

From: [Joanne Reid](#)
To: [FAD](#)
Cc: [Stuart Oreo](#)
Subject: RE: Delegate consideration - s 137 response received - VOTEFLUX.ORG | Upgrade Democracy! [SEC=OFFICIAL]
Date: Wednesday, 2 March 2022 2:59:18 PM
Attachments: [image003.gif](#)
[image004.gif](#)

Hi **s47F**.

I have considered the statement provided by VOTEFLUX.ORG | Upgrade Democracy!, which included provision of a membership list.

In order to deregister the Party for the reason set out in the s 137 notice I am required to be satisfied on reasonable grounds that the party does not have at least 1,500 members. Given the party has submitted a new membership list I consider that list needs to be tested before I can make a determination in relation to that matter.

Please arrange for membership testing of the list supplied with the statement in accordance with our usual processes. I note the membership list provided contains 4,680 names – please select the top 1,650 names for testing to conform with our testing methodology parameters.

Jo

Joanne Reid | Assistant Commissioner
Disclosure, Assurance & Engagement Branch
Australian Electoral Commission

s47F

From: FAD <FAD@aec.gov.au>
Sent: Wednesday, 2 March 2022 11:24 AM
To: Joanne Reid <Joanne.Reid2@aec.gov.au>
Subject: FW: Delegate consideration - s 137 response received - VOTEFLUX.ORG | Upgrade Democracy! [SEC=OFFICIAL]

Good morning Joanne

Please see the below emails and associated attachments regarding the s 137 response received by the AEC from VOTEFLUX.ORG | Upgrade Democracy! in relation to the s 138A review.

Regards

s47F

s47F | **A/g Senior Project Officer**
Parliamentary Engagement and Party Registration Section | Disclosure, Assurance & Engagement Branch
Australian Electoral Commission

s47F

From: Stuart Oreo <Stuart.Oreo@aec.gov.au>
Sent: Tuesday, 1 March 2022 2:48 PM
To: FAD <FAD@aec.gov.au>
Subject: RE: Delegate consideration - s 137 response received - VOTEFLUX.ORG | Upgrade

Democracy! [SEC=OFFICIAL]

Approved to send to Jo.

Thanks

Stuart Oreo | Director

Parliamentary Engagement and Party Registration Section | Disclosure, Assurance & Engagement Branch
Australian Electoral Commission

s47F

From: FAD <FAD@aec.gov.au>

Sent: Tuesday, 1 March 2022 1:17 PM

To: Stuart Oreo <Stuart.Oreo@aec.gov.au>

Cc: s47F s47F s47F

Subject: FW: Delegate consideration - s 137 response received - VOTEFLUX.ORG | Upgrade Democracy! [SEC=OFFICIAL]

Hello Stuart,

The below request has been prepared to be sent to Joanne, as delegate of the Electoral Commission for the purposes of Part XI of the Electoral Act. VOTEFLUX.ORG | Upgrade Democracy! (the Party) did respond to the s 138A notice, however they did not pass membership testing. It is up to the delegate to consider the response within the legislative framework and determine if the Party should be deregistered. s42 Can you please let me know if you support this prior to sending to the delegate.

Regards,

s47F

Good morning Joanne

On 13 February 2022, the Australian Electoral Commission (AEC) received the attached statement (also accessible at OBJECT ID: [A1369037](#)) from the Registered Officer of VOTEFLUX.ORG | Upgrade Democracy! (the Party), s47F, in response to the s 137 Notice issued to the Party on 13 January 2022 (attached, also accessible at OBJECT ID: [A1386429](#)). On 14 February 2022, the Party s47F, Secretary and DRO) provided the AEC with an email (the Additional Statement) correcting "two errors made in the correspondence that I sent you yesterday" (attached, also accessible at OBJECT ID: [A1386415](#)).

Background

On 3 September 2021, the *Electoral Legislation Amendment (Party Registration Integrity) Act 2021* (Party Registration Integrity Act) came into effect, amending the *Commonwealth Electoral Act 1918* (Electoral Act), and increased the membership threshold for an *eligible political party* to 1,500 members. All registered non-Parliamentary parties, including the Party, had until 2 December 2021 to comply with the legislative requirement to have 'at least 1,500 members'.

On 8 October 2021, the Registered Officer of the Party was issued with a notice under s 138A(3) of the Electoral Act (the 138A Notice), requesting the Party provide evidence of compliance with the increased membership requirements and submit a membership list of between 1,500 and 1,650 members by 8 December 2021 (see OBJECT ID: [A1157688](#)).

On 26 November 2021, the AEC sent a reminder to the Party (see OBJECT ID: [A1304513](#)).

On 7 December 2021, the Party responded to the s 138A Notice providing the requested documentation (OBJECT ID: [A1267776](#)). Membership testing was conducted in accordance with the membership testing methodology and formula provided by the Australian Bureau of Statistics (ABS).

A breakdown of the membership testing outcome is at OBJECT ID: [A1303995](#). See below table for a summary of the membership contact outcomes.

The relevant numbers for this membership test were:	Members
The random sample size	53
Maximum number of denials permitted	7
Contact attempts made*	78
Responses received	
• Confirmed Membership	44
• Denied Membership	9
PASS/FAIL	FAIL

On 13 January 2022, the Party was issued with a notice under s 137(1) of the Electoral Act (the s 137 Notice), stating that the Electoral Commission is considering deregistering the Party as the Electoral Commission is satisfied on reasonable grounds that the Party does not have at least 1,500 members (OBJECT ID: [A1386429](#)). Pursuant to s 137(2) of the Electoral Act, the Party was provided with one month to respond to the s 137 Notice (being 13 February 2022).

