered officer**

The person registered with the NT Electoral Commission who has the authority to nominate candidates. The nominated registered officer does not change until the NT Electoral Commission is formally notified of a replacement.

### **Registered political party**

A political party registered with the NT Electoral Commission. (*Registration with a State electoral commission does not confer federal registration.*)

Political parties not registered with the NT Electoral Commission are treated as donors for disclosure purposes.

### **Related bodies corporate**

Related bodies corporate are considered to be a single entity for disclosure purposes. Related status is determined under the *Corporations Law*.

### **'Return' form**

A form in which a person with a disclosure obligation sets out the information required to be disclosed. For example, the NT *Electoral Act* requires that disclosures of electoral advertisements be made on the prescribed form. Forms and handbooks are available from the NT Electoral Commission or can be downloaded from the NTEC website.

### **Third parties**

A term used to describe a person or organisation, *other than a registered political party, candidate, associated entity, broadcaster or publisher*, who is under an obligation to lodge a disclosure return for example donors of \$200 or more to a candidate and/or lobby groups during an election campaign.

### **Transaction threshold**

Only individual transactions of \$1500 or more are counted when calculating the disclosure threshold for receipts.

### **Volunteer labour**

Volunteer labour does not need to be disclosed as a donation. The donation of **unpaid** time by a person is considered volunteer labour where it is provided by an office-holder of the party or a party member, or any other person where that service is not one for which that person normally receives payment.