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In June 2014, Premier Baird established the Panel to consider and report on long term reform of election funding laws in New South Wales. The Panel members are Dr Kerry Schott (Chair), The Hon. John Watkins, and Mr Andrew Tink AM. The Panel members have been appointed under Letters Patent issued by the Governor.

Following its terms of reference (Appendix 1), the Panel is required to investigate options for long term reform of NSW political donations laws. This includes consideration of whether it is feasible and in the public interest to provide full public funding of State election campaigns. The Panel is required to report by 31 December 2014.

The Panel advertised widely to invite written submissions by 17 September 2014, and published an Issues Paper and a series of Working Papers on its website to guide and inform the debate. The Panel has so far received over 70 submissions from a broad range of interested people and organisations including members of the public, political parties, Members of Parliament (past and present), academics, peak bodies and other third-party interest groups. The issues that the Panel is considering have been covered by the media and this has led to some lively social media debate. The common theme has been disgust with corruption with different views about how to address it.

Different opinions are held about limits on political donations and electoral expenditure, the level of public funding that should be provided, and the extent to which the State should regulate the internal governance of political parties. The Panel hosted roundtable discussions with leading academics on 24, 25 and 29 September 2014 to further inquire into these issues. Members of the public were invited to attend and transcripts have been published on the Panel’s website (see http://www.dpc.nsw.gov.au/announcements/panel_of_experts_-_political_donations).

The submissions received by the Panel do reveal some areas of consensus. Most agree that more frequent and meaningful disclosure of political donations would help electors cast an informed vote, perhaps improving public confidence in the electoral system. Many submissions describe the current offences and penalties as inadequate and call for increased penalties to match the seriousness of deliberate breaches of election funding laws. A longer timeframe to bring prosecutions of potential breaches of election funding law was also commonly advocated. There have also been calls to better educate candidates and Members of Parliament about both ethical conduct and compliance with the Act.

Although the Panel has not yet formed a view on all of the matters set out in its terms of reference, it has prepared a short Interim Report on those areas where it has formed a clear view or identified a broad direction for action.

The Panel favours a number of measures to improve transparency, accountability and integrity of the election funding regime, including:

- more frequent and timely disclosure of reportable political donations so that voters are aware of fundraising activity before an election;
- increased penalties for serious breaches of election funding laws, a longer time period for commencing prosecutions and a new general anti-circumvention measure; and
- mandatory education programs for candidates and Members of Parliament on ethical conduct and compliance with the Act.
In the Panel's view, these measures would not require significant legislative amendment or lead to further complications in an already complicated Act. The Panel believes that they could have a practical impact in terms of transparency, accountability and integrity.
Real-time disclosure of political donations

Background

In New South Wales, annual disclosure obligations apply to political parties, elected members, candidates and groups. Third-party campaigners and major political donors are also required to lodge annual declarations with the EFA.

For donations of $1,000 or more, details including the name and address of the donor must be disclosed and are published in the EFA’s searchable online database. For donations under $1,000, the total amount of small donations and the total number of persons who made those donations must be disclosed. Donations of less than $1,000 from the same source in the same financial year must be aggregated for the purposes of the disclosure threshold. Given the broad definition of ‘political donation’ under the Act, the disclosure rules capture membership and affiliation fees, the proceeds of fundraising ventures and functions, and transfers of money to the NSW branch of a political party from the federal or other State or Territory branches of the party.

Annual disclosures must be lodged within 12 weeks of 30 June each year (or within 16 weeks of 30 June each year in the case of major donors). This means there is a delay between the making of a donation, the disclosure of that donation to the EFA and the release of information about the donation to the public. For example, disclosures (other than disclosure by major donors) covering the period from 1 July 2012 to 30 June 2013 were not due to be lodged until 22 September 2013 and were not available to the public until 25 November 2013. This means that NSW voters had to wait up to seventeen months to find out the sources and amounts of political donations made during the 2012-13 financial year.

A number of jurisdictions require either continuous or real-time disclosure in the lead up to an election. For example:

- The New York City Campaign Finance Board requires candidates to report political donations within 24 hours of receipt using a software package called C-SMART. Disclosure statements are then published on the Board’s website in near real time.

