

NOTICE OF DECISION ON PARTY REGISTRATION DEREGISTERING A POLITICAL PARTY AND REMOVAL FROM THE REGISTER OF POLITICAL PARTIES VOTEFLUX.ORG | UPGRADE DEMOCRACY!

Notice of decision under s 137(6) of the *Commonwealth Electoral Act 1918* (Electoral Act) and Statement of Reasons

1. I am writing in accordance with s 137(6)(b) of the Electoral Act to notify you of the review conducted under s 138A(1) of the Electoral Act and the determination to deregister VOTEFLUX.ORG | Upgrade Democracy! (the Party) and cancel the Party's particulars from the *Register of Political Parties* (the Register).
2. As a delegate of the Electoral Commission, I am authorised to deregister the Party under s 137(6)(a) of the Electoral Act, and to cancel the particulars of the Party on the Register under s 138 of the Electoral Act.
3. On 8 October 2021, the Electoral Commission issued a Notice to the Registered Officer of the Party, Mr Nathan Spataro, under s 138A(3) of the Electoral Act (s 138A Notice). This Notice requested the Party provide the Australian Electoral Commission (AEC) with an electronic membership list of between 1,500 and 1,650 members in order for the AEC to determine the eligibility of the Party to remain registered. The due date for responding was 8 December 2021.
4. On 26 November 2021, I sent a reminder to the Party outlining the requirements of the s 138A Notice.
5. On 7 December 2021, the Party responded to the s 138A Notice providing a list of 1,649 individuals the Party considers to be members of the Party.
6. On 13 January 2022, the Party was issued with a notice under s 137(1) of the Electoral Act (the s 137 Notice), that I, as the delegate of the Electoral Commission, was satisfied on reasonable grounds that the Party does not have at least 1,500 members. 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).
7. On 13 February 2022, the Registered Officer of the Party, Mr Spataro, provided a statement in accordance with s 137(2) of the Electoral Act, and an additional list of 4,680 individuals the Party considers to be members.
8. Section 137(5) of the Electoral Act prescribes that:

Where, in response to a notice given under s 137(1) in relation to a political party, a statement is lodged under s 137(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.

Decision

9. As a delegate of the Electoral Commission, I am satisfied on reasonable grounds that the Party does not have at least 1,500 members, and the Party should be deregistered.

10. I have determined that VOTEFLUX.ORG | Upgrade Democracy! be deregistered under s 137(1)(b) of the Electoral Act, for the reasons set out in this Notice, and that the particulars of the Party be cancelled from the Register under s 138 of the Electoral Act.

Materials I have taken into account

11. In making my decision, I have had regard to:
- the s 138A Notice;
 - the reminder letter sent to the Party on 26 November 2021;
 - the response to the s 138A notice, being a list of individuals the Party considers to be members of the Party, lodged on 7 December 2021;
 - the s 137 Notice;
 - the statement provided by the Party in response to the s 137 Notice on 13 February 2022, including a list of individuals the Party considers to be members of the Party;
 - the membership testing methodology and formula provided by the Australian Bureau of Statistics (ABS)
 - Part XI of the Electoral Act; and
 - the AEC *Guide for maintaining party registration*.

Findings of Fact

12. On the material before me, I make the following findings.
13. No member of the Party is a member of the Parliament of the Commonwealth.
14. The membership list lodged on 7 December 2021 contained the details of 1,649 individuals.
15. The membership list lodged on 13 February 2022 contained the details of 4,680 individuals.

Membership list of 7 December 2021

16. The membership list submitted by the Party on 7 December 2021, contained 1,649 names of individuals that the Party considers to be current members (referred to as 'members' below). The following results were found after membership testing against the Commonwealth Electoral Roll (the electoral roll).

Submitted membership list	1,649
Automatically matched to the electoral roll	1,614
Manually matched to the electoral roll	22
Unable to match or not enrolled on the electoral roll	(11)
Deceased	(2)
Total	1,636

17. Of the 1,636 members matched to the electoral roll the following results identified duplicates within the membership list or duplicate members who have previously supported the registration of a registered political party (or parties):

Total matched to the electoral roll	1,636
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	(11)
Total	1,625

18. In accordance with the random sampling formula provided by the ABS, a list of 1,625 members requires a random sample of 53 contactable members to confirm they are members of the Party, with up to seven denials of membership permitted. 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 a delegate of the Electoral Commission can be satisfied that a non-Parliamentary political party does not have at least 1,500 members.

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

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

19. Accordingly, there were reasonable grounds on which I, as a delegate of the Electoral Commission, was satisfied that the Party did not have at least 1,500 members (s 137(1)(b) of the Electoral Act).
20. As such, the Party was issued with a s 137 Notice on 13 January 2022.
21. On 13 February 2022, in response to the s 137 Notice, and in accordance with s 137(2) of the Electoral Act, the Party lodged a statement with the Electoral Commission setting out reasons why the Party should not be deregistered, and provided a list of 4,680 individuals the Party considers to be members.

Membership list of 13 February 2022

22. The membership list submitted by the Party on 13 February 2022 contained 4,680 names of individuals that the Party considers to be current members (referred to as 'members' below). As a delegate of the Electoral Commission, I instructed that the top 1,650 names be tested to conform with the AEC's membership testing parameters. The following results were found after initial membership testing against the electoral roll.

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

23. Of the 1,620 members matched to the electoral roll the following results identified duplicates within the membership list or duplicate members who have previously supported the registration of a registered political party (or parties):

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

24. In accordance with the random sampling formula provided by the ABS, a list of 1,586 members requires a random sample of 46 contactable members to confirm they are members of the Party, with up to five denials of membership permitted. 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 a delegate of the Electoral Commission can be satisfied that a non-Parliamentary political party does not have at least 1,500 members.

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.

Supporting statement

25. I have considered the statement lodged by the Party on 13 February 2022, setting out reasons why the Party should not be deregistered.
- "In your January 13 correspondence, you said:
I am notifying you under s 137(1)(b) of the Electoral Act 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."
 - "We do not believe that such a decision would be based on reasonable grounds. This is because the AEC's methodology is flawed. Below, we will detail why we believe that this is the case and provide reasoning and evidence to back this up."
 - "We have 3 arguments supporting our case. Each argument is individually sufficient to show that a decision (by the AEC) to deregister the Party would not be based on reasonable grounds; each argument is a decisive criticism of the current methodology.
 - The statistical method used fails ~10% of the time for borderline cases.
 - The statistical method uses an artificially limited sample size and thus does not estimate party membership, though does (roughly) measure membership attrition.
 - We have sufficient membership and provide evidence. Attached is a list of 4680 members. Each entry was, at some point, verified against the electoral roll."
 - "Unless each of these criticisms can be addressed, we do not believe that a decision by the AEC to deregister the Party would be based in reality."
 - "Please find attached a list of 4,680 members of the Party. *Note that these are the subset of members for whom we have been able to pre-validate their electoral roll details at some point.*"
 - "Based on the observation that 4,680 is a lot more than 1,500, we reject any decision to deregister the Party on the grounds that it is in **conflict with reality**."
26. I reject the reasons outlined by the Party in its statement provided on 13 February 2022 for the following reasons.

27. The Party failed membership testing for exceeding the maximum number of permitted denials according to the ABS methodology used by the AEC. It did not fail membership testing due to having an insufficient number of members being identified on the electoral roll.
28. The Electoral Act defines an elector as someone that is on the Commonwealth Electoral Roll. Section 123 of the Electoral Act prescribes that an eligible political party, not being a Parliamentary party, has 'at least 1,500 members'. The requirement is not to be solely 'an elector' but to be a member of the party.
29. The Party challenges the validity of the AEC's membership testing process. This process has been developed by the AEC to support the delegate's consideration of whether a party has sufficient members. It is based on sampling methodology designed in consultation with the ABS and provides a valid methodology to satisfy a delegate of a party's membership. The Electoral Commission has previously concluded that the methodology 'was appropriate for membership testing, including because it was rational, fair and practical in all the circumstances.'¹
30. I consider that the membership testing results outlined above provide a more robust method for ascertaining whether a party has satisfied the requirements of the Electoral Act than a statement provided by the party.
31. In summary, I remain satisfied that the Party does not have at least 1,500 members based on the outcomes from membership testing both membership lists of 7 December 2021 and 13 February 2022.
32. Accordingly, in my capacity as a delegate of the Electoral Commission, I have deregistered VOTEFLUX.ORG | Upgrade Democracy! under s 137(6) of the Electoral Act and the particulars of the Party have been cancelled from the Register under s 138 of the Electoral Act.

Review rights

33. Under s 141(2) of the Electoral Act, a person (including an organisation) affected by the decision who is dissatisfied with the decision may make a written application to the Electoral Commission for internal review of this decision within 28 days after the day on which the decision first comes to the notice of that person. There is no fee payable for requesting an internal review.
34. Requests for review of this decision should be addressed to Mr Tom Rogers, Australian Electoral Commissioner, and emailed to commission.secretariat@aec.gov.au or posted to Locked Bag 4007, Canberra City ACT 2601.

¹

https://www.aec.gov.au/Parties_and_Representatives/Party_Registration/Registration_Decisions/2021/notice-of-decision-with-reasons-SUPA.pdf

How do I request an internal review?

35. In accordance with ss 141(2) and 141(3) of the Electoral Act, an application for review must:
- be in writing;
 - specify the name of the applicant;
 - specify an address of the applicant; and
 - set out the reasons for making the application.
36. If you wish to apply for additional time beyond the 28 days to make an application for review of the delegate's decision, please also include the reasons for the application for additional time.

Who conducts an internal review?

37. The Electoral Commission, which is comprised of three members, the Australian Electoral Commissioner, a judicial member and a non-judicial member, conducts internal reviews. Under s 141(4) of the Electoral Act, the Electoral Commission shall review an application and make a decision to either:
- affirm the decision under review;
 - vary the decision under review; or
 - set aside the decision under review and make a decision in substitution for the decision set aside.

What can I do if I disagree with the outcome of an internal review?

38. If an internal review decision has been made by the Electoral Commission a person whose interests are affected, and who is dissatisfied with the decision made by the Electoral Commission, may apply to the AAT for an external merits review of the decision. More information on how to apply to the AAT and any applicable fees can be found on its website: www.aat.gov.au/applying-for-a-review/how-to-apply.

Freedom of Information

39. Under the *Freedom of Information Act 1982* ('the FOI Act') any person has the right to request access to documents held by the AEC. For more information about access to documents under the FOI Act please visit the AEC's "Access to AEC information" webpage at: www.aec.gov.au/information-access/index.htm.
40. Should you have any queries regarding party registration, please contact the AEC on 02 6271 4552, visit www.aec.gov.au or email fad@aec.gov.au.

Yours sincerely

(signed)

Joanne Reid
Assistant Commissioner
Delegate of the Electoral Commission

24 March 2022

Minute



Classification: OFFICIAL

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

To: s 47F (Personal Privacy) Assistant Commissioner Disclosure, Assurance and Engagement Branch

Through: s 47F (Personal Privacy) Director Parliamentary Engagement and Party Registration

CC: s 47F (Personal Privacy) 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, Mr Nathan Spataro, 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](#).

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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, [s 47F \(Personal Privacy\)](#) 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

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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.

