

## Political finance disclosure: party and donor annual returns 2002–03

The Australian Electoral Commission made public the 2002–03 annual disclosure returns for political parties, associated entities and donors on 2 February 2004. A month later, the Senate resuscitated an inquiry into the disclosure of donations to political parties and candidates (see below).

Under the *Commonwealth Electoral Act 1918*, annual returns covering the financial year must be filed by 20 October and are released for public inspection on the first working day in February of the following year.

Briefly, party annual returns must contain the total of all amounts received, expenditure incurred and debts outstanding as at 30 June.

Details of receipts and debts of \$1500 or more must be set out in the return.

Donor returns must give details where a donor has given a total of \$1500 or more in the year to a registered political party.

This Research Note provides a guide to the 2002–03 returns, noting:

- the total receipts, payments and debts for the larger parties
- how this compares to the 2001–02 totals
- the difference within the receipts between ‘donations’ and ‘other receipts’, and how this complicates calculating total donations, and
- the limitations of donor returns.

The final section offers a ‘how to’ guide for searching the returns.

### Political parties: total receipts

Each branch of a political party must file a return to the Australian Electoral Commission. Thus, the disclosures give separate totals for the parties’ national secretariats and for each state and territory branch. As this Note

looks to the macro level of the disclosures rather than the micro level, the totals in Table 1 are calculated by adding the figures for each associated party unit to give a total for what the commission calls a ‘related party grouping’.<sup>1</sup> By way of comparison, the totals from the 2001–02 returns are given in Table 2.

Note that the 2001 election fell into the 2001–02 financial year, and that the party receipts for that year include large amounts of public funding. (This is the money paid to parties and candidates who attain at least 4 per cent of the total formal first-preference votes. The rate to 30 June 2004 is just under \$1.92 per eligible vote.)

### ‘Donations’ and ‘other receipts’

A common assumption when looking at the annual returns is that the ‘receipts’ total can be read as the level of donations to a party in the financial year. However, the ‘receipts’ column

*cannot* be read as the total for *donations* because parties have to disclose *all* amounts received in a financial year, irrespective of whether the amount is a donation or not.<sup>2</sup>

The Electoral Act uses the term ‘gift’, rather than ‘donation’, and section 287 defines a ‘gift’ as:

any disposition of property made by a person to another person ... being a disposition made without adequate consideration in money or money’s worth.

This means that cash and non-cash (gifts-in-kind) may count as donations, but commercial transactions (such as returns on investments) do not. The Act (section 287) notes that an ‘annual subscription’ to a party (for example, a membership fee) is *not* a donation.

- ‘other receipts’

In order to attempt to differentiate between the amounts that parties raise in ‘donations’ and ‘other receipts’, the

**Table 1: party disclosure returns 2002–03**

Party (totals)	Receipts (\$)	Payments (\$)	Debts (\$)
ALP	39 379 517	40 397 009	6 747 838
Liberal	34 389 818	35 680 499	9 489 471
Nationals	8 974 109	9 485 203	3 187 638
Democrats	851 654	1 837 225	293 000
Greens	838 118	1 320 804	140 252
Total	84 433 216	88 720 740	19 858 198

**Table 2: party disclosure returns 2001–02**

Party (totals)	Receipts (\$)	Payments (\$)	Debts (\$)
ALP	60 797 263	57 225 266	3 165 559
Liberal	62 024 302	57 564 934	9 723 207
Nationals	9 534 179	9 029 840	2 581 925
Democrats	5 581 331	5 461 940	104 051
Greens	2 560 703	2 049 269	69 527
Total	140 497 778	131 331 250	15 644 270

electoral commission asks that parties identify the type of receipt as a 'donation' or an 'other receipt' (see Figure 1 for an example of the identification of receipts by type).

**Figure 1**

**Australian Democrats Victorian Division - VIC**  
 G2, Eastbourne House 62 Wellington Parade  
 EAST MELBOURNE VIC 3002

Declared Total Receipts: \$79,488.00

Receipts where \$1,500 or more was received:

Name	Address	Type of Receipt	Value
Diana Droog	19 Mason Street HAWTHORN VIC 3122	Donation	\$4,000
Australian Democrats - NATIONAL	PO Box 5089 KINGSTON ACT 2604	Other Receipt	\$31,807
Victorian Electoral Commission	Level 9 505 Little Collins Street MELBOURNE VIC 3000	Public Funding	\$6,311

Source: Australian Electoral Commission web site:  
<http://search.aec.gov.au/annualreturns/arwdefault.asp?submissionid=5>

'Other receipts' include membership fees, interest on investments, share dividends and rent received on properties. This category also includes, for example, any amount that the party receives as a refund from a company to which it has paid for services in advance. (That is, if a party pays for its electricity in advance, but pays more than it has to, then the refund is an 'other receipt'.)