- In New York State elections, candidates must lodge three campaign disclosure reports in addition to their annual disclosure reports: 32 days and 11 days pre-election and 10 days post-election. Donations of $1,000 or more received in the 11-day period before the election must be disclosed within 24 hours of receipt. Electronically filed disclosures are generally available through the New York State Board of Elections’ searchable database on the day they are received.

- Ontario, Canada requires donations of $100 or more to be reported within 10 days of being deposited. Information about such donations is then published on the Elections Ontario website within 10 days of being reported.

- In the ACT, donations over $1,000 must be disclosed within seven days if received after 1 January in an election year. Disclosures are generally made available for public inspection within a week.

- From 2015, South Australia will require immediate reporting of donations over $25,000 and weekly disclosure of donations of $5,000 or more in the lead-up to elections.
Submissions

Based on the submissions received by the Panel, there is overwhelming support for more frequent and timely disclosure of political donations. This is so despite the fact that donations are capped at relatively modest levels (about $5,700 for donations to parties and $2,400 for donations to candidates and third-party campaigners).

Mr Alex Greenwich MP favours real-time disclosure of political donations of $200 or more. The Greens NSW suggest weekly disclosure of donations of $1,000 or more in non-election periods and 24-hour disclosure in the six months leading up to an election, with electronic lodgement to replace paper-based disclosures. Unions NSW strongly supports more frequent disclosures of donations, including those made to third-party campaigners. While Unions NSW does not advocate specific reporting times, it considers that disclosure should be frequent enough to ensure that voters have up-to-date information about donations well before they vote. To this end, Unions NSW supports a ‘black out’ period for the making of donations both before and after an election – a measure that is also supported by The Greens NSW.

Real-time disclosure is a common theme in the submissions received from academics. Professor Twomey suggests that near real-time disclosure could be achieved as part of a ‘clearing house’ arrangement where all political donations are paid to and distributed by the EFA. Professor Williams, Professor Orr and Dr Tham also support continuous disclosure, with Dr Tham suggesting that continuous disclosure should be required in the three months before an election. A number of individuals also made submissions in favour of more frequent and accessible disclosure of donations before elections.

Panel’s views

Under the current annual disclosure rules, NSW voters are denied access to the sources and amounts of political donations that fund campaigns until some months after the election. This is an unacceptable result in the internet era and undermines the purpose of the disclosure regime. As Professor Orr notes, ‘disclosure delayed is disclosure denied’. This lack of transparency also fuels public mistrust and cynicism about the influence of donations on electoral outcomes and government decisions.

The Panel strongly supports online, real-time disclosure of political donations in the interests of transparency. The EFA should investigate whether the real-time disclosure software used by other jurisdictions can be adapted for NSW elections with a view to replacing paper-based disclosures with an online, real-time disclosure system as soon as possible.

As an interim measure the Panel considers that, if possible, the Act should be amended to require disclosure of reportable political donations before the 2015 election. Recipients of reportable political donations (not major donors) could be required to lodge a pre-election disclosure report covering the period from 1 July 2014 to the date that is six weeks before the election. These pre-election disclosure reports would be required to be lodged within seven days and would be limited to reportable political donations (i.e. those of $1,000 or more). Details of electoral expenditure would not be included. The EFA would then be obliged to publish the disclosure reports within seven days of receipt and would not be required to audit the pre-election disclosure reports given this short timeframe. While this option would not capture donations activity in the four weeks immediately prior to the election, it would go some way to improving transparency about the sources and amounts of donations that fund the 2015 election campaigns. While a ‘black out’ period before and after the election would close loopholes, the Panel is reluctant to adopt this as an interim measure given the constitutional risks involved with any ban on political donations.
The Panel also considers that the raw disclosure data published by the EFA should be accompanied by explanatory material to help inform the public about the sources and amounts of political donations that are used to fund State election campaigns.