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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, **s 47F - Personal Privacy** setting out the reasons for the Party's deregistration (OBJECT ID: [A1446539](#));
4. approve the draft letter to the Party Agent, **s 47F - Personal Privacy** 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:

s 47F (Personal Privacy) - Project Officer - Parliamentary Engagement and Party Registration
21 March 2022

Reviewed by:

s 47F (Personal Privacy) – Assistant Director
Parliamentary Engagement and Party
Registration
22 March 2022

s 47F (Personal Privacy) – Senior Project Officer
Parliamentary Engagement and Party
Registration
22 March 2022

s 47F (Personal Privacy)

- | | |
|---|---|
| 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 |

s 47F (Personal Privacy)

Director Parliamentary Engagement and Party
Registration
23 March 2022

s 47F (Personal Privacy)

Assistant Commissioner, Delegate of the
Electoral Commissioner

s 47F (Personal Privacy)

Signature

Date 24 March 2022

From: s37f (Personal)
To: [Commission Secretariat](#)
Subject: request for review under s141(2)
Date: Thursday, 14 April 2022 10:03:25 AM
Attachments: [aec-request-review-with-stats-paper-final.pdf](#)

CAUTION: This email originated from outside of the Australian Federal Government. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hi,

Please find attached my application to the Commission to review the decision to deregister “[VOTEFLUX.ORG](#) | Upgrade Democracy!” (Flux) under s137(6) of the Electoral Act. I am making this request under s141(2) of the EA.

Please confirm receipt of this request when possible.

Additionally, I would like to ensure that Justice Kenny and Dr Gruen are able to read the application. The attached application lists them as CC'd.

If the Secretariat is able to deliver them a copy, confirmation of this would be much appreciated.

Otherwise, please let me know how I might deliver them a copy.

In lieu of either of the above options, I will proceed to attempt delivery using any method I can fathom.

Thanks,
Max

Request for Review of Decision to Deregister Flux

To: Mr Tom Rogers, Australian Electoral Commissioner

CC: The other members of the Commission: Justice Kenny, Chairperson, and Dr Gruen, the Australian Statistician.

This is a request for the Commission to review the decision, made on the 24th of March 2022, to deregister "VOTEFLUX.ORG | Upgrade Democracy!" (Flux) under s137(6) of the Electoral Act. It is made under s141(2) of the Electoral Act.

I am making this request because the AEC has been using and continues to use a faulty method to test party eligibility with regards to sufficient membership. Thus, I am dissatisfied with the decision to deregister Flux. Additionally, as an Australian elector, a fundamental oversight in the AEC's policy could compromise the democracy that I am a constituent of, so I am affected, along with all other Australians. As part of this request, I provide statistical analysis as grounds that the AEC's testing method is flawed.

My Statement to the Commission

I invite the Commission – Mr Rogers along with Justice Kenny and Dr Gruen – to consider the following hypothetical case regarding the AEC's method for validating that a party meets the requirements of the Electoral Act. I assume that you all are familiar with the AEC's testing methodology.

Consider a party with 9,000 members, and let's say that half of those members (4,500) are validatable as electors, and a further 60% of those members (2,700) will respond "yes" to an AEC request for membership confirmation. It is natural for a party to have members that can not be validated against the electoral roll (which can happen for a variety of reasons; a member's status of *silent elector* is one). Thus, parties go to some substantial effort to submit only those members that can be validated against the roll – for reasons that I hope are obvious to you who comprise the Commission.

That is, in our hypothetical case: 4,500 members are not validatable as electors, and a further 1,800 would deny membership if asked by the AEC. The remaining 2,700 are legitimate.

Justice Kenny, as I'm sure you're aware, the Electoral Act (EA) specifies that an eligible party requires at least 1,500 members. In your legal opinion, would a party with 2,700 members satisfy that clause of the EA?

I hope that you agree that it would. I anticipate that you would also agree that, all else being equal, this hypothetical party appears eligible under the EA. At the very least, we do not have a reason to conclude that the party is ineligible, right?

Dr Gruen, I wonder if you are a man dedicated to facts and truth or falsehoods and political agendas. I'm sure that, as an expert statistician, you hold mathematical facts above unsubstantiated claims. I'm also sure that you appreciate that if a statistical test has a predetermined outcome, then that test is neither reliable nor suitable for any real-world purpose. If you had a blood sample processed by a doctor, would you accept the results if that doctor gave them to you *before* the blood sample was taken? No, of course not, that would be crazy.

So, Dr Gruen, please consider our hypothetical case. Given that this hypothetical party is eligible under the EA, what should we expect as the results of the AEC's testing method as applied to this

party? Given that this party cannot determine which of the 4,500 validatable members will respond “yes” or “no”, and that this party can submit no more than 1,650 members due to AEC policy alone: the best that can be done is selecting a subset of those members, essentially at random. There may be some small optimizations the party could make, but in principle the limiting factors are those that we have already discussed. Thus each member on the submitted list is expected to respond to the AEC with a membership denial with a probability of 0.4 (40%). Of course, we know this because $1,800 / (2,700 + 1,800) = 0.4$, and because there is no reason that the ratio of denying members to confirming members would change substantially (outside the statistical variance of the selection of 1,650 members, which is not very substantial anyway).

Let us assume that this hypothetical party randomly selects 1,650 validatable members from its pool of 4,500. Dr Gruen, I hope that you find this a reasonable course of action for the party to take and have followed the logic thus far.

Dr Gruen, would you agree that the accuracy of a statistical method is roughly: how often it results in true positives and true negatives? That is: if a method results in false positives and false negatives some of the time, it cannot have 100% accuracy. If, for some cases, it *only* produces false positives and false negatives, then it has 0% accuracy for those cases. If there exists some case where the method *will always* result in false negatives, then we can conclude that such a method is, at least sometimes, *inaccurate*, yes?

I invite you, Dr Gruen, to please calculate the probability that this hypothetical party passes the AEC’s membership testing methodology – that the party passes the test that is endorsed by your bureau. You may assume that no members are filtered out, i.e., that during the AEC’s validation of the membership list no electors are excluded for being duplicates, or deceased, or unmatchable against the electoral roll, etc.

All the information required for such a calculation is specified above. I assume that such a calculation is trivial for a statistician such as yourself, with the resources available to you. Surely, you agree that it is fairly straight forward to calculate, yes?

Mr Rogers, while Dr Gruen is calculating that probability, let us discuss [something that you wrote recently](#):

The AEC’s values of electoral integrity through agility, professionalism and quality underpin everything we do [...]

I also believe that integrity is important. Integrity is necessary for a system (or a person) to remain robust. Integrity is a major difference between ‘stable and enduring’, and ‘compromised and corrupted’. When integrity fails, good systems become rotten. Do you not agree?

It is to your integrity, and the integrity of Justice Kenny and Dr Gruen, too, that I make this appeal. I am fully aware that you are free to decide whatever you wish – the Electoral Act is written such that you are practically unconstrained in this matter.

I ask you this: if the AEC and the ABS were wrong about the AEC’s testing methodology, how would you know? Surely you realize that it is possible that the AEC is mistaken somehow – that we are all fallible, and our ideas are fallible? Institutions like the AEC, and methods like the one the AEC use, are based on ideas that were thought-up by people, and are therefore fallible.

Justice Kenny and Dr Gruen, do you also realize this? That there are no infallible humans, no infallible institutions, and no infallible ideas?

Mr Rogers, if it is possible to be wrong, what does it mean to have integrity in the face of potentially being wrong, and thus potentially making progress? Should one take the path of honesty and truth-

seeking, or should one take the path of enforcing authority through baseless claims, evasion, and dismissal? If you have some other path to take, is it not one of honesty and truth-seeking? Surely you would not advocate a path that is dishonest and avoids the truth? Perhaps Justice Kenny has some insight on this; I understand that judges often have some experience in these matters.

Now, let us return to the matter of the accuracy of the AEC's testing methodology. Dr Gruen, are you done calculating those probabilities? Let us compare answers.

Here are my results with 95% confidence intervals: the probability that the hypothetical party passes the AEC's testing method is $0.0020\% \pm 0.0012\%$. The mean membership denials via the AEC's test is $\bar{x} = 23.998 \pm 0.010$ (out of 60 successful contacts). The standard deviation of that distribution is $\sigma_x = 3.765 \pm 0.007$. The SEM for these results is $\sigma_{\bar{x}} = 0.005$.

Dr Gruen, would you consider a statistical method accurate if the probability of it producing a false negative is $99.9980\% \pm 0.0012\%$? Would you consider that, for all intents and purposes, such a statistical method is *predetermined* in its outcome?

Justice Kenny, do you consider it appropriate for an important legal institution to use a method that, in some conditions, fails more than 99% of the time? What would our society be like if the courts had this kind of failure rate for certain types of cases? How do we know that they don't? How does the AEC know that its method doesn't? Why are the answers to those questions different?

Mr Rogers, do you think that a test which, in some cases has a failure rate greater than 99%, should be used by a leader who values integrity and quality? Do you think that a test which, when applied to certain cases, succeeds only 0.002% of the time is "rational, fair and practical in all the circumstances"? [1]

[1]:

https://www.aec.gov.au/Parties_and_Representatives/Party_Registration/Registration_Decisions/2021/notice-of-decision-with-reasons-SUPA.pdf

Dr Gruen, do you think that a test which, for certain cases, is less than 1% accurate is "rational, fair and practical in all the circumstances"? After all, it is a fact that the AEC's method performs this poorly some of the time. You have calculated so yourself. (You have done the calculations, haven't you?)

Justice Kenny, do you think that, when a citizen appeals to a judicial process of their country's legal institutions, they deserve the right to be taken seriously? That they deserve the right to present their case and, if it is supported by the facts, to have an injustice undone? Is that not one of the primary values of judicial processes and the courts? To safeguard citizenry from injustices? To undo decisions that would otherwise be mistakes? Is that not something that the integrity of our legal institutions depend on? Is the AEC not part of the bedrock of our legal system? (Its foundational role being that it provides the system by which parliamentarians, who alone can create and modify legislation, are elected.)

If a citizen petitions an institution via a judicial process, and proves their case with mathematics and evidence, what are they to do if that is not enough? If that institution is unconvinced by facts and evidence, how can a citizen have confidence in their legal system? How can they have confidence in that foundational component of our society?

Moreover, if judicial processes ignore facts and evidence, are those processes serving one of their major purposes – error correction? Is that not a core goal of judicial processes: righting wrongs, undoing mistakes, preventing mistakes, promoting justice, and so on? What is a citizen to do when a judicial process ignores facts and evidence?

Mr Rogers, I cannot force you to change your mind about anything, that is solely up to you.

I can present you with this case, though. Perhaps you (along with Justice Kenny and Dr Gruen) have guessed that the hypothetical party was not so hypothetical after all. The parameters of that case are spitting distance from those of Flux's second membership test (conducted Feb/March 2022). There is at least one major difference – in the hypothetical case, the party selected members randomly; in Flux's case, your delegate selected 1,650 members from the top of the list of 4,680 members that Flux submitted. That list was alphabetical, so the AEC only sampled from members whose first name started with one of A through G.

Dr Gruen, in your expert opinion and in light of the above, and given that Flux failed this test, which of these should we believe true?

- That Flux has fewer than 1,500 members; or
- That Flux has fewer than 1,500 members whose first name starts with one of A through G.

If a party has 1,000 ($\sim 1586 * 29/(17+29)$) members whose first name starts with one of A through G, how many members whose name starts with one of H through Z do we expect that party to have? After all, what are the chances that a party *only* has members with first names that start with a letter between A and G inclusive.

The point of this argument is not that Flux has sufficient members to satisfy the electoral act. The point of this argument is that the AEC's method is flawed. It is inaccurate, it is unreliable, it is unfair, and it is unsuitable – at least in this case. *The facts prove this.*

I am not asking that the Commission believe *me*, I am asking the Commission to believe *facts and evidence*.

Justice Kenny, I will ask you again, does a citizen deserve the right to present their case via a judicial process and, if it is supported by the facts, to have an injustice undone? I hope that your answer is the same in this case as it would have been for all other cases that you have presided over as a Judge of the Court.

