

Classification: OFFICIAL

File reference: OBJECT ID: [fA176751](#)

To: Joanne Reid, Assistant Commissioner Disclosure, Assurance and Engagement Branch

Through: Stuart Oreo Director Parliamentary Engagement and Party Registration

CC: s47F Assistant Director Parliamentary Engagement and Party Registration

Subject: For action – Deregistration under s 137(6) of the *Commonwealth Electoral Act 1918* (Electoral Act) – VOTEFLUX.ORG | Upgrade Democracy! (the Party)

Purpose

This minute asks you, as a delegate of the Electoral Commission, to deregister the Party under s 137(6) of the Electoral Act on the grounds that the Party does not have at least 1,500 members (s 137(1)(b) of the Electoral Act).

Authority

Sections 123, 137, 138 and 138A of the Electoral Act.

Background

On 13 January 2022, you, as a delegate of the Electoral Commission, issued a notice to the Registered Officer of the Party, s47F, under s 137 of the Electoral Act (the s 137 Notice) stating that the Electoral Commission is considering deregistering the Party (OBJECT IDs: [A1319272](#) and [A1442167](#)). The Registered Officer of the Party had until 13 February 2022 to provide a response.

On 13 February 2022, the Party responded to the s 137 Notice:

- Response received – OBJECT ID: [A1369037](#)
- Statement – OBJECT ID: [A1369035](#)
- Supplementary membership list – OBJECT ID: [A1369039](#)

On 2 March 2022, you, as a delegate of the Electoral Commission, having considered the statement lodged by the Party, and membership list lodged in support of that statement containing 4,680 names, requested that further membership testing be performed. In confirming your advice, you instructed to select the top 1,650 names for testing to conform with the AEC's testing methodology parameters. Please see OBJECT ID: [A1406912](#).

OFFICIAL

On 10 March 2022, the AEC advised the Party that membership testing would commence on 11 March 2022 (OBJECT ID: [A1449050](#)). On 11 March 2022, the Secretary of the Party, Mr Max Kaye, responded stating that the Party would not advise its members of the commencement of membership testing. The email also included statements further to the Party's response of 13 February 2022 in relation to the s 137 Notice, including querying why the AEC had not addressed the statement the Party had made in response to the s 137 Notice (OBJECT IDs: [A1449052](#) and [A1449054](#)).

It is standard practice to advise parties when the AEC has completed steps 1 to 6 of the membership testing process outlined at Appendix 2 of the [Guide for registering a party](#) by way of stakeholder engagement between the AEC and political parties and political parties and their members. The Party's statement of 13 February 2022 and emails of 11 March 2022 did not require a response from a delegate of the Electoral Commission until a determination could be made on the supporting documentation that the Party had provided in accordance with s 137(2) of the Electoral Act (OBJECT ID: [A1449918](#)).

Eligibility Provisions

Pursuant to s 138A(1) of the Electoral Act, the Electoral Commission may review the Register to determine whether a party remains an 'eligible political party', or whether it should be deregistered under ss 136 or 137 of the Electoral Act. Under s 123(1) of the Electoral Act an 'eligible political party' means a political party that:

- (a) either:
 - (i) is a Parliamentary party; or
 - (ii) has at least 1,500 members; and
- (b) is established on the basis of a written constitution (however described) that sets out the aims of the party.

A 'Parliamentary party' means a political party at least one member of which is a member of the Parliament of the Commonwealth. The Party does not have, and has never had, a member of the Parliament of the Commonwealth. Section 136 of the Electoral Act pertains to a party failing to endorse candidates and therefore is not relevant to this review.

The question in issue is whether the Party has at least 1,500 members to be compliant with the Registration Amendment Act increased membership requirements on and after 2 December 2021, and if not, whether it should be deregistered under s 137 of the Electoral Act. Section 137(1)(b) of the Electoral Act first requires the delegate of the Electoral Commission to be 'satisfied on reasonable grounds' that the Party does not have at least 1,500 members.

Membership List

The membership list tested by the AEC contained 1,650 names of people that the Party considers to be current members (referred to as 'members' below). The following results were found after initial membership testing against the Commonwealth Electoral Roll (electoral roll) of the membership list submitted by the Party:

Submitted membership list	1,650
Automatically matched to the electoral roll	1,575
Manually matched to the electoral roll	45
Not currently enrolled or unable to match on the electoral roll	(18)
Deceased	(12)
Total	1,620

OFFICIAL

No members were identified as a duplicate within the list and 34 members were identified as supporting the registration of other political parties (OBJECT ID: [A1442350](#)). See OBJECT ID: [A1442351](#) for a breakdown of the membership numbers.

Total matched to the electoral roll	1,620
Under 18-year-old members	(0)
Duplicates identified in the membership list provided by the Party	(0)
Members identified as also supporting the registration of another party	(34)
Total	1,586

Under the membership testing methodology and formula provided by the Australian Bureau of Statistics (ABS), a list of 1,586 members requires contact with a random sample of 46 individuals on the membership list and up to five denials of membership are permitted by the individuals contacted (OBJECT ID: [A1442349](#)). The Electoral Commission's view is that, absent of any relevant factors to the contrary, a failure to satisfy the test provided by the ABS constitutes reasonable grounds upon which the delegate of the Electoral Commission can be satisfied that a political party does not have at least 1,500 members.