The Panel's final recommendations are expected to be along these lines.
Increased penalties, compliance and enforcement

Background

There are currently various offences for breaching election funding laws, including exceeding expenditure and donation caps, making and accepting prohibited donations and making false claims or disclosures. Successful prosecutions for these offences can result in penalties ranging from $2,200 to $22,000 and two years’ imprisonment. More minor offences can be dealt with by penalty notices with amounts payable ranging from $55 to $2,750. Prosecutions must be commenced within three years of an offence being committed. In addition, if a person accepts an unlawful payment, the EFA can reclaim the payment as a debt due to the State. Double the amount can be claimed if a person knowingly accepts the unlawful payment. The major political parties are unincorporated associations. This means that it is difficult to prosecute them for breaches of election funding laws. Concerns have been raised that because the major political parties are unincorporated associations they may have inadequate governance requirements.

Submissions

There is widespread concern amongst submission authors that ‘penalties are too low, and the possibility of being prosecuted too remote, to provide a sufficient disincentive’. As Professor Williams states, a ‘politician who affects an election result by receiving an unlawful donation or spending more on their campaign than they are permitted, faces a fine of only $11,000’ and if they can keep their conduct secret for three years then they can escape even this minimal fine. A number of submissions express concern that the conduct uncovered during the recent submissions by the ICAC is beyond the three year limit for bringing prosecutions currently allowed in section 111(4) of the Act.

Professor Twomey argues for an amendment to the Act ‘so that proceedings for offences in relation to campaign finance laws may be commenced within 10 years of the offence being committed’. This is in line with the provisions in Canada, and is also supported by the submission from the The Greens NSW.

Professor Orr states in his submission:

A three year time limit might make sense in cases of mere accounting errors. But it makes no sense for offences involving significant wrongdoing, such as the knowing acceptance or making of prohibited donations or expenditures. Especially when, with behind the scenes gifts and spending, evidence takes time to bubble to the surface.

The NSW Labor submission also argues for an increase to allow prosecutions up to seven years after a breach, to ‘allow more time for audit, compliance and enforcement’.

The recent ICAC investigations have raised allegations of strategies to avoid the funding and disclosure rules, such as the funnelling of prohibited donations through federal party accounts to State accounts and the use of trusts and other entities to disguise prohibited donations. There are currently a number of offence provisions in the Act which target ‘specific types of circumvention of caps, such as a ban on certain indirect donations and an offence for prohibited donors to solicit others to make donations on their behalf’. However, to effectively address the type of behaviour uncovered by the ICAC, Professor Twomey argues for the addition of ‘a general anti-circumvention provision with an appropriately stiff
penalty’.17 Professor Twomey outlined the anti-circumvention provisions in Canada, the United Kingdom and New Zealand. These are set out in Appendix 2.

**Panel’s views**

The Panel is concerned that while there are very tight regulations around electoral funding there are insufficient compliance and enforcement incentives. The Panel believes there should be more serious offences and penalties for flouting election funding laws, including penalties sufficient to trigger disqualification of Members of Parliament. The Panel also considers that the liability of agents for election funding offences is ineffective in promoting compliance and is looking at whether responsibility should rest directly with parties, candidates and Members of Parliament.

The Panel notes that even if tougher penalties are introduced, they will be ineffective unless there is a real and material prospect of detection and prosecution where wrongdoing has occurred. For the laws to be effective, the EFA needs to be a strong and feared regulator. Changes to the Act, especially the offence provisions, to support enforcement will be recommended in due course. The Panel believes that this will enable the EFA to focus on building its detection and enforcement capacity.

The Panel is still considering whether the Act should include additional strict liability offences. The Panel is continuing to consult on whether parties should be required to incorporate or be deemed as legal entities as a condition of receiving public funding.

The Panel is still forming its views on the big picture reforms outlined above. However, there are a number of issues relating to penalties and enforcement where we have formed a clear view.

The Panel considers that the three year limit on commencing prosecutions is an insufficient time to discover, investigate and commence proceedings. The recent ICAC inquiries have highlighted the significant amount of time it can take for breaches to ‘bubble to the surface’ and for investigations to be finalised. The submissions to the Panel highlight the sense of community ire and frustration that even if the ICAC finds sufficient evidence to prosecute from Operation Spicer, the three year limitation may mean that there is no prospect of criminal prosecution. For these reasons, the Panel is likely to recommend that the three year period be extended to ten years.