The above is sufficient to conclude that Flux was *wrongfully* deregistered. It was wrongful because, regardless of *whether* Flux *should* be deregistered or not, *the AEC's method is not good enough to produce an accurate result in this case*. From a truth-seeking point of view, the AEC's test provides no meaningful information on whether Flux is eligible or not. Since we should not take my word for it, if our goal is to determine whether Flux is eligible with regards to sufficient membership, *we are at square one*. Scientifically, we can draw no conclusions based on the AEC's testing. It is not my place to tell you what should be done instead of the current method, I can only demonstrate to you that the outcome is predetermined in Flux's case, as the test results in a false negative with probability 0.999978 ± 0.000013 . (These numbers differ slightly from those in the hypothetical case above because the calculations are based, specifically, on Flux's second test.)

Mr Rogers, Justice Kenny, and Dr Gruen: perhaps this is not enough to convince that there is a reasonable chance of some problems with the AEC's methodology. The only other thing I can do is present you with a more in-depth statistical analysis of the method – covering this problem and others, both historical and on-going. I suppose that it is most relevant for Dr Gruen, since he is the only one I can reasonably expect to have the knowledge of statistics necessary to judge the analysis. To my knowledge, this is the first third party review of the AEC's methodology. If there has been a third party review that is not public, I think that it is reasonable for the Commission to provide it (without an FOI request).

After I sign off, you will find supporting graphs of the Probability Mass Functions comprising the statistical analysis from which my above results were drawn. Following that, the in-depth review of

the method. Please consider these as part of this submission.

Mr Rogers, there is only one thing that I ask of you – besides that this matter is taken seriously. If the Commission resolves to affirm the decision to deregister Flux under s137(6) of the EA, please tell me: if *this* was not enough to convince you that there are problems with the testing method, what would have? Is there *anything* that would have convinced you?

If that case comes to bear, then I have a request for Dr Gruen, too: if you disagree with my statistical analysis, meet me on a level playing field by providing your calculations, as [I am providing you mine](#) [2]. Perhaps Justice Kenny can assist the Commission in determining if this is a fair request.

[2]: <https://github.com/XertroV/aec-membership-test-simulator/blob/aec313e66acdd2ccdaa7ff8e7bd96aec6542138a/main.py#L439-L684>

Mr Rogers, I leave it to you as the accountable authority of the Australian Electoral Commission, along with the other members of the Commission: Justice Kenny and Dr Gruen, to uphold “[the] AEC’s values of electoral integrity through agility, professionalism and quality [...]”.

s 47F (Personal Privacy)

I await your review,

Max Kaye

s 47F (Personal Privacy)

Supporting Material: PMFs of Distributions in this Request for Review

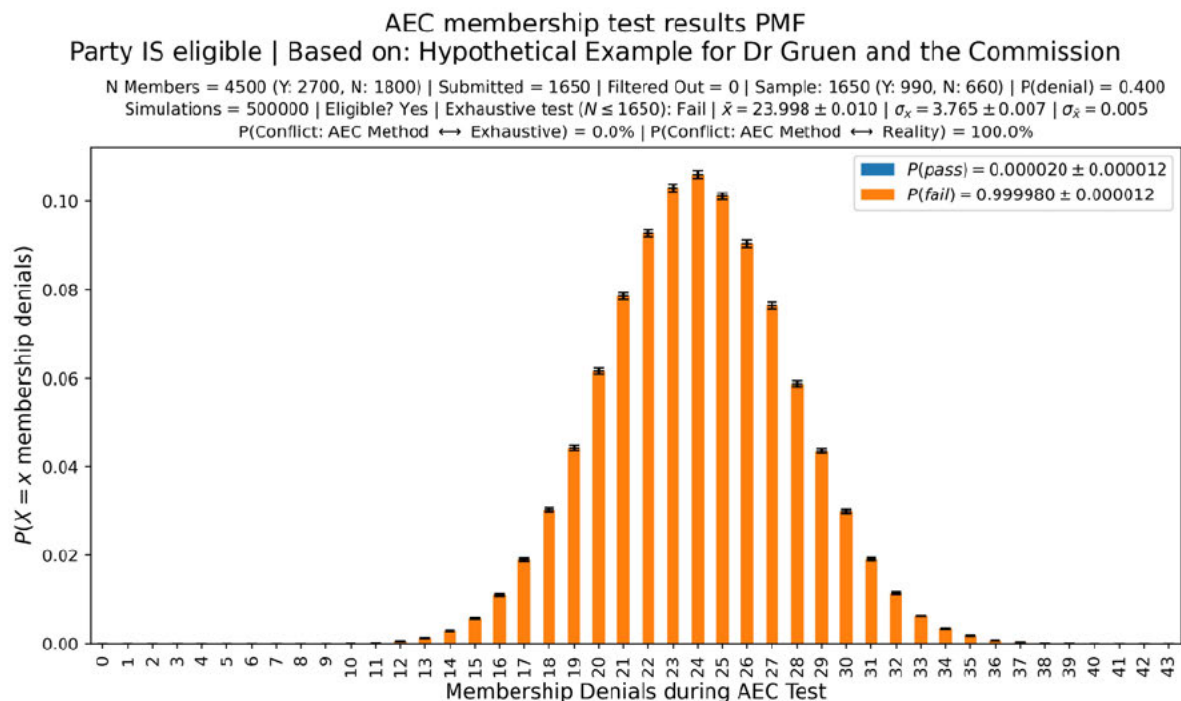


Fig S.1: A hypothetical case (covered earlier in this submission) that shows the Probability Mass Function of the results of the AEC’s testing method given: 4,500 members that an eligible party may select from; no members filtered out by the AEC; and a membership denial rate of 40%. **An assumption of this statistical case is that the party is eligible under the EA. This**

therefore constitutes a case where the AEC's method is completely inaccurate.

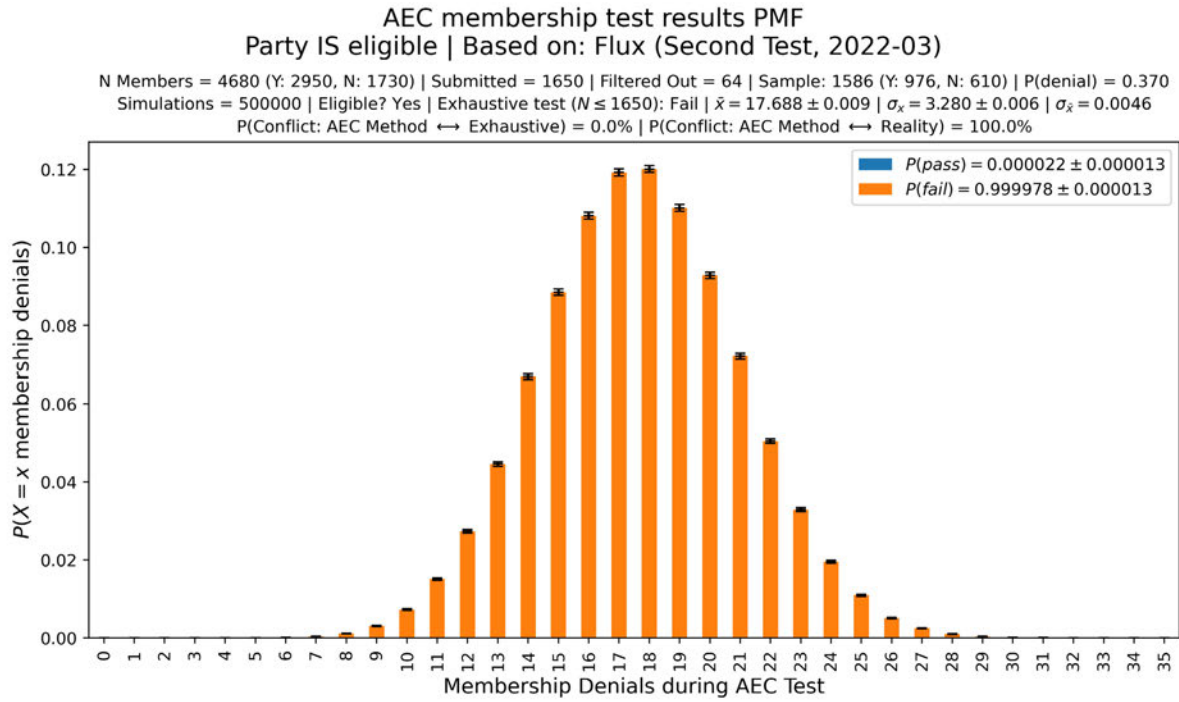


Fig S.2: Modelling based on the AEC results from Flux's membership test in Feb/March 2022. Even if we assume that Flux is eligible, the AEC's method returns a false negative more than 99.99% of the time.

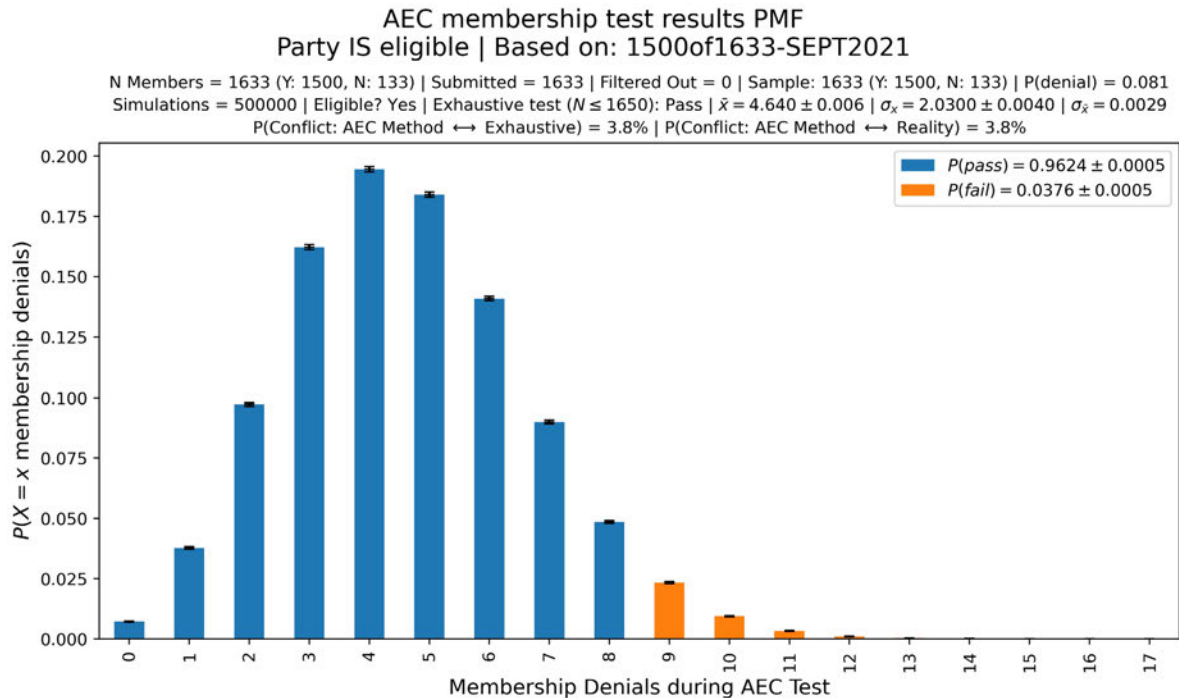


Fig S.3: Modelling of an example where the AEC's method works. That is: it is accurate *in this case*.

Statistical Review of the AEC's Method Follows

AEC Party Membership Test Methodology is Rigged! A Statistical Analysis of AEC Methodology and Graphs (of PMFs)

[Website](#) | [Source Code](#)

Max Kaye

2022-02-15 to 2022-02-21

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Abstract / Executive Summary

In Australia, to register a political party you need a minimum number of members. Federally, that's *usually* 1500 (as of September 2021) – the Australian Electoral Commission (AEC) will conduct membership tests to verify this minimum. Political parties *with* a parliamentarian have no minimum membership limit and are not tested. Political parties *without* a parliamentarian must go through a membership test when they register, and then once every election cycle thereafter.

This document evaluates the AEC's testing methodology for particular cases and finds that there are real-world situations where the testing methodology has a false negative (improper failure) rate over 50%, and often much higher.