For this review, the completion of membership testing, including contact with individuals in the random sample, was outsourced to Services Australia. A record of those contacted by Services Australia is at OBJECT ID: [A1442353](#).

Services Australia staff attempted contact with 75 individuals. Analysis of the data is outlined below.

The relevant numbers for this membership test were:	Members
The random sample size	46
Maximum number of denials permitted	5
Contact attempts made*	75
Responses received	
- Confirmed Membership	29
- Denied Membership	17
PASS/FAIL	FAILED

*as some members were uncontactable, or provided a neutral response.

Based on this information the Party's membership list **failed** the membership testing assessment of the review process.

Statement of Reasons

Section 137(6) of the Electoral Act prescribes:

Where, under s 137(5), the Electoral Commission determines that a political party should be deregistered, it shall:

- (a) deregister the party;*
- (b) give the person who was the last registered officer of the party written notice of the deregistration, setting out its reasons for rejecting the reasons set out in the statement lodged under s 137(2).*

A copy of a draft statement of reasons ('the Draft Statement of Reasons') is at OBJECT ID: [A1441454](#) and has been drafted on the recommendation that you make the determination that the Party should be deregistered.

OFFICIAL

Application to change the Party's name, abbreviation and logo in the Register

On 19 February 2022, the Party lodged an application in accordance with s 134 of the Electoral Act to change its name, abbreviation and logo in the Register (OBJECT ID: [A1396302](#)). The Party's logo passed validation and has been assessed by CRE8IVE (OBJECT IDs: [A1421693](#) and [A1421695](#)). If the Party is deregistered, the application lodged under s 134 of the Electoral Act will no longer be valid.

Conclusion

On 13 January 2022, a notice was issued a notice to the Registered Officer of the Party under s 137 of the Electoral Act stating that the Electoral Commission is considering deregistering the Party

On 13 February 2022, the party responded to the s 137 Notice providing a statement and a membership list in support of that statement.

An assessment of the Party's membership list was undertaken and based on the ABS methodology it demonstrated that the Party has failed to demonstrate to have at least 1,500 members.

Accordingly, there are reasonable grounds on which you, as the delegate of the Electoral Commission, can be satisfied that the Party does not have at least 1,500 members. Based on this information, you may determine under s 138A of the Electoral Act that the Party is not an '*eligible political party*' and should be deregistered.

If you, as the delegate of the Electoral Commission is of this view, you should not deregister the Party under s 137 of the Electoral Act and advise the Registered Officer of this decision.

Recommendations

That as a delegate of the Electoral Commission for the purposes of ss 137 and 138 of the Electoral Act, and a delegate of the Electoral Commissioner for the purposes of s 137(6A) of the Electoral Act you:

1. note that this matter relates to your review of the eligibility of VOTEFLUX.ORG | Upgrade Democracy! to remain in the Register pursuant to s 138A(1) of the Electoral Act (OBJECT ID: [A1157688](#))
2. approve the cancellation of the particulars on the Register that relate to VOTEFLUX.ORG | Upgrade Democracy! under s 138 of the Electoral Act;
3. approve the draft letter to the Registered Officer of the Party, Mr Nathan Spataro, setting out the reasons for the Party's deregistration (OBJECT ID: [A1446539](#));
4. approve the draft letter to the Party Agent, Mr Benjamin Rushton, notifying of disclosure obligations for the current financial year for VOTEFLUX.ORG | Upgrade Democracy! (OBJECT ID: [A1446547](#));
5. approve the statement of reasons to be forwarded to VOTEFLUX.ORG | Upgrade Democracy! and published on the AEC website, which complements the notice (OBJECT ID: [A1441454](#)); and
6. approve the draft notice to appear on the AEC website, as required by s 137(6A)(a) (OBJECT ID: [A1441452](#)).

Prepared by:

s47F - Project Officer - Parliamentary Engagement and Party Registration
21 March 2022

Reviewed by:

s47F – Assistant Director
Parliamentary Engagement and Party
Registration
22 March 2022

s47F – Senior Project Officer
Parliamentary Engagement and Party
Registration
22 March 2022

s47F

Stuart Oreo
Director Parliamentary Engagement and Party
Registration
23 March 2022

- | | |
|---|---|
| 1. <input checked="" type="checkbox"/> Noted | <input type="checkbox"/> Please discuss |
| 2. <input checked="" type="checkbox"/> Approved | <input type="checkbox"/> Not approved |
| 3. <input checked="" type="checkbox"/> Approved | <input type="checkbox"/> Not approved |
| 4. <input checked="" type="checkbox"/> Approved | <input type="checkbox"/> Not approved |
| 5. <input checked="" type="checkbox"/> Approved | <input type="checkbox"/> Not approved |
| 6. <input checked="" type="checkbox"/> Approved | <input type="checkbox"/> Not approved |

Joanne Reid
Assistant Commissioner, Delegate of the
Electoral Commissioner

s47F

Signature
Date 24 March 2022