While there are currently a number of anti-circumvention provisions in the Act, the Panel supports the inclusion of a general provision targeted at those who deliberately seek to avoid the election finance laws. A number of other jurisdictions have such provisions, and section 405.2(1) of the *Canada Elections Act* seems to be a good model for New South Wales. A maximum penalty of ten years’ imprisonment would send a strong message about the seriousness of such an offence and would be sufficient to trigger the disqualification provisions under the *Constitution Act 1902* (NSW).

Recommendations along these lines may be expected in December.
Background

The EFA plays a role in educating candidates contesting State elections and their campaign teams about their obligations under election funding law. The EFA does this by providing information through its website, including:

- fact sheets (e.g., donations, spending, disclosure and responsibilities of agents)
- funding and disclosure guides.

It is mandatory for party and official agents to have completed online training (unless they are exempt). The EFA also holds information seminars for prospective candidates and agents on their legal obligations and responsibilities under the Act. Seventeen seminars were held at various locations throughout the State in August and September 2014 ahead of the 2015 election. Copies of the presentation are also available on the EFA's website. Attendance at these seminars is poor. There is an average of four people attending each of the seventeen sessions. Attendance is set out in Appendix 3.

The recent ICAC investigations have uncovered poor knowledge of election funding laws among some Members of Parliament and party officials. When appearing before the ICAC some of those accused of wrongdoing have suggested that they did not know that what they were doing was wrong, perhaps because they did not know it was illegal to accept developer donations or because they were unaware that the donor was defined as a ‘developer’ under election funding legislation. Some have also suggested that they were unaware of irregularities with their campaign fundraising, because they stayed at arms-length from fundraising efforts and relied on their agent or campaign team to ensure the probity of all donations.

In addition to candidate education delivered by the EFA, the Parliament of New South Wales delivers an induction program for new Members of Parliament and their staff, as well as providing ongoing training. Training is delivered through seminars, briefings and online training modules. Topics include parliamentary procedure, Members’ entitlements and the Codes of Conduct for Members and Parliamentary Staff. There is a specific e-learning training course for Members on the Code of Conduct for Members of Parliament.

Submissions

The Panel’s consultations to date have led us to conclude that pre-election education is a means to impress upon candidates the importance of conducting fundraising activities in a manner that meets the highest ethical standards. Education activities are also a key way to address concerns about poor knowledge of election funding laws.

Dr Anika Gauja and Professor Rodney Smith from The University of Sydney call for a greater focus on education. Their joint submission observes that: ‘The current NSW Independent Commission Against Corruption investigations suggest that the key problems lie not in flaws in the legislative framework but in weaknesses in enforcement and education’. 18

According to Dr Gauja and Professor Smith, ‘while it [the EFA] does engage in educational activities, these are very limited’. To address this deficiency they recommend that the EFA be given ‘a specific education function, allowing this body to inform parties, agents, candidates, donors of their responsibilities under the Act. (This would remove the “I didn’t know it was wrong” defence).’ 19
Similarly, Dr Tham calls for education to be a key function of the NSWEC. Dr Tham distinguishes between conducting structured education activities and disseminating information, noting the importance of education as it ‘… can be effective in building the compliance-capabilities of political parties, elected members, candidates, groups of candidates and third-party campaigners’. He observes that:

There is a distinction here between providing information and education. As explained by the NSW Electoral Commissioner, information is currently provided by the EFA through its website, information sheets and advertisements. Education, on the other hand, involves providing structured training to those responsible for complying with the legislation and assessing their level of knowledge and capability. Such a process is currently undertaken to a limited extent by the EFA through the requirement that a person complete training prescribed by regulations as a condition of eligibility for being an agent. It was the view of the NSW Electoral Commissioner that more by way of education could be undertaken by the EFA.