However, although the commission asks parties to make the distinction between 'donations' and 'other receipts' in their annual returns, it is not a legislative requirement for them to do so, and some do not, in which case the 'type of receipt' field is given as 'unspecified'.

Some branches of the same party may make the distinction, while other branches may not. For example, in the 2002–03 returns, the ACT branch of the Australian Labor Party declares total receipts of \$566 040. Of the \$413 044 for which details are given, there is one 'donation' of \$366 064 and nine 'other receipts' totalling \$46 980. (Note that details are given only for amounts of \$1500 or more. See below.) The Northern Territory branch of the ALP declares total receipts of \$228 181, but all seven receipts (totalling \$69 418) for which details are given are listed as 'unspecified', making it impossible to know whether any are, in fact, 'donations' under the Act.

• **interpretation problems**

An additional problem is that the categories are open to interpretation

and each party—and separate branches of the same party—may interpret the categories differently. This means that what one party (or branch) lists as a 'donation', another may list as an 'other receipt'. For

example, some may interpret the payment to attend a fund-raising dinner as a 'donation', while others may not.

• **amounts under \$1500**

A further complication when calculating how many of the receipts are 'donations' is that parties have to identify individually only those amounts above \$1500. That is, while returns incorporate all amounts received no matter how small in their overall total, they do not include the details of 'donations' or 'other receipts' of amounts under \$1500. A problem here in terms of tracing the sources of money given to parties is that amounts under \$1500 from the same source are not cumulative for the purposes of party returns. That is, a single donor may make 10 donations of \$1499 (totalling \$14 990) to the same branch of a party, but that branch does not have to disclose the details of any of these donations because each is under \$1500 and each is counted individually for the purposes of the annual return.

Such donations to the same branch are cumulative for the donor, who is required to lodge a donor return, but again, this is not unproblematic, as will be discussed below.

**Total donations**

The result of these reporting problems is that it is impossible to discover how much parties raise in donations each year. Figures 2 and 3 provide an illustration. Figure 2 shows that, for example, of the \$851 654 the

Australian Democrats received in 2002–03, details are given for only \$630 606 (the difference being comprised of the amounts less than \$1500).<sup>3</sup> Of the \$630 605, \$374 598 is listed as 'other receipts', \$41 313 as 'public funding' and \$11 601 as 'donations'. The remaining \$203 094 is listed as 'unspecified', which means that the commission does not know whether it comes from 'donations' or 'other receipts'.

However, as noted above, variations in branch interpretations of what is a 'donation' and what is an 'other receipt' mean that, even within the categories given, the totals are not a reliable indication of the level of 'donations' as opposed to 'other receipts'.