Therefore, it is reasonable to conclude, for those cases: the methodology is *rigged* and a *farce*.

If something is *rigged* and a *farce* – based on the definitions included and cited in the appendix – then it is an *unfair, empty act, done for show* where the *outcome is already known*. This document proves that the current method has unfair and predetermined outcomes for many situations.

Note: I am not accusing the AEC of doing the rigging; just proving that the method is rigged.

To date, there is 1 known incident of a farce, *at least* 5 suspected incidents, at *at least* 5 other possible farces. This is based only on results that the AEC have published as part of a review (other

results are not available).

The Flux Party's recent 2021 membership test is analyzed in multiple ways:

- **Measured case:** a 17% membership denial rate – as measured by the AEC during this membership test.
- **More extreme - but realistic - cases:** These are more extreme cases than the measured case, but it is an assumption of *all* cases that the party is eligible under the Electoral Act.
- **Threshold case:** the case where 9.09% (150/1650) of any membership list submitted will deny membership. I *suspect* this is close to an AEC assumption used for calculating the maximum number of denials for [the AEC's testing table \(given their advertised risk of false results\)](#).

Experimental evidence shows that the *measured* true positive rate of The Flux Party's 2021 membership test was **just 28.3% \pm 0.12%**. This is despite *the experimental assumption* that Flux has more members than the legislatively required number.

In Flux's threshold case, where 150/1650 = 9.09% of the submitted membership list will deny membership and 24 members are filtered without replacement, experimental evidence shows that the AEC method's true positive rate was 89.0%, *which is less than the limit [previously advertised \(90% or better\)](#)*. The true positive rate is that high because Flux has gone to a great deal of effort to increase the quality of our membership lists to avoid members being filtered – **we did this, in large part, to address inadequacies of the AEC's methodology**. As more members are filtered without replacement, the false negative rate increases dramatically.

Experimental evidence proves that the AEC's claim that their membership tests are 90% accurate **is false**. In actual fact, for a party that is capable of providing a list of 1,650 members wherein exactly 1,500 members will not deny membership (and 150 will): **the worst-case accuracy of the AEC's membership test is just 15.1%, indicating a false negative rate of 84.9%.**

In other cases, where a party is capable of providing 1,500 members that will not deny membership (with no limit on the number of members that will deny membership), **the lower-bound on the accuracy of the AEC's method is 0%**. That is: *it fails 100% of the time for certain eligible parties*.

This is not a theoretical problem. It has been happening and continues to happen. The AEC has been enforcing a policy that compromises the integrity of our political process. The ABS has been complicit. Political elites have exploited this.

Additionally, the AEC mistakenly enforced a testing table with a typo for 4 years – it's unknown if they ever noticed before the table was updated. (See [Appendix: AEC Membership Testing Tables / Circa 2012 to 2016](#))

Disclosure and context: My roles in The Flux Party (Flux) were: a founder, the deputy leader, the secretary, and the deputy registered officer.

Change Log

2022-04-11

Update: Flux was deregistered on 2022-03-24. See [8. Flux's Second Membership Test \(March 2022\)](#).

1. Background Context

Recently (leading up to September 2021), most parliamentarians (i.e., the 4 major parties) decided

that we had too many political parties and that this was a problem! It would not do. So, a bunch of changes were made to the Electoral Act. Changes designed to make life harder for anyone who wanted to be part of our democracy, but did not want to participate in the rotten, tribalist, political cults that run the show. Some of those changes resulted in (as of Feb 2022) the pending deregistration of 12 parties, and the very real deregistration of 9 parties. In practice that is ~40% of parties, gone before the next election. Political elites will claim (and have claimed in Parliament already) that these changes, the culling, and the subsequent entrenchment of the status quo, is a good thing. That it is making our democracy better.

In September 2021, the legislatively required number of members for a political party was increased from 500 to 1500 with little warning and no grace period. The AEC's policies – going back at least a decade – have encouraged parties not to bother going over 1.1x the legislative limit (i.e., previously 550, now 1650) with regards to their number of members that are verifiable against the roll. (Submitting more than this is pointless and makes registration harder.)

2. Regular Membership Testing

Every few years, the Australian Electoral Commission (AEC) will check that each political party has enough members according to the legislative requirement. The party must provide a list of 1500 to 1650 names (inclusive) to use as evidence of their eligibility. The AEC will then filter out some names (duplicates, deceased members, etc). That produces a NEW list of ≤ 1650 names. Then, the AEC will do a statistical sampling of members and will use that to determine whether a party is eligible. Particularly, a small subset of members are selected and contacted, asking for a yes/no confirmation of membership. Non-responses are skipped. A “No” answer counts as a failure – this is a *membership denial*. In this document and associated code: “failure rate” refers to the rate at which members respond “No”.

The AEC does not accept lists larger than 1650; there is no chance for a party to replace any of those filtered members; that filtering process increases the chance of false negatives (when list length is limited + excluding duplicates); parties are not told which members were filtered (even those which are deceased) so they cannot be proactively removed; and, finally, the standard of statistical evaluation is to assume that the list of 1650 members were *the only members* of the party. Zero consideration is given beyond this, outside the chance to respond – a tactic that has, historically, performed poorly except by the grace of the AEC. How many parties have been wrongly denied registration due to this artificial limit? Nobody knows.

[The method is detailed on pages 23 and 24 of “Guide for registering a party”. \(mirror\)](#)

3. Flux's 2021 Membership Test: A Known Farce

Flux failed its recent membership test. The only problem? We have at least 4680 members whose details have been matched against the electoral roll. It is the AEC's imposition of 1650 members maximum that is the problem.

Note that Flux is only in a position to offer so many members because of our unique membership system: free for life. Additionally, significant automation has been developed to assist members in verifying their details against the electoral roll and keeping their details up to date. This is a task too involved, expensive, and specialized for it to be practical for most political parties.

- [AEC's Notice to Flux \(with test results\)](#)
- [Our Response](#)

From the AEC's notice (note that the AEC **refuses** membership lists with more than 1650 members):

On 7 December 2021, the Party responded to the s 138A Notice by providing a list of between 1,500 and 1,650 members of the Party.

I am notifying you under s 137(1)(b) of the Electoral Act 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. A copy of the s 137(1)(b) Notice is enclosed.

Here is an excerpt from the first page of our response, to give you an idea of the gist:

We have 3 arguments supporting our case. Each argument is *individually* sufficient to show that a decision (by the AEC) to deregister the Party would not be based on reasonable grounds; each argument is a *decisive criticism* of the current methodology.

- The statistical method used fails ~10% of the time for borderline cases.
- The statistical method uses an artificially limited sample size and thus does not estimate party membership, though does (roughly) measure membership attrition.
- We have sufficient membership and provide evidence. **Attached is a list of 4680 members. Each entry was, at some point, verified against the electoral roll.**

Unless each of these criticisms can be addressed, we do not believe that a decision by the AEC to deregister the Party would be based in reality.

(Note: there are at least two non-critical errors in our response – the AEC has already been informed. See the end of the doc for what was sent to the AEC re those errors.)

I became curious about the *actual* statistical properties of the AEC's process. How likely would it have been for us to succeed? (Given that we are **in fact** an eligible party.)

Turns out there was a 71.7% chance that the AEC's method would find a false negative.

TL;DR: It's rigged.

In this document and the associated code and graphs: a *farce* is defined as any case where the chance of a false negative is $\geq 50\%$, i.e., statistical accuracy is $\leq 50\%$.

The AEC's membership test being *rigged* means that, in some relevant cases, the outcome is predetermined. Since there are cases where an eligible party will have ~0% chance of success, it is the case that there exist relevant cases where the outcome is predetermined.

4. Analysis Methodology

The code associated with this document produces statistical graphs (of the Probability Mass Function, specifically) based on 500,000 simulations of the AEC's method.

For each simulation, the number of failures is recorded as the output. Subsequently, these results are normalized to give the probability of X failures for the given input parameters. These probabilities are then graphed, with the x-axis showing the number of failures, and the y-axis showing $P(X = x)$ – i.e., the probability of a membership test having a certain number of failures (membership denials). As the AEC has limits on the acceptable number of membership denials based on the reduced membership list, the bars in these PMFs are colored blue or orange to indicate a pass or a failure. In cases where the party *does* meet legislative requirements, the blue bars ($P(\text{success})$) should, according to [AEC Policy](#), always sum to > 0.9 . Where $P(\text{success}) < 0.5$, the case is deemed a *farce* and marked as such.

The simulation is initialized with a membership list – a list of N members where each member has a `failure_rate` chance (e.g., 0.0909) of responding “No” (i.e., a membership denial).

Each simulation proceeds thus:

1. Randomly sample, without replacement, `sample_size` many members from a party’s membership list. `sample_size` is the maximum allowable by the AEC.
2. Filter out `n_members_removed` many members (e.g., 24 members were filtered out of Flux’s 2021 membership test). This results in the “*reduced* membership list” mentioned above.
3. Randomly sample, without replacement, `n_to_sample` many members from the reduced membership list. `n_to_sample` is based on the AEC’s published tables of sample sizes and the acceptable number of denials (these are dependant on the size of the reduced membership list).
4. Count the number of failing members and record as a result.

The results are compared against:

1. AEC published accuracy claims
2. Reality (will an eligible party fail the AEC’s test, or an ineligible party pass it?)

Note: after the main body of this paper, there is [Appendix: AEC Membership Testing Tables](#) which measures the accuracy of published AEC membership testing tables.

Running this simulator

If you want to skip this section, go to: [5. Major Findings](#).

Tested w/ python 3.9 and 3.10. (3.8 did not work.)

Install python3 deps: `pip3 install r requirements.txt` Or `pip3 install matplotlib pandas click scipy`

For the program’s arguments, run `./main.py help` (or `python3 main.py help`). You can find the [\(source code\)](#) in this paper’s [repository](#).

Individual simulations are added in the `aec()` function. The primary parameters of each simulation are: number of trials in the simulation, the population size of members from which the party can choose a membership list to provide, the failure rate of members confirming their membership when contacted, and the number of members that are filtered out of the list (reasons include: they support the registration of another party, they’re deceased, the details cannot be matched against the electoral roll, or duplicate entries). Optionally, a specific AEC testing policy can be specified, along with different filtering methods.

Tables of *chance of 1 success vs tests required* are generated via `calc n trials required.py`.

Main Simulator Loop

If you want to skip this section, go to: [5. Major Findings](#).

This is the main loop of the simulation. It has been run 500,000 times per graph unless otherwise mentioned.

```
# take sample from full membership list (which can be more that 1650 / the AEC's limit)
# the sample size is, at most, the legislative limit (e.g., 1650)
membership_sample = sample_from(members, sample_size, replace=False, shuffle=True)
```

```

# remove n_members_removed from the party list (these are filtered members).
# If `filter_any == False` then only members that will respond "yes" will be removed (this
# is the worst case for the party).
# note: this usually makes little to no difference
# members can be removed b/c their details couldn't be matched, they're deceased, or b/c
# they've supported another party's rego.
# we usually want to remove true members to measure worst case performance of methodology.
# why?
# if the party has excess members, then filtered members could be replaced with other
# valid members
# if the party had a way to pro actively filter these members out, the party would
# (so as to submit a higher quality list)
# because that's what happens in a griefing attack (your fake members will be sure not to
# give you bad details).
# since there is no way to detect this and it is not random or uniformly distributed, it
# must be assumed.
if not filter_any:
    reduced_sample = list(filter_out_n_members(
        lambda m: m,
        membership_sample,
        n_members_removed))
else:
    # the following line will remove n_members_removed indiscriminantly since
    # `membership_sample` is shuffled.
    # note: it makes little difference only in borderline cases.
    reduced_sample = membership_sample[n_members_removed:]
assert reduced_sample_size == len(reduced_sample)

# perform check (contact member to confirm)
actual_sample = sample_from(reduced_sample, n_to_sample, replace=False, shuffle=True)
# count failures
n_failures = sum(0 if m else 1 for m in actual_sample)
# record results
results.append(n_failures)

```

5. Major Findings

In the case of Flux's recent membership audit, the simulation shows that – *on the assumption that Flux is an eligible party*, and that 17% of members provided will respond “No” – that there is a 71.7% chance of the AEC reaching a *false negative* result. In such a case, *based on the AEC's data*, statisticians should expect that Flux has over 3,800 members that *would* either respond “Yes” or not respond. See [Fig 5.1](#).