Improved education must be accompanied by simplification of the Act. A simplified Act will make education easier. The Panel’s submissions and consultations to date show that the Act is so complicated that it is difficult for even the most well-intentioned person to understand his or her obligations. Mr Colin Barry, the NSW Electoral Commissioner, describes the Act as ‘unbalanced, inaccessible and convoluted’. He states that as a consequence ‘it impedes compliance’ because ‘participants find it difficult to understand exactly what is required of them under the Act’.

**Panel’s views**

Recent ICAC investigations suggest that for some politicians and party officials, an election campaign is a quest for power that ranks above all other considerations. The ICAC has also revealed that some Members of Parliament appear to have used their public office to favour associates and to financially advantage themselves.

The Panel believes that this demonstrates the pressing need for cultural change in NSW politics. Education is one means to drive this cultural change. Education on its own, however, will be insufficient – it must be accompanied by other drivers, in particular, more rigorous investigation and enforcement, and tougher penalties for non-compliance. Receipt of public funding could be used as a lever to require higher standards of accountability and transparency within political parties and by election candidates. These and other matters will be addressed in the Panel’s final recommendations. However, the need for stronger education is one area on which we have already reached a clear view, although further work needs to be done on how to implement our proposals.

The Panel believes that there needs to be better education of candidates standing for election. This could be achieved by mandatory pre-election training for candidates provided by the EFA on candidates’ responsibilities under the Act. Public funding should be withheld from any candidate unless they can demonstrate that they attended such training. In addition, the EFA training should be complemented by training provided by the political parties for candidates and party agents to reinforce the seriousness of complying with their responsibilities under the Act. This will be a substantial undertaking that will require the EFA to significantly expand its current educational activities.

Education should not be a one-off effort. The education process should continue for those candidates who are fortunate enough to be elected to serve as Members of Parliament. During its consultations the Panel heard that training is not taken as seriously as it should be by some Members of Parliament. The Panel believes that there should be a mandatory ongoing education for all Members and their staff. Education activities should cover their obligations under election funding laws and ethical behaviour in general, including the
expectations placed on Members as holders of public office. This training could be provided by the Parliament of New South Wales drawing on the expertise of relevant agencies, including the EFA and the ICAC. This would require the Parliament to review its current program of induction and ongoing education activities.

The Panel will be consulting further on how to implement pre-election training in advance of the 2019 election, and how to institute mandatory ongoing education for Members of Parliament and will make final recommendations on these issues.
Glossary

EFA
Election Funding Authority of New South Wales

The EFA is responsible for:

- dealing with claims for public funding of State election campaigns and administration and policy development expenses;
- enforcing the caps and bans on political donations and the caps on electoral expenditure;
- enforcing disclosure requirements on political donations and electoral expenditure; and
- registration of candidates, groups, third-party campaigners and agents.

Electoral communication expenditure
A subset of ‘electoral expenditure’ that includes expenditure on:

- advertisements in radio, television, the Internet, cinemas, newspapers, billboards, posters, brochures, how-to-vote cards and other election material;
- the production and distribution of election material;
- the Internet, telecommunications, stationery and postage;
- employment of staff engaged in election campaigns; and
- office accommodation for campaign staff and candidates (other than for a party’s campaign headquarters or a Member of Parliament’s electorate office).

Electoral communication expenditure does not include expenditure on:

- travel and travel accommodation;
- research associated with election campaigns; and
- election fundraising or auditing of campaign accounts.

Electoral expenditure
Expenditure for or in connection with promoting or opposing, directly or indirectly, a party or the election of a candidate or candidates or for the purpose of influencing, directly or indirectly, the voting at an election.

ICAC
Independent Commission Against Corruption
NSWEC

New South Wales Electoral Commission

The NSWEC is responsible for:

- the conduct of State and local government elections;
- registration of political parties;
- enrolment of electors; and
- managing the electoral rolls.

Political donation

A gift made to or for the benefit of a party, an elected member, a candidate or a group of candidates.

Also includes a gift made to or for the benefit of an entity or person (including a third-party campaigner) which is used in whole or part or is intended to be used to make a political donation or to incur electoral expenditure.

