

Hidden money in politics: What the AEC disclosures don't tell us

Briefing paper

The Centre for Public Integrity

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Summary

Vast amounts of money potentially influencing last year's federal election will not be disclosed to the public. The source of over \$100 million received by the major parties alone in 2018/19 will be hidden from public view.

Annual returns released on Monday by the Australian Electoral Commission will only cover some donations to political parties and other participants. Donations under \$14,000 will not be disclosed, and income from party fundraising events and membership fees is likely to be hidden. Party income that has not been disclosed amounts to over \$1 billion since 1999.

Campaign spending will not be made public. Voters will not know who spent what in key states or marginal electorates. Close elections rely on marginal seat campaign strategies, but the public will remain in the dark about what was spent where before the last election, including in key seats in Victoria and Queensland.

Any breaches of disclosure regulations are unlikely to be investigated, as the enforcement function of the Australian Electoral Commission is under resourced and there is no independent National Integrity Commission established to investigate breaches.

Hidden money

Current federal disclosure regulations allow the majority of political donations to be hidden. With the threshold for reporting set at \$14,000 and without a cap, donors could potentially donate \$13,900 multiple times through federal and state parties and not be disclosed to the public. Donations disclosures are lodged by political parties, associated entities and third parties in October each year. These are made publicly available in early February of the following year, meaning that donations to the May 2019 election were only made public in February 2020.¹

Donations made through attendance at party fundraisers, priced at \$10,000-20,000 per person, are currently not categorised as gifts. Corporate sponsorship or membership of cash-for-access business forums, with reports citing corporate contributions of \$27,500 and

¹ Australian Electoral Commission, *Financial Disclosure Guides*, accessed 9th June 2020, https://aec.gov.au/Parties_and_Representatives/financial_disclosure/guides/political-parties/index.htm

\$110,000, are at risk of being hidden from public view.² The Millennium Forum, a former business network of the Liberal Party, has been exposed in funnelling illegal property developer donations, and facilitating the undue influence of property developers seeking assistance with a debt-ridden company.³ Other membership fees that contribute to advocacy and electoral expenditure are largely not disclosed to the AEC, including corporate membership of peak advocacy bodies.

There is even less transparency of electoral expenditure. The Commonwealth Electoral Act was amended in 1995 to require only total expenditure to be reported, and not itemised or categorised electoral expenditure, giving the public no details of what parties are spending their income on. It was amended again in 1998 to not require any electoral expenditure to be disclosed at all.⁴

Money in politics is hidden further through basic non-disclosure and low levels of enforcement. The Australian Electoral Commission (AEC) has raised concerns of non-compliance with existing low level disclosure requirements, including that full disclosure can be legally avoided, and that some seek to circumvent the intent of the regulations by applying the narrowest possible interpretation of the legislation.⁵ For example, the Federal Labor Party failed to properly disclose a \$100,000 donation in 2016/17 from the car salary packaging peak association, made in the same year then Opposition Leader Bill Shorten promised generous tax arrangements for the industry.⁶ The NSW Labor Party used the names of restaurant staff at a fundraising dinner to hide an illegal \$100,000 donation from Chinese billionaire Huang Xiangmo.⁷

Summary of hidden donations in federal politics

- No donations under \$14,000 disclosed
- Donations under threshold not aggregated, allowing multiple donations of \$13,999 to be hidden from public view
- True identity of donors easily hidden (easy to hide behind straw donors, associated entities or subsidiary companies)
- Status of money categorised as 'other receipts', 'subscriptions' or 'unspecified' remains unknown
 - o Other receipts alone amounts to over half a billion dollars since 1998/99
 - o 35% or \$1.07 billion party income has not been disclosed by major parties alone since 1998/99

² Knaus, 2018, *Liberals and Labour urged to come clean on business paying for political access*, The Guardian, <https://www.theguardian.com/australia-news/2018/oct/28/liberals-and-labor-urged-to-come-clean-on-business-paying-for-political-access>

³ Marksonn, 2016, *Defunct Millennium Forum set Baird up with property developers*, The Australian, <https://www.theaustralian.com.au/nation/politics/defunct-millennium-forum-set-baird-up-with-property-developers/news-story/1ed4e389bff695c57753d3dde5da26d4>

⁴ *Commonwealth Electoral Act 1918*, Notes, Endnotes and amendments, http://classic.austlii.edu.au/au/legis/cth/consol_act/cea1918233/notes.html

⁵ Young and Tham, 2006, *Political finance in Australia*, Report 7 of the Democratic Audit of Australia, Australian National University, Table 5.2 pp 17-18.