What if we repeat the exercise? How many membership tests would be required to reach a positive result 90% of the time (i.e., 10% of the time Flux fails every test)?

Chance of 1 Success	Tests Required (p=0.283)
80%	5
90%	7
95%	10
99%	14

So, 7 complete tests (of 1650 members randomly sampled from Flux's list of 4680) would be required to reach 1 successful test, 90% of the time.

What happens if Flux gains more members?

Moreover, say that Flux is gaining members faster than it is losing them. ('Losing' members means that they will now answer "No" but do not revoke their membership.) It turns out that this can make the AEC's methodology *less likely to succeed*. Go figure: a party *increases* its membership and the AEC test gets *less accurate*! See [Fig 5.2](#), [Example 5.2.1](#), [Example 5.2.2 \(Filtered=0\)](#), [Example 5.2.3 \(Filtered=24\)](#).

The system is rigged. It's a farce.

Finally, there are cases where the AEC's method fails even more spectacularly.

Say 50% of Flux's 4680 members submitted (as part of our objection to the AEC's consideration of involuntary deregistration) respond "No" – the AEC's method fails 100% of the time in this case, even though Flux would exceed the legislative requirement by 1.56x. See [Fig 5.3](#), and related: [Example 5.3.1](#).

Update: additionally, see [8. Flux's Second Membership Test \(March 2022\)](#).

Reading These Graphs

- N Members: The number of members that the party is capable of submitting, i.e., they are validated to the best of the party's ability.
- Submitted: The number of members that the party submits to the AEC.
- Filtered Out: The number of members removed without replacement by the AEC – parties cannot preemptively remove these members as the AEC uses information that is unavailable to parties.
- Sample: The number of members after AEC filtering.
- P(denial): The probability that a member will deny membership when contacted.
- (Y: ..., N: ...): The number of members that, when contacted by the AEC, will respectively respond: "yes", and "no". Note: if a member does not respond to a request for contact, the AEC selects a new member to contact from the sample.
- Simulations: The number of times the AEC test was simulated while generating the distribution.
- Eligible?: whether the party is eligible under the Electoral Act.
- Exhaustive test: would the party pass a membership test if *every member in the sample group* were contacted? Note: this is limited by AEC policy to 1650 (or 550 prior to Sept 2021).
- "x bar" (\bar{x}): The mean of the distribution, i.e., the average number of denials.
- "sigma sub x" (σ_x): Standard deviation of the distribution.
- "sigma sub x bar" ($\sigma_{\bar{x}}$): Standard error of the distribution.
- P(Conflict: AEC Method \leftrightarrow Exhaustive): The probability that the AEC's method conflicts with the results of an exhaustive test.
- P(Conflict: AEC Method \leftrightarrow Reality): The probability AEC's method fails (i.e., produces a false positive or false negative).
- \pm : This indicates the 95% confidence interval. That is: the 95% confidence interval for $a \pm b$ has a lower bound of $a - b$ and an upper bound of $a + b$.
- Data in each chart has error bars in black.

Analysis of Flux's *actual* membership test

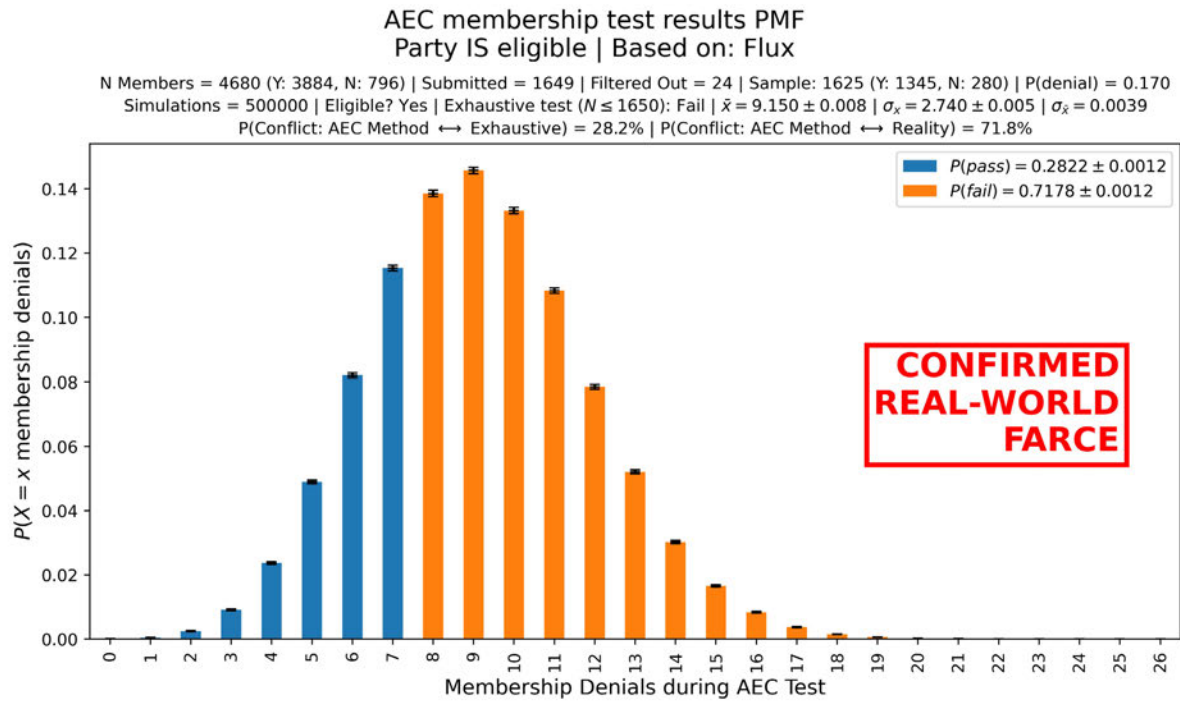
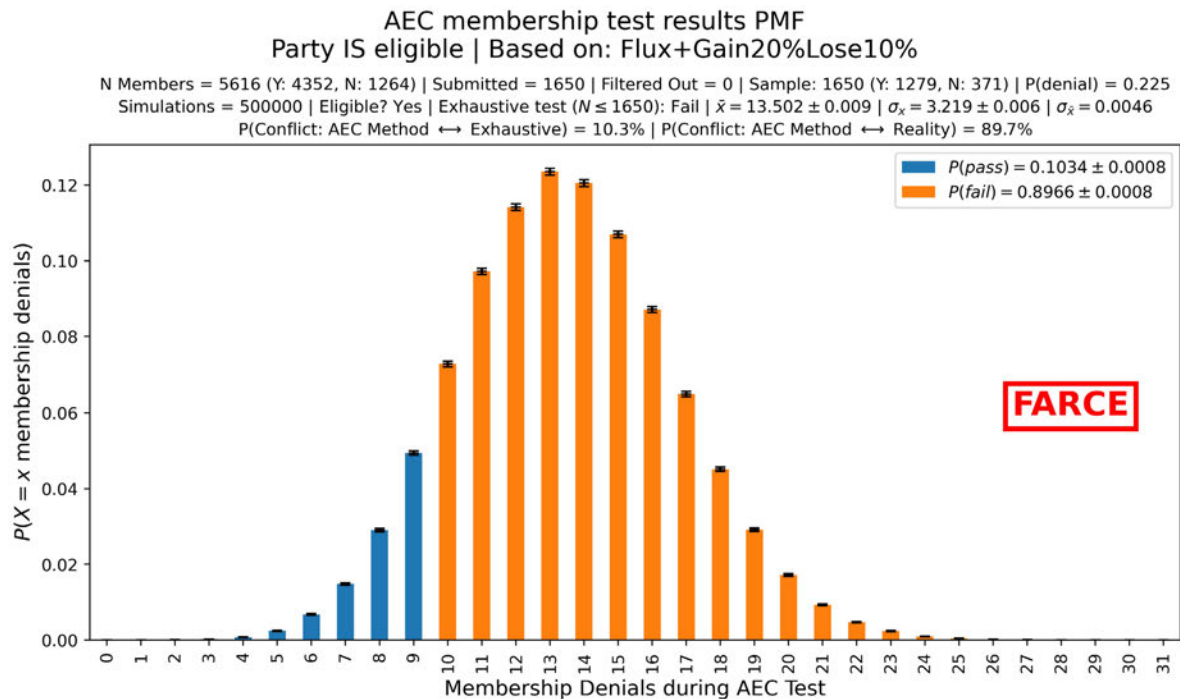


Fig 5.1: Even though an assumption of this simulation is that Flux is an eligible political party, the AEC's method fails 71.7% of the time. **This is the real-world analysis of Flux's membership test.**

Note: Flux submitted 1649 members due to an off-by-one error (the spreadsheet had 1650 rows, including a row for the headings).

Predictive analysis if Flux's membership increases by 20% but members that will deny membership increases by 10%



*Fig 5.2: This distribution shows that the AEC's validation method becomes less reliable as a party *gains* members.*

Improvement makes life harder! Strength is weakness!

Chance of 1 Success	Tests Required (p=0.104)
80%	15
90%	21
95%	28
99%	42

Predictive analysis with a 50% denial rate

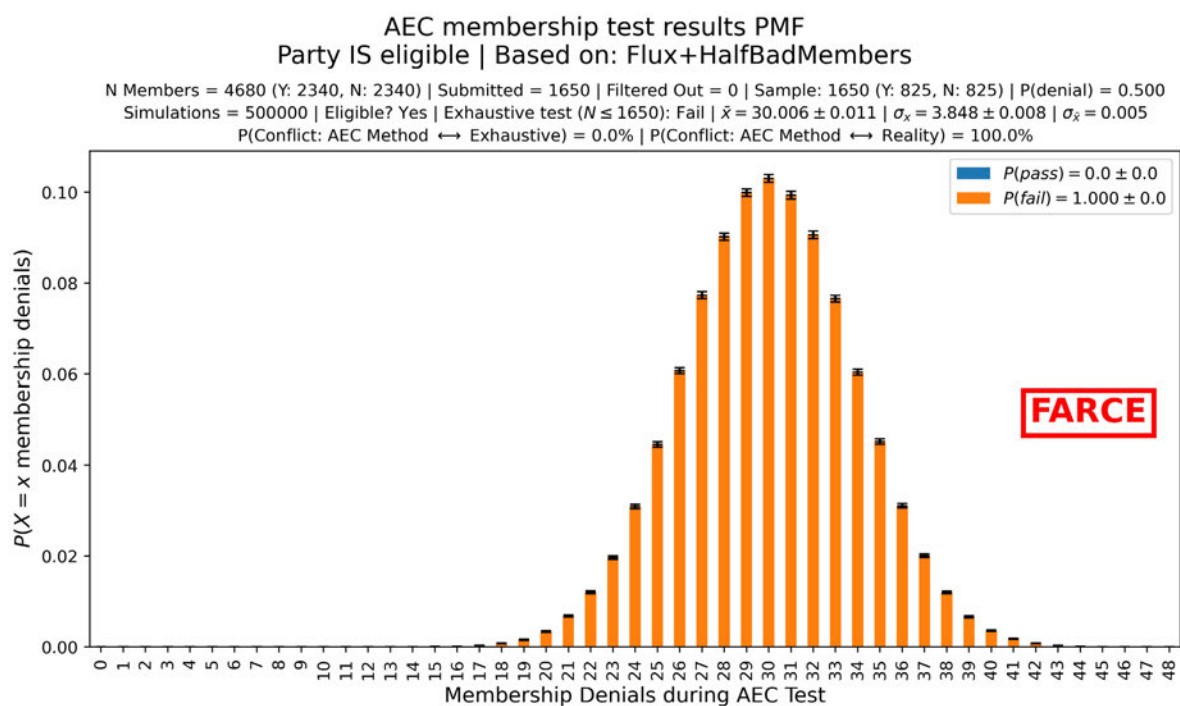


Fig 5.3: If we assume that Flux provides 4680 members but only 50% of them will respond "Yes" or not respond -- indicating 2340 valid members and indicating that Flux is an eligible party -- the AEC's method fails 100% of the time.