The Act

_Election Funding, Expenditure and Disclosures Act 1981 (NSW)_

The Act provides the framework for the NSW election funding regime, including to:

- provide for public funding of State election campaigns and administrative and policy development expenses;
- impose caps on political donations and electoral expenditure;
- impose disclosure requirements for political donations and electoral expenditure;
- prohibit donations from specific industries; and
- constitute the EFA to oversee the implementation of the Act.

Third-party campaigner

An individual or organisation who is not seeking election who incurs electoral communication expenditure of more than $2,000 in the six months preceding a State election.
Appendix 1: Terms of Reference

The Panel, commissioned by the Governor under Letters Patent, is to consider and report to the Premier by 31 December 2014 on options for long term reform of political donations, including:

1. Whether or not it is feasible and in the public interest given all considerations (including legal, constitutional and others), to provide full public funding of State election campaigns.

2. What is the appropriate level to cap the expenditure on State election campaigns and what methodology should be utilised to determine that cap?

3. If full public funding of State election campaigns is to be provided:
   (a) what measures can be put in place to ensure the integrity of public funding;
   (b) what is the appropriate regulation of third party campaigners (such as peak bodies, companies or industrial organisations) to run political campaigns and the impact of full public funding on them;
   (c) what is the impact on minor parties and independent candidates; and
   (d) what is the level of public funding that would be required?

4. If full public funding of State election campaigns is not to be provided, what models are recommended, taking into account issues including:
   (a) what is the appropriate level of caps on political donations;
   (b) what measures can be put in place to ensure that any caps are effective;
   (c) what is the appropriate regulation of third party campaigners (such as peak bodies, companies or industrial organisations) to run political campaigns and the impact of any proposed models on them;
   (d) what is the impact on minor parties and independent candidates; and
   (e) what is the level of public funding that would be required?

5. In considering all reform options, the Panel should consider:
   (a) what controls should apply to the making of donations, such as
      (i) whether or not particular entities or groups of donors should be excluded;
      (ii) whether prior approval of a majority of members of a corporate entity or other organisation is required;
      (iii) Any limitations or restrictions on such political donations; and
   (b) the appropriate frequency and timing of disclosure obligations under election funding laws.

6. Whether the penalties for contravening provisions in the Election Funding, Expenditure and Disclosures Act 1981 (NSW) are commensurate with the nature of the offence. This should include advice on penalties that could apply to donors, intermediaries or recipients of unlawful donations.
7. Any amendments to legislation to ensure that limits on political donations and disclosure requirements cannot be avoided through the use of artificial structures or other means.

8. Any other matters relevant to political donations.

In proposing options for reform in its report, the Panel is to have regard to:

(a) international practices, and their applicability to a Westminster system;

(b) the compatibility of any proposed changes with democratic principles;

(c) the potential for any proposed changes to improve the accountability, integrity and quality of government;

(d) any risks or negative consequences of any proposed changes for the accountability, integrity and quality of government; and

(e) constitutional constraints, including those identified by the High Court in *Unions v State of New South Wales* [2013] HCA 58.

The Panel is ultimately to consider the best way to remove any corrosive influence of donations in New South Wales.
Appendix 2: Anti-Circumvention Provisions in Canada, United Kingdom and New Zealand

Canada

Section 405.2 of the Canada Elections Act expressly prohibits any attempt to circumvent caps on donations or any collusion to do so. It provides:

(1) No person or entity shall
   (a) circumvent, or attempt to circumvent, the prohibition under subsection 404(1) or a limit set out in subsection 405(1) or section 405.31; or
   (b) act in collusion with another person or entity for that purpose.

No concealing of source of contribution

(2) No person or entity shall
   (a) conceal, or attempt to conceal, the identity of the source of a contribution governed by this Act; or
   (b) act in collusion with another person or entity for that purpose.

Prohibition — accepting excessive contributions

(3) No person who is permitted to accept contributions under this Act shall knowingly accept a contribution that exceeds a limit under this Act.

Prohibited agreements

(4) No person or entity shall enter into an agreement for the provision for payment of goods or services to a registered party or a candidate that includes a term that any individual will make a contribution, directly or indirectly, to a registered party, a registered association, a candidate, a leadership contestant or a nomination contestant.