**Donor returns**

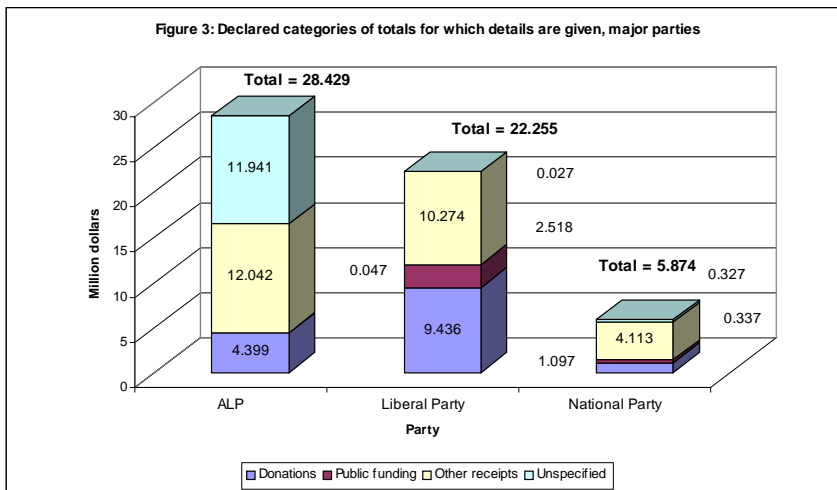
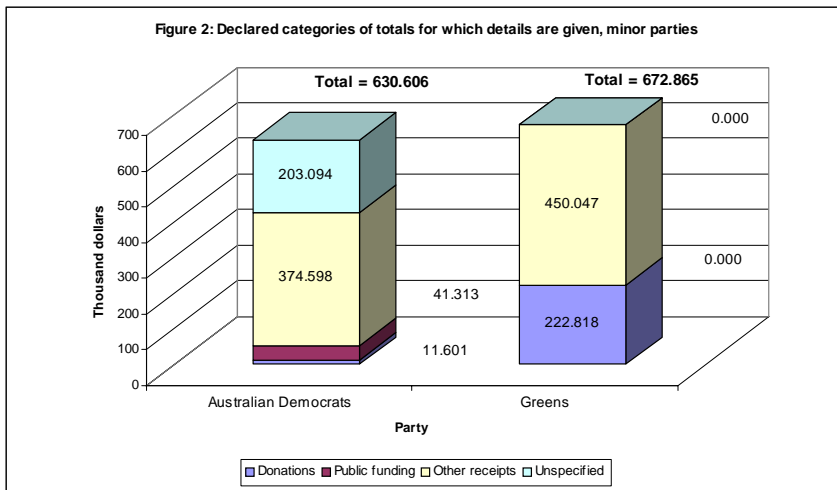
Another way to approach the issue of donations is to look at the annual donor returns. Under the Electoral Act (section 305B), those who donate a total of \$1500 or more to a registered political party in a year must lodge an annual return with the electoral commission. Thus, returning to the example given above, the donor making 10 donations of \$1499 is required by law to lodge a return because the total donation for the year is \$14 990.

This requirement suggests that, if it is not possible to find the total amount of donations a party receives from the *party* annual returns, it may be possible to obtain some idea of the amount from *donor* returns (noting, of course, that only those who donate a total of \$1500 or more must lodge a return, which means the amount is indicative only).

However, there are several difficulties with donor returns.

• **lodged returns**

One obvious difficulty is that it is impossible to know whether a donor has lodged a return if required to do so. At the Senate Finance and Public Administration Legislation Committee additional estimates hearing on 17 February 2004, Senator Kerry



Nettle asked the electoral commission how many donors failed to submit the required returns each year. The response was ‘how long is a piece of string?’; that is, the commission does not know how many people should be lodging a return because—as noted above—parties do not have to disclose the details of donations under \$1500, even when the cumulative total from the same source may be more than \$1500. This anomaly puts the onus on donors to fulfil their legal requirement to file a return, but makes it impossible to cross-check, using party returns, whether a donor has actually done so.<sup>4</sup>

• **multiple donations**

In addition, the donations total for a financial year is *not* cumulative for the donor *if* the donor makes each donation to a separate branch of the party, because each branch is counted as an individual entity. This means that a donor could donate \$1499 to each of the nine separate registered entities of the Labor Party (totalling

\$37 791), but would not have to lodge a return.

• **purchased services**

Yet another complicating factor is that donors need not lodge a return if they believe they have received something in return for their money. Thus, a businesswoman who pays \$10 000 to attend a party fund-raiser and who sits next to a political figure or converses with another businessperson such that she believes that her business has benefited, has made a purchase rather than a donation and need not lodge a return, despite having paid \$10 000 to the party.

The difficulty here is that some businesses admit that they attend such fund-raisers in order to try to influence policy in their favour. For example:

Asked why Melbourne University Private (MUP) had paid \$3500 for a table at an ALP fundraiser, chief executive David Lloyd said: ‘It’s an opportunity to talk to people in an informal context. It’s about influence, it’s about finding out what they are

thinking, it’s about them finding out what we are thinking. I fail to see anything subversive about that.’<sup>5</sup>

While in this instance the business lodged a return, under the letter of the law, it did not have to do so if it believed that it had, in fact, purchased influence. This ‘loophole’ suggests that the current disclosure law may allow the hiding of the very types of donation-linked influence that it ostensibly aims to expose.

The electoral commission has compiled figures from the 2002–03 donor returns that offer an interesting comparison with the total receipts figures from the party returns. The first column of figures in Table 1 (page 1) gives the parties’ receipts totals. Recall that these totals include all receipts, not only donations. The figures from the donor returns are:

Party	Donors (\$)
ALP	7 344 645
Liberal	7 076 541
Nationals	930 447
Democrats	93 124
Greens	159 921
<b>Total</b>	<b>15 604 678</b>

Looking at the Democrats figures for an example, the donor returns show that donors gave \$93 124 to the Democrats, which is significantly more than the \$11 000 that the party directly identifies as donations (see Figure 3). Several factors explain the difference:

- donors who give multiple amounts of less than \$1500 will not appear in the details of the Democrats’ returns, but will appear in the donor returns if they made the donations to the same branch of a party
- donors may be identifying as a ‘donation’ an amount that the Democrats categorise as an ‘other receipt’
- many ‘donations’ that donors have disclosed may be located within the Democrats’ \$203 093 ‘unspecified’ receipts
- parties may have declared as a ‘donation’ (or an ‘other receipt’)

an amount paid to attend a party fund-raiser whereas the person makes no disclosure, believing she has purchased a service (made useful connections).