Chance of 1 Success	Tests Required (p<0.0005)
80%	at least 3,219
90%	at least 4,605
95%	at least 5,990
99%	at least 9,209

6. Suspected Farces

Detecting previous farces is difficult because the AEC does not publish the results of membership tests and, to my knowledge, does not record or ask for the number of members a party *could* offer in support of their validity. Instead, we only know the number of members that were submitted, which is always ≤ 1650 (or the limit in effect at the time), and we only know this when the AEC has published a statement of reasons which is only done when there is a request for review. If a party just gives up, or otherwise misses the deadline, then we don't hear about it and thus cannot evaluate whether a farce occurred.

Note: these cases occurred prior to the September 2021 increase in required members. Therefore they are judged against the previous requirements – the test method was practically the same, the only difference being that it was calibrated for membership lists of 500-550 instead of 1500-1650.

Since parties sometimes *max out* the number of members they may provide, the only reasonable conclusion is that they have *more* members they *could* provide if a more responsible method were used.

Therefore, parties are assumed to have *just enough* excess capacity in additional members to be eligible, and that those extra members *could* have been provided.

Excess Capacity Explanation

Excess capacity here refers to additional members that, if not for the AEC's limit, a party could provide – expressed as a percentage of the limit. If a party requires 10% excess capacity, and the limit of a membership list is 1650, then that party must be capable of providing a list of 1815 members that a list of 1650 members is randomly sampled from.

For comparison: in Flux's case, we had 3030 additional members (excess capacity of 184%) – excluding those that we could not validate. The AEC is sometimes able to validate members that we cannot, and we have at least 4285 additional members that we could contact with a request for them to update their details.

What about cases where the member list submitted had a large number of duplicates? It is not safe to assume the absence of a farce in these cases: maintaining membership lists is difficult. In my case, I wrote **thousands of lines** of custom code to assist Flux in managing our member list – and the proportion of our list that is automatically matched against the electoral roll is proof of this. But, even with multiple checks for duplicates (matching phone numbers, emails, first and last names, etc), still we would occasionally get duplicates. These stragglers were usually found through a manual process before submission. At some point it just isn't worth worrying about. *However*, due to the ambiguity of these cases, this document will exclude them from "suspected" farces.

The Suspected Farces

Since, in the following cases, the excess capacity of the party undergoing testing was not known, these are only *suspected* farces.

1. (Fig 6.1) [30 June 2021 – deregistration of Child Protection Party under s 137\(6\) \(mirror\)](#) – excess capacity of 13.4% required
2. (Fig 6.2) [9 March 2021 – deregistration of Seniors United Party under s 137\(6\) \(mirror\)](#) – excess capacity of 14.4% required
3. (Fig 6.3) [7 November 2013 – refusal to register of Cheaper Petrol Party \(mirror\)](#) – excess capacity of 8.2% required
4. (Fig 6.4) [12 November 2010 – refusal to register of Seniors Action Movement \(mirror\)](#) – excess capacity of 5.1% required

5. (Fig 6.5) 1 March 2016 – deregistration of the Australian Democrats (mirror) – excess capacity of 6.5% required

Note, the @Measured in the titles of the following graphs indicates that the failure rate is calculated directly from AEC reports of the ratio of membership denials to membership contacts.

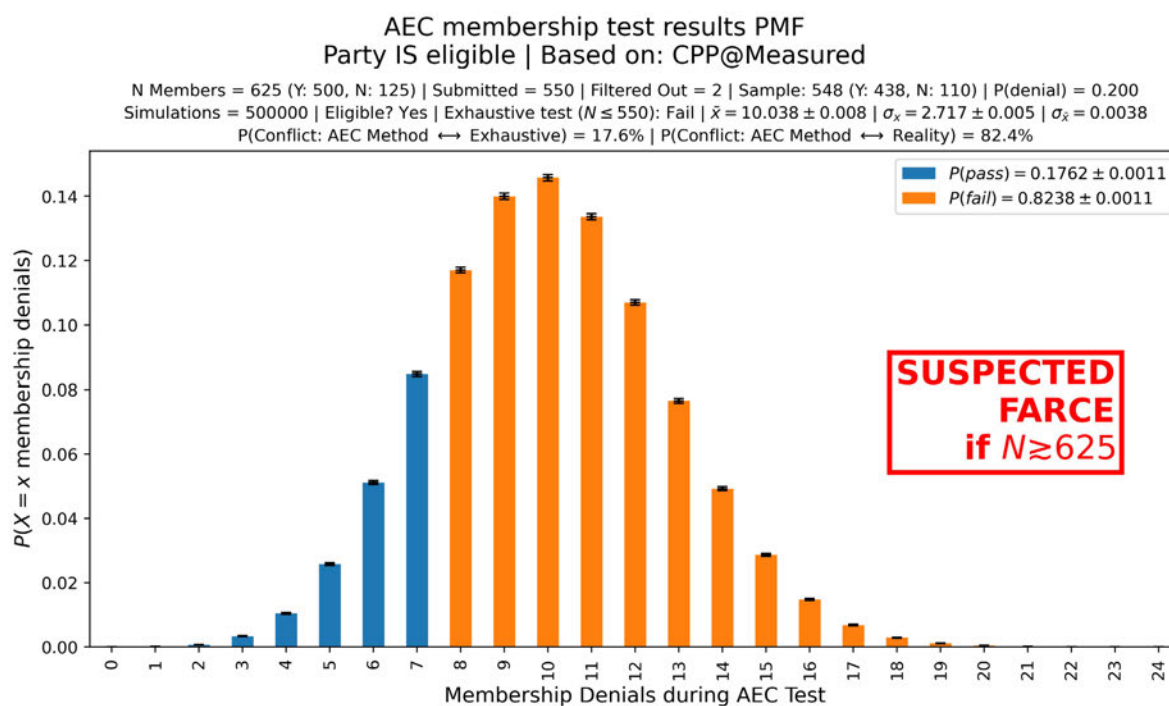


Fig 6.1: The deregistration of Child Protection Party on 30 June 2021 is suspected to have been a farce.

Chance of 1 Success	Tests Required ($p=0.176$)
80%	9
90%	12
95%	16
99%	24

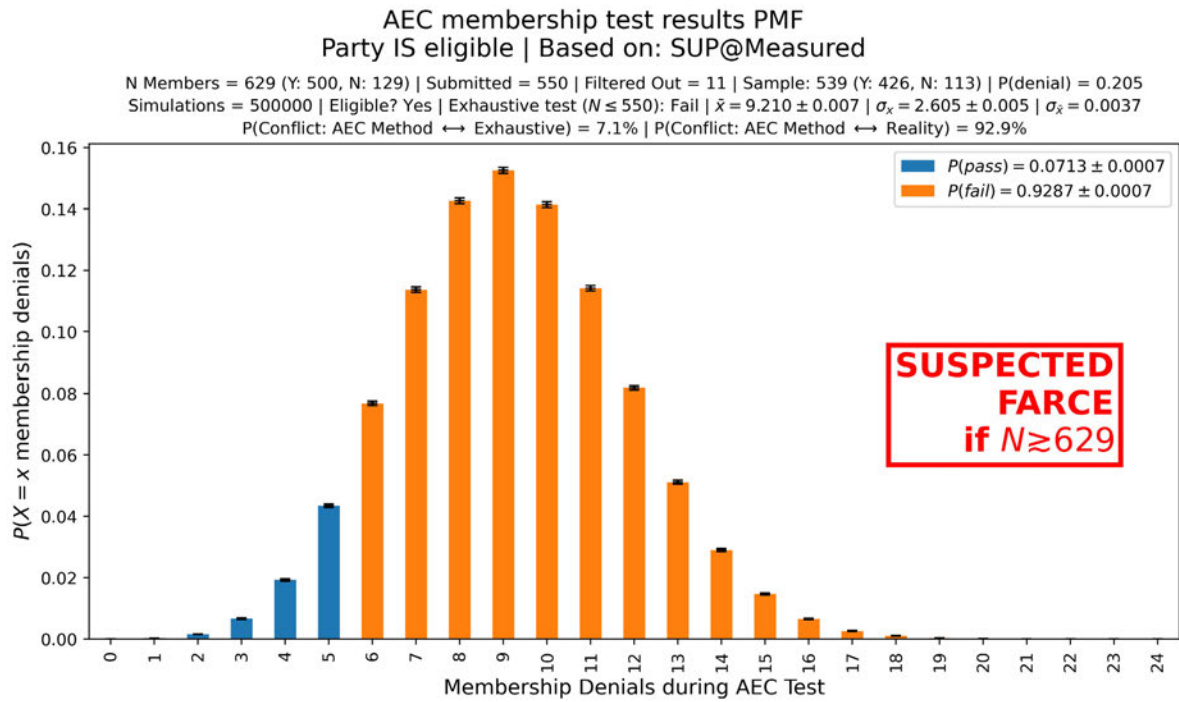


Fig 6.2: The deregistration of SUP on 30 June 2021 is suspected to have been a farce.

Chance of 1 Success	Tests Required ($p=0.071$)
80%	22
90%	32
95%	41
99%	63

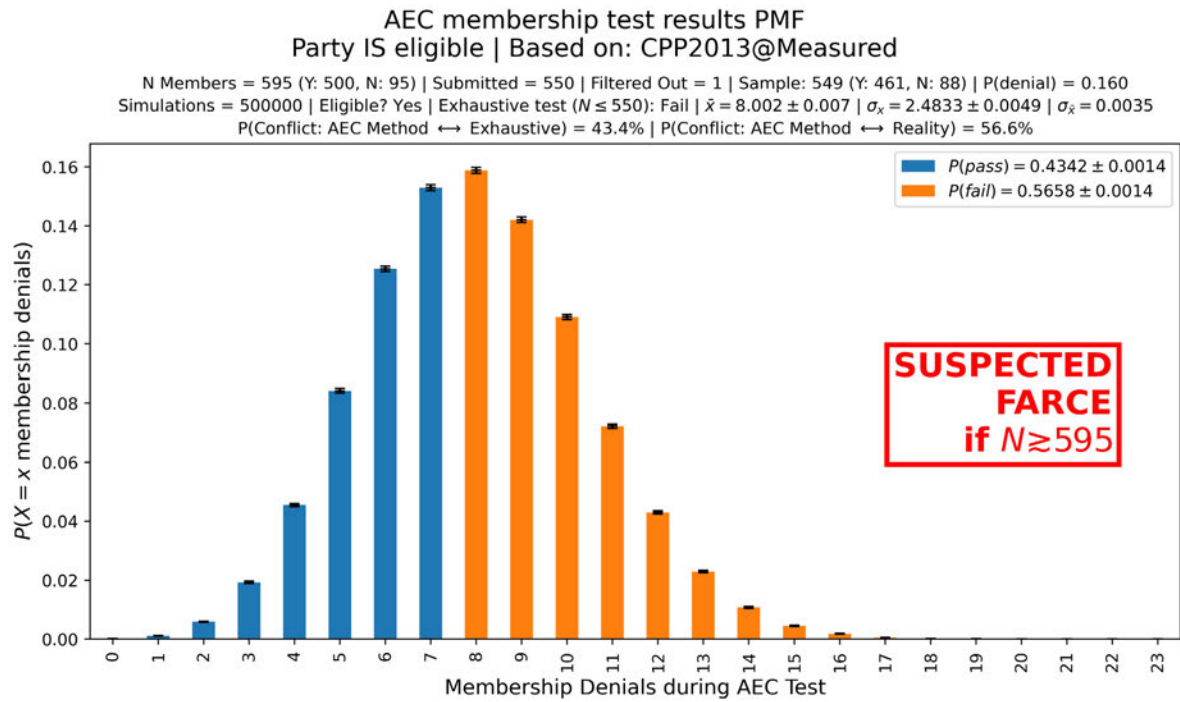


Fig 6.3: The refusal to register Cheaper Petrol Party on 7 November 2013 is suspected to have been a farce.