Punishment for such an offence can range up to five years imprisonment (section 500(5)). In addition, section 405.3 prohibits donations being made through an intermediary.

United Kingdom

In the United Kingdom there is also a broad anti-circumvention provision in the Political Parties, Elections and Referendums Act 2000 (UK):

61 Offences concerned with evasion of restrictions on donations

(1) A person commits an offence if he—
   (a) knowingly enters into, or
   (b) knowingly does any act in furtherance of, any arrangement which facilitates or is likely to facilitate, whether by means of any concealment or disguise or otherwise, the making of donations to a registered party by any person or body other than a permissible donor.

(2) A person commits an offence if—
   (a) he knowingly gives the treasurer of a registered party any information relating to—
       (i) the amount of any donation made to the party, or
       (ii) the person or body making such a donation, which is false in a material particular; or
   (b) with intent to deceive, he withholds from the treasurer of a registered party any material information relating to a matter within paragraph (a)(i) or (ii).

New Zealand

New Zealand also has express anti-circumvention provisions. For example, the circumvention of the expenditure caps for candidates (set out in section 205C) is prohibited by section 205F(3) of the Electoral Act 1983 (NZ), which provides:
(3) Every person who enters into an agreement or enters into an arrangement or understanding
with any other person for the purpose of circumventing either of the maximum amounts
prescribed in section 205C is guilty of a corrupt practice.

Equally, the circumvention of a cap of $12,500 for political advertising by unregistered third
parties (set out in s 204B(1)(d)) is prohibited by s 204D, which provides:

204D Offence to avoid limit set out in section 204B(1)(d)

(1) An unregistered promoter may not enter into an agreement, or enter into an arrangement or
understanding, with any other person for the purpose of circumventing the maximum amount
prescribed in section 204B(1)(d).

(2) A body corporate or unincorporated may not encourage its members to take any action for the
purpose of circumventing the maximum amount prescribed in section 204B(1)(d).

(3) No person may incorporate or form 2 or more bodies corporate or unincorporated for the
purpose of circumventing the maximum amount prescribed in section 204B(1)(d).

(4) Every person who wilfully contravenes subsection (1), (2), or (3) is guilty of an illegal practice.

Section 206X(3) also prohibits the circumvention of caps imposed on registered third-parties.
Sections 207J and 207L prohibit the circumvention of bans on anonymous and foreign
donations.
## Appendix 3: Attendance at EFA Seminars for Candidates and Agents

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<td>Hurstville</td>
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<td>Chatswood</td>
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Endnotes


2 *Election Funding, Expenditure and Disclosures Act 1981* (NSW) s 85.


6 Mr Alex Greenwich MP, *Submission No. 47*, p 2.


9 Professor Anne Twomey, *Submission No. 5*, p 5.

10 Professor George Williams, *Submission No. 3*, p 2; Professor Graeme Orr, *Submission No. 6*, p 5; Dr Joo-Cheong Tham, *Submission No. 2*.


12 Professor George Williams, *Submission No. 3*, p 2.

13 Professor Anne Twomey, *Submission No. 5*, p 4.

14 Professor Graeme Orr, *Submission No. 6*, p 6.


16 Professor Anne Twomey, *Reconsidering the reform of political donations, expenditure and funding in New South Wales* (3 September 2014) p 120, prepared for the Panel of Experts – Political Donations (Working Paper No. 5).

17 Professor Anne Twomey, *Reconsidering the reform of political donations, expenditure and funding in New South Wales* (3 September 2014) p 120, prepared for the Panel of Experts – Political Donations (Working Paper No. 5).

18 Dr Anika Gauja and Dr Rodney Smith, *The University of Sydney, Submission No. 20*, p 2.

19 Dr Anika Gauja and Dr Rodney Smith, *The University of Sydney, Submission No. 20*, p 3.


23 Mr Colin Barry, NSW Electoral Commissioner, *Submission No. 43, Attachment B*, Letter from Electoral Commissioner to Dr Kerry Schott, Chair, Panel of Experts – Political Donations (23 July 2014) p 1.