All of these factors suggest that, although the figures offer an interesting superficial comparison between donors' declared donations and those that the parties disclose, the myriad difficulties with the minutiae of the disclosures make more than a passing comparison unreliable.

This means that the donor returns do not offer much assistance when it comes to working out how much parties receive each year in donations.

### Current inquiry

Many of the difficulties with the disclosure returns canvassed in this Research Note are the subject of a current Joint Standing Committee on Electoral Matters inquiry that is scheduled to report on 3 August 2004. The Senate agreed to this inquiry on 4 March 2004 on a motion from Democrats Senator Andrew Murray.

The inquiry resuscitates an earlier electoral matters committee inquiry that was constituted in August 2000 but lapsed when the committee ceased to exist on the dissolution of parliament for the 2001 federal election. The inquiry will examine those recommendations of the Australian Electoral Commission's 1996 and 1998 funding and disclosure reports not currently incorporated in legislation or that the committee has not previously examined. It will report on the desirability of incorporating these recommendations into the Electoral Act and on:

any amendments to the *Commonwealth Electoral Act* necessary to improve disclosure of donations to political parties and candidates and the true source of those donations.<sup>6</sup>

The commission's funding and disclosure reports, as well as the terms of reference and links to submissions and media releases related to the earlier inquiry, can be found at:

[http://www.aph.gov.au/house/committee/em/f\\_d/index.htm](http://www.aph.gov.au/house/committee/em/f_d/index.htm)

### Conclusion

The current inquiry into political disclosures may resolve many of the difficulties related to current disclosure requirements highlighted in this Research Note. Meanwhile, any figures quoted or published on the level of donations to political parties need to be treated with great caution.

### Searching the returns

For the returns available on the Internet, click on the following link: [http://www.aec.gov.au/content/how/political\\_disclosures/index.htm](http://www.aec.gov.au/content/how/political_disclosures/index.htm), then click on the year of the returns to be searched.

From this point, the returns can be searched in a number of ways. To find the source and value of donations to a party, for example, click on 'search' (on the left side of the screen), find the name of the party in the first box, then click the search button. From there, it is possible to search by 'source of receipt', 'type of receipt' and 'value of receipt'.

Searching by donor is also possible; use the second of the boxes on the first search page (the one beneath the party box), and type in the search term. For example, to find *some* of the donations by the sugar industry, type in the word 'sugar' (or the particular company's name) and it will find all returns with 'sugar' in the name, such as Bundaberg Sugar Limited, Mackay Sugar, and Maryborough Sugar Factory Limited. Click on the company name for the details of the donation.

Note, however, that searching in this way will not capture all donations from the sugar industry as it relies on 'sugar' being in the company name. This makes it problematic to search for donations from, say, the tobacco industry or the oil industry as many companies in these industries do not have 'tobacco' or 'oil' in their official names.

More specific searches are possible using the other functions on the left of the first search screen. 'Analysis' allows returns to be searched by value (among other things); 'updates' gives the amendments since the return was first filed (20 October).

The commission notes that, while it can provide advice on how to navigate the information on the web site, it does not provide research assistance. Nor does it interpret or comment on the data contained in the returns.

1. The commission defines a 'related party grouping' as: 'A group of Parties that have registered with the Australian Electoral Commission as being structurally related to each other.' See: <http://search.aec.gov.au/annualreturn/s/arwdefault.asp?submissionid=5>
2. Blending 'donations' and total 'receipts' in this way is an extremely common reporting error when the disclosures are made public. See, for example, Leon Gettler, 'Can power be bought?', *Sunday Age*, 8 February 2004, p. 15.
3. The amounts under \$1500 will include both 'donations' and 'other receipts'.
4. Note that the electoral commission does undertake compliance reviews. The maximum fine for not filing a return is \$1000.
5. Gettler, op. cit.
6. See: <http://www.aph.gov.au/house/committee/em/donations/index.htm>

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