Chance of 1 Success	Tests Required ($p=0.435$)
80%	3
90%	5
95%	6
99%	9

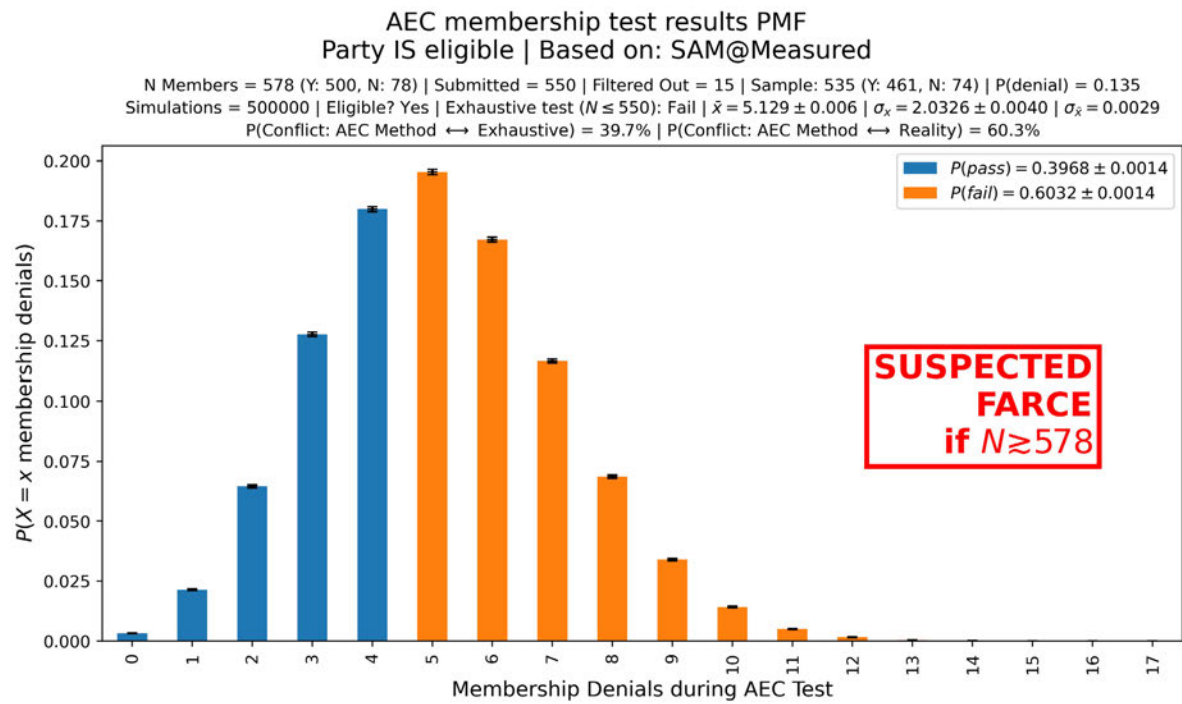


Fig 6.4: The refusal to register SAM on 12 November 2010 is suspected to have been a farce.

Chance of 1 Success	Tests Required ($p=0.410$)
80%	4
90%	5
95%	6
99%	9

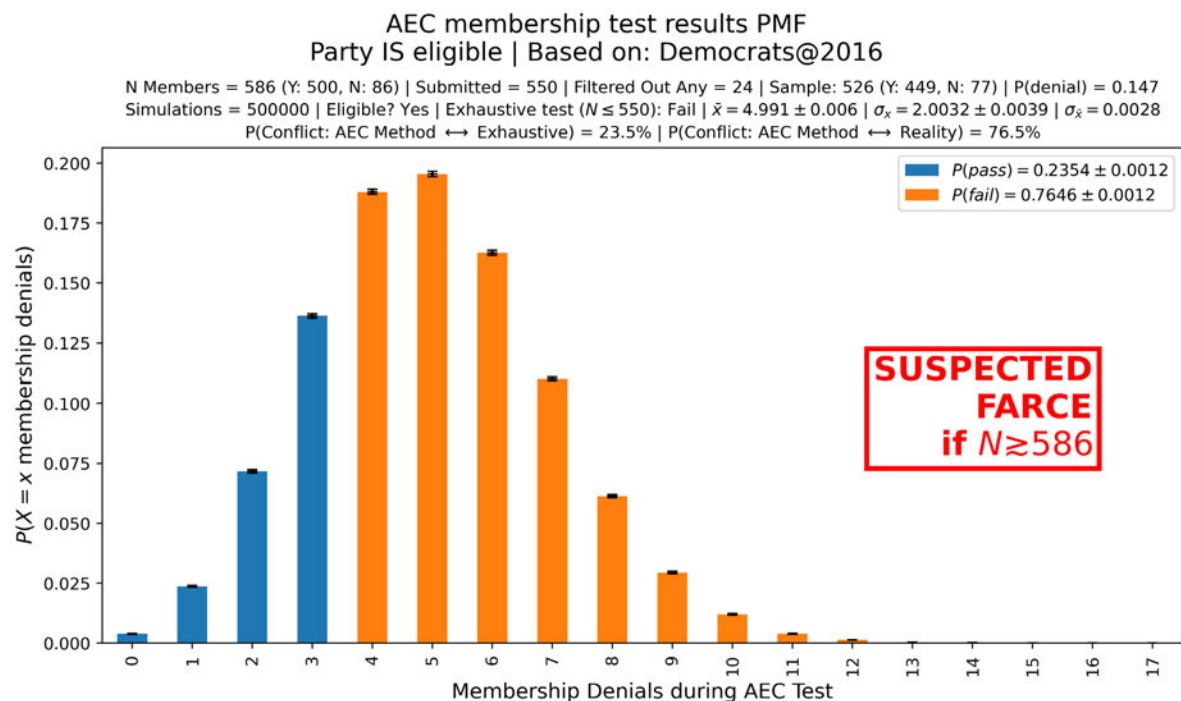


Fig 6.5: The affirmation of the decision to deregister of the Australian Democrats on 1 March 2016 is suspected to have been a farce. Note: this uses the AEC measured $P(\text{denial})$, as with graphs including @Measured.

Chance of 1 Success	Tests Required ($p=0.237$)
80%	6
90%	9
95%	12
99%	18

Possible Farces

These are cases where the available information regarding the membership test is incomplete, so some assumptions have had to be made. Based on AEC measurements, if the party had some minimum number of members (such that it had at least 500 non-denying members), then these cases are farces.

1. [2017-08-09 Affirmation of refusal to register the Australian Affordable Housing Party](#) - Figure
2. [2016-05-04 Set aside of decision to deregister Australian First Party](#) - Figure Note: this is a farcical situation because, although the party was successful, the accuracy was only 48.8%. In essence, it was a 50/50 coin-flip.
3. [2017-08-09 Refusal to register The Communists](#) - Figure
4. [2018-08-30 Refusal to register Voter Rights Party](#) - Figure
5. [2016-08-24 Affirmation of deregistration of the Republican Party of Australia](#) - Figure

7. Flux's 2021 Membership Test Assuming a Threshold (9.09%) Denial Rate (including worst-case)

Flux is a party that has – with regards to membership lists – excess capacity; if filtered members could be replaced, we could provide them. Note that filtered members are never replaced in the AEC’s method.

Given this, combined with the artificial limit on sample size, what are the true accuracy values for the AEC’s test?

As it turns out, it depends on the quality of Flux’s membership list. We have a high-quality list – thanks to a lot of management code written to help with that – but many parties do not have the skills or resources to do that.

Fig 7.1 shows that, for Flux’s recent membership test, the true accuracy of the AEC’s method – assuming that Flux’s members have $P(denial) = 0.0909$ – was **89.0%**; which is lower than the 90% accuracy that’s been advertised in the past. That means that the results of the AEC’s test would incorrectly find Flux ineligible 11% of the time.

Additionally, Fig 7.2 and 7.3 show that, as the number of members filtered out increases, accuracy drops – a lot.

@Thresh in these titles indicates a 9.09% denial rate (which is not what was measured during Flux’s recent membership test). $9.09\% = 150 / 1650$.

+F__ indicates that the number in place of __ is the number of members that were filtered out (e.g., duplicates, deceased members, etc).

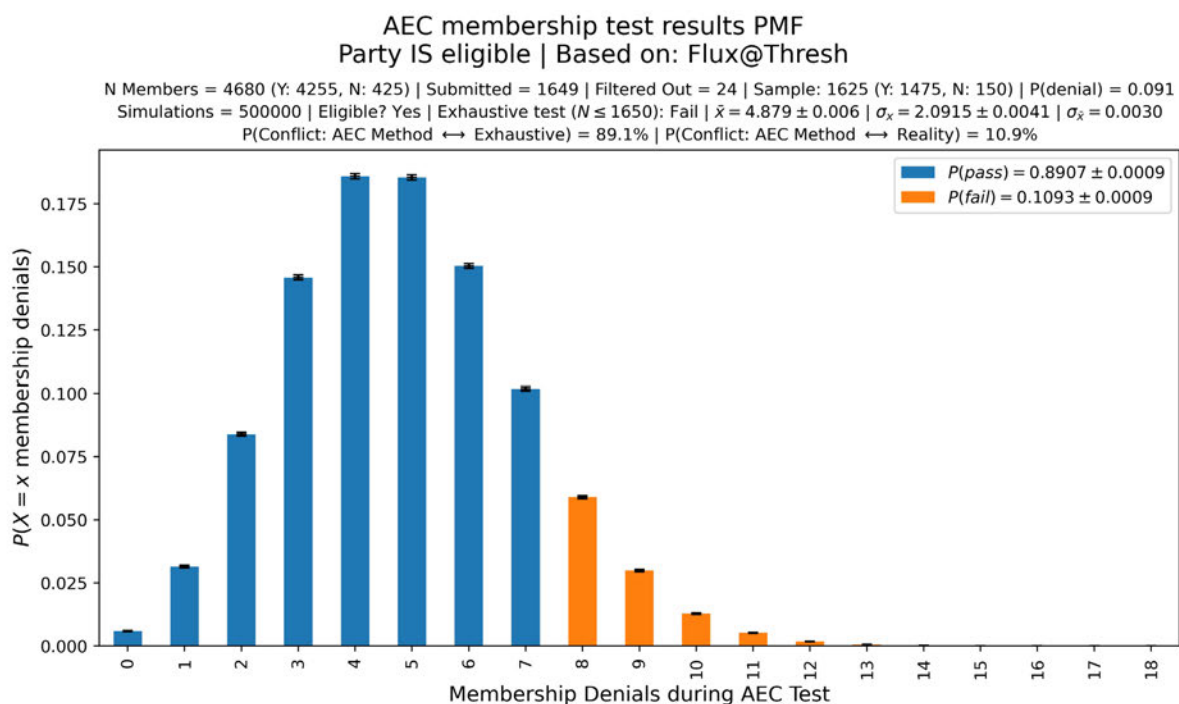


Fig 7.1: Assuming that 91.9% of the members (randomly sampled from the full list) on Flux's 2021 membership test will not deny membership when contacted (1500/1650): 500,000 simulations of Flux's membership test show that it has an accuracy of 89.0% (i.e., false negative rate of 11.0%), which is less than the AEC's [previously advertised](#) 90% accuracy.