⁶ Knaus, 2018, *Major parties failed to declare corporate donations, electoral commission finds*, The Guardian, 26th November 2018, <https://www.theguardian.com/australia-news/2018/nov/26/major-parties-failed-to-declare-corporate-donations-electoral-commission-finds>

⁷ Knaus, 2019, *Former NSW Labor boss seen with \$100,000 cash in Aldi bag after meeting banned donor, Icac inquiry told*, <https://www.theguardian.com/australia-news/2019/aug/26/nsw-labor-got-100000-in-cash-from-chinese-billionaire-icac-inquiry-told>

- Over \$100 million received in election year 2018/19 by major parties was not explained in disclosures
- Cash donations undisclosed
- Donations made from June 2019 – now not made public until February 2021
- For political party returns, income party fundraising events, corporate sponsorship or large membership fees will only be disclosed if above disclosure threshold, and then they are likely to be classified as 'other receipt'.
- For third parties, returns only require gifts to be disclosed and arguably don't extend to income from events, membership or affiliation fees.
- Donations hidden through non-disclosure unlikely to be investigated.

Hidden spending

- Very limited transparency of spending. Only total sum spent disclosed, no information on where or what spending occurs.
- Proportion spent on electoral expenditure unknown.
- No itemised spending disclosed – what is the money buying?
- Geographical location of electoral expenditure unknown – state or electorate of spending.

Money hidden by 4 largest parties (Coalition, ALP, Nationals, Greens)

1998/99 – 2018/19

Party income \$m	Donations \$m	Other receipts \$m	Subscriptions \$m	Explained \$m	Hidden money \$m	Hidden money %
3054.43	482.92	497.05	48.15	956.1	1070.22	35.00

2018/19

Party income \$m	Donations \$m	Other receipts \$m	Subscriptions \$m	Explained \$m	Hidden money \$m	Hidden money %
328.53	41.74	35.45	0	148.22	103.12	31.40

Money hidden by ALP and Coalition (LNP)

1998/99 – 2018/19

	Party income \$m	Donations \$m	Other receipts \$m	Subscriptions \$m	Explained \$m	Hidden money \$m	Hidden money %
ALP	1295.44	213.38	289.4	36.44	392.96	363.23	28.00
LNP	1580.01	257.05	197.78	11.38	483.99	629.8	39.9

Transparency reforms needed

Reform of our regulatory system is needed to increase transparency and accountability of money in politics. Lowering disclosure thresholds, requiring real time disclosure and properly enforcing regulations will allow the public to see how politics is financed.

Necessary reforms include:

1. Low threshold to report all individual donations over \$1000, or aggregated donations of \$3000 over 3 years, to political parties, candidates, associated entities and third parties.
2. Broad definition of 'donation' to include income from party fundraisers, corporate sponsorship of business forums, and membership fees over \$2000 per year.
3. Real time disclosure of donations and expenditure, plus quarterly reports providing categorisation and aggregates of donations and expenditure.
4. Donations and expenditure returns to be itemised, and audited.
5. A single dedicated campaign account to facilitate auditing.
6. Enforcement through a strong and well-resourced enforcement division of the Australian Electoral Commission, and alleged or suspected breaches to be investigated by a National Integrity Commission.

About The Centre for Public Integrity

The Centre for Public Integrity is an independent think tank dedicated to preventing corruption, protecting the integrity of our accountability institutions, and eliminating undue influence of money in politics in Australia. Board members of the Centre are the Hon Tony Fitzgerald AC QC, the Hon David Ipp AO QC, the Hon Stephen Charles AO QC, the Hon Anthony Whealy QC, Professor George Williams AO, Professor Joo Cheong Tham and Geoffrey Watson SC. More information at www.publicintegrity.org.au.