On 13 February 2022, the Registered Officer of the Party provided a response to the s 137 Notice (OBJECT ID: [A1369037](#)) and on 14 February 2022 the Party **s47F**, Secretary and DRO) provided the Additional Statement (OBJECT ID: [A1386415](#)). The Party's email of 13 February 2022 also included a membership list in support of the statement which contains 4,680 names (OBJECT ID: [A1369039](#)).

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 issue in question is whether the statement provide by the Party is sufficient for you, as a delegate, to be assured that the Party has 'at least 1,500 members'. 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.

Legislative framework

Section 138A(1) of the Electoral Act outlines the purpose of a s 138A review:

The Electoral Commission may review the Register to determine whether one or more of the parties included in the Register:

- (a) is an eligible political party; or
- (b) should be deregistered under section 136 or 137.

Sections 138A(3 – 5) of the Electoral Act states:

3. For the purposes of reviewing the Register, the Electoral Commission may give a written notice to the registered officer of a registered political party requesting specified information on the party's eligibility to be registered under this Part.
4. The notice must specify a period within which the information must be provided. The period must be at least 2 months.
5. The registered officer must comply with the notice within the specified period. However, the Electoral Commission may extend that period.

Section 137(1)(b) of the Electoral Act prescribes that the Electoral Commission is satisfied on reasonable grounds that the Party does not have 'at least 1,500 members' and therefore does not meet the requirement of being an eligible political party under s 123 of the Electoral Act to remain in the *Register of Political Parties* (the Register). The Electoral Commission must give the registered officer of the party notice, in writing, that it is considering deregistering the party under this section, setting out its reasons for considering doing so and the terms of the provisions of subsections (2), (3), (4) and (5).

Subsections 137(2 – 5) of the Electoral Act includes:

2. of the Electoral Act prescribes that where a notice is given under subsection (1) in relation to a political party, the registered officer of the party or 10 members of the party may, within 1 month after the date on which the notice was given, lodge with the Electoral Commission a statement, in writing, signed by the registered officer or by those members of the party, as the case may be, setting out reasons why the party should not be deregistered under this section.
3. Where a statement lodged under subsection (2) is signed by 10 members of a political party, the statement shall set out the names and addresses of those members and contain a statement that they are members of that party.
4. Where a notice is given under subsection (1) in relation to a political party and a statement is not lodged under subsection (2) in response to that notice, the Electoral Commission shall deregister the party.
5. Where, in response to a notice given under subsection (1) in relation to a political party, a statement is lodged under subsection (2), the Electoral Commission shall consider that statement and determine whether the political party should be deregistered for the reason set out in that notice.

s42

s42

- s42 [REDACTED]

s42 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

- s42 [REDACTED]
- [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - s42 [REDACTED]
 - [REDACTED]

Membership testing methodology

Under the membership testing methodology and formula provided by the ABS it is the Electoral Commission's view that, absent of any relevant factors to the contrary, a failure to satisfy the test provided by the ABS alone 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.

Consideration of the Statement

Under s 137(5) of the Electoral Act, the Electoral Commission shall consider the statement lodged under s 137(2) of the Electoral Act. However, s 137(5) of the Electoral Act stipulates that the Electoral Commission shall consider that statement and determine whether the political party should be deregistered *for the reason set out in that notice*. The reasons set out in the s 137 Notice issued to the Party was for failing to have at least 1,500 members in response to the s 138A Notice (s 137(1)(b) of the Electoral Act).

Under s 137(6) of the Electoral Act, where the Electoral Commission determines that a political party should be deregistered, it shall:

- deregister the party; and
- give the last person who was registered officer of the party written notice of the deregistration, setting out its reasons for rejecting the reasons set out in the statement.

Under s 137(6A) of the Electoral Act, if the Electoral Commission deregisters a party the Electoral Commissioner:

- must publish a notice of the deregistration on the AEC website; and
- may publish the notice in any other way that the Electoral Commissioner considers appropriate (under AEC policy a statement of reasons is published setting out the particulars of the deregistration and the basis for rejecting the reasons).

As the delegate of the Electoral Commission the statement for your consideration is at OBJECT ID: [A1369035](#), as well as the Additional Statement at OBJECT ID: [A1386415](#). A summary of that statement can be provided by PEPRS if required. The membership list lodged with the Party's statement contains 4,680 names (OBJECT ID: [A1369039](#)).

Delegate's decision

The response received by the AEC from the Party in relation to the s 137 Notice issued meets the legislative requirements of s 137(2) of the Electoral Act because it:

- was received within 1 month after the date on which the notice was given;
- Is in writing;
- Is made by the Registered Officer of the Party; and
- Outlines reasons why the Party should not be deregistered.

As per s 137(5) of the Electoral Act, you, as a delegate of the Electoral Commission, shall consider that statement and determine whether the political party should be deregistered for the reason set out in that notice. In this case, the reason is for failing to have at least 1,500 members (s 137(1)(b) of the Electoral Act).

Once you have considered the Party's response please advise, by return email, if you believe that VOTEFLUX.ORG | Upgrade Democracy! should be deregistered under s 137(1)(b) of the Electoral Act. In your reply email can you please provide statements as to why you made your decision? These statements will form part of a Statement of Reasons if the party is to be deregistered. This email, your response, **s42** and the statement from the Party will form part of a formal minute pending your determination of the eligibility review of the Party.

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Regards,

s47F

s47F | **A/g Senior Project Officer**

Parliamentary Engagement and Party Registration Section | Disclosure, Assurance & Engagement Branch
Australian Electoral Commission

s47F