Chance of 1 Success	Tests Required (p=0.890)
---------------------	--------------------------

80%	1
90%	2
95%	2
99%	3

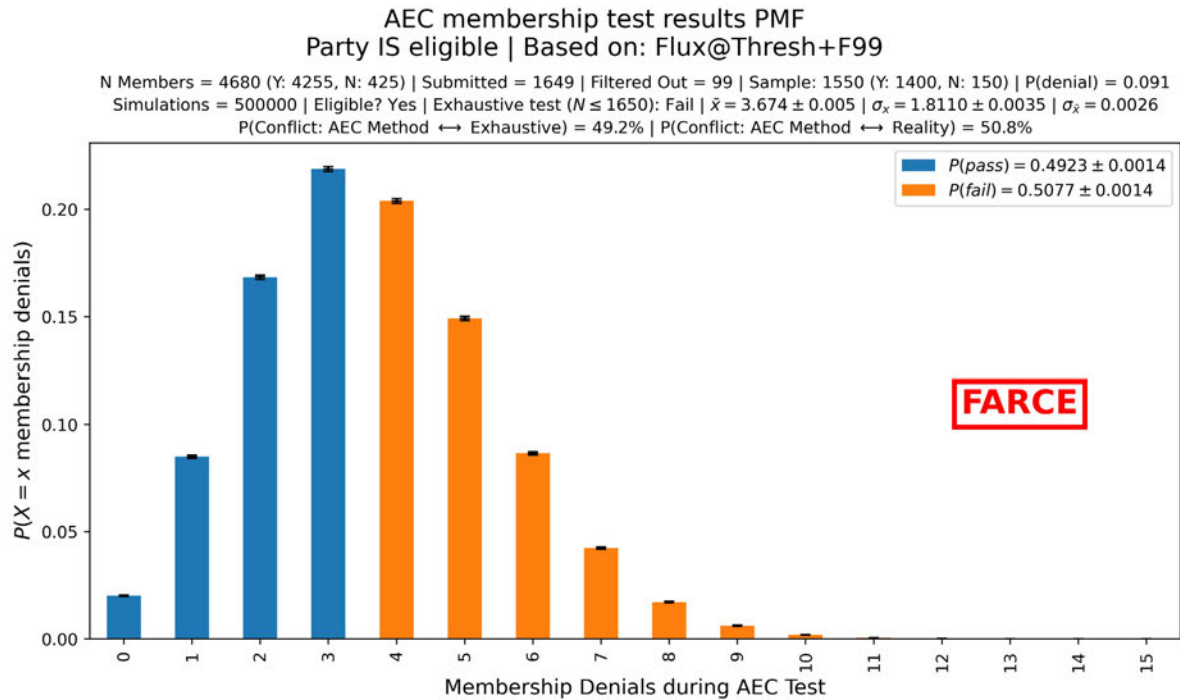


Fig 7.2: Assuming that 91.9% of the members on Flux's 2021 membership test members will not deny membership when contacted (1500/1650), and that 99 members were filtered out instead of 24: 500,000 simulations show that it is 49.2% accurate, **which would constitute a farce**. With a membership list of this quality, 4 membership tests would be required for a 90% chance of 1 success.

Chance of 1 Success	Tests Required (p=0.492)
80%	3
90%	4
95%	5
99%	7

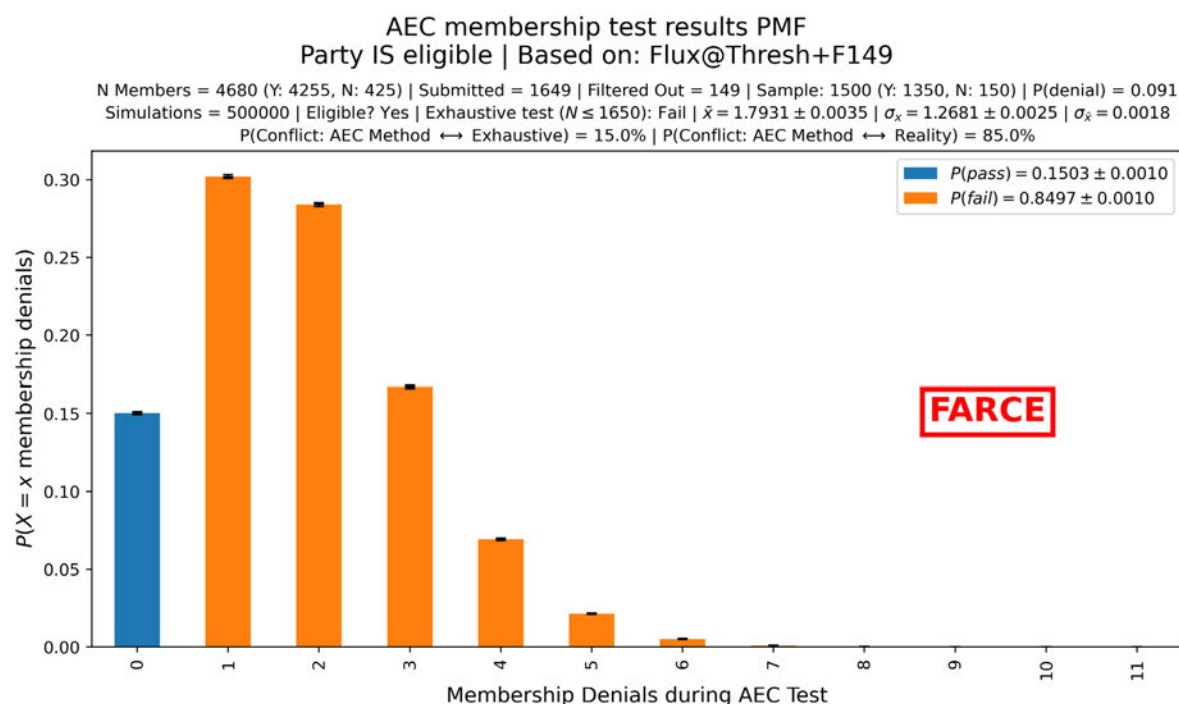


Fig 7.3: Assuming that 91.9% of the members on Flux's 2021 membership test members will not deny membership when contacted (1500/1650), and that a worst-case 149 members were filtered out instead of 24: 500,000 simulations show that it is accurate just 15.1% of the time, **which would constitute a farce**. With a membership list of this quality, **15 membership tests would be required for a 90% chance of 1 success**.

Chance of 1 Success	Tests Required (p=0.151)
80%	10
90%	15
95%	19
99%	29

8. Flux's Second Membership Test (March 2022)

After Flux's [response in February 2022](#), the AEC decided of its own accord to conduct another membership test. Flux did not request this. In fact, it makes no sense for Flux to request this because we were primarily concerned with the inability of the test *to function as intended*. The AEC ignored our criticisms. It appears that the AEC does not care about reason, or logic, or statistical arguments.

As though to emphasize the fact that the AEC's method is a joke, [the AEC's statement of reasons \[mirror\]](#), authored by one Ms Reid, says:

22. The membership list submitted by the Party on 13 February 2022 contained 4,680 names of individuals that the Party considers to be current members (referred to as 'members' below). As a delegate of the Electoral Commission, I instructed that the top 1,650 names be tested to conform with the AEC's membership testing parameters. [...]

The membership list that we submitted was sorted alphabetically by first name. “Gloria” was the first member to miss out on the chance to be contacted. Every member whose first name came later than hers, alphabetically, was excluded.

The Statement of “Reasons”

Let me grace you with the AEC’s wisdom.

First, consider that Flux did not ask for another membership test, and argued that the method was invalid; the list of 4680 members was not provided for the purpose of a membership test, it was provided as evidence that the AEC’s method was in conflict with reality.

The “supporting statement” comprises:

25. I have considered the statement lodged by the Party on 13 February 2022, setting out reasons why the Party should not be deregistered.

[Omitted: quotes of Flux’s February 2022 response]

26. I reject the reasons outlined by the Party in its statement provided on 13 February 2022 for the following reasons.

27. The Party failed membership testing for exceeding the maximum number of permitted denials according to the ABS methodology used by the AEC. It did not fail membership testing due to having an insufficient number of members being identified on the electoral roll.

28. The Electoral Act defines an elector as someone that is on the Commonwealth Electoral Roll. Section 123 of the Electoral Act prescribes that an eligible political party, not being a Parliamentary party, has ‘at least 1,500 members’. The requirement is not to be solely ‘an elector’ but to be a member of the party.

29. The Party challenges the validity of the AEC’s membership testing process. This process has been developed by the AEC to support the delegate’s consideration of whether a party has sufficient members. It is based on sampling methodology designed in consultation with the ABS and provides a valid methodology to satisfy a delegate of a party’s membership. The Electoral Commission has previously concluded that the methodology ‘was appropriate for membership testing, including because it was rational, fair and practical in all the circumstances.’¹

30. I consider that the membership testing results outlined above provide a more robust method for ascertaining whether a party has satisfied the requirements of the Electoral Act than a statement provided by the party.

31. In summary, I remain satisfied that the Party does not have at least 1,500 members based on the outcomes from membership testing both membership lists of 7 December 2021 and 13 February 2022.

32. Accordingly, in my capacity as a delegate of the Electoral Commission, I have deregistered VOTEFLUX.ORG | Upgrade Democracy! under s 137(6) of the Electoral Act and the particulars of the Party have been cancelled from the Register under s 138 of the Electoral Act.

1

<https://www.aec.gov.au/Parties and Representatives/Party Registration/Registration Decisions/2021/notice-of-decision-with-reasons-SUPA.pdf>

Here is a brief analysis of the insanity of the above:

- Point 25 is dishonest – Flux’s arguments were ignored. Moreover, the exact thing that we criticized was the first thing that Ms Reid did.
- Point 27 is largely irrelevant, it doesn’t respond to anything that we said. It also contradicts point 29, which starts: “The Party challenges the validity of the AEC’s membership testing process.” If Ms Reid knows this, why did she make point 27? That the AEC method failed *in spite* of Flux

having sufficient members is the reason for Flux's objection in the first place. What Ms Reid omits, of course, is that it is *AEC policy* (and AEC policy alone) that prevents a party from submitting additional members.

- Point 28 actually supports Flux's case: we should be able to submit more members than **AEC policy** currently allows. Ms Reid implies that this supports point 27, which in turn implies that the AEC method is remotely accurate (this has been proven false by the earlier sections of this paper). The purpose of point 28 is to dishonestly imply that the AEC's decision (and policy) are supported by the Electoral Act (EA) – but this isn't the case. If the AEC wanted to use the EA to support their case, they should cite the parts that say the commissioner can do what they damn well please, without repercussion.
- Point 29 is an argument from authority and dishonestly evades the arguments that Flux made. This is an outline/summary of what point 29 says:
 - The party says the method is bad.
 - But the AEC developed this policy.
 - And the AEC consulted with the ABS.
 - It is valid.
 - Here is a time that we said it was valid.

Of course, the AEC has never published anything to support this claim, and neither has the ABS. It's a party's word against the AEC's, but the AEC is also the adjudicator. Hmm.

- The document cited to support point 29 is for a different testing procedure – did Ms Reid's expert statistical knowledge inform her that the methods were comparable and that nothing substantial had changed? We may never know. At least, the AEC won't volunteer such information. Why should they? After all, it doesn't really matter whether the commission responsible for maintaining our democracy is rational, reasonable, or even knows early high-school maths, does it? If it did matter, surely we would have noticed by now.
- [The document cited to support point 29](#) says:

8. [...] The Commission noted that this methodology was the same as the sampling methodology recommended by the Australian Bureau of Statistics ('ABS'). The Commission concluded that the methodology was appropriate for the purpose of membership testing, including because it was rational, fair and practical in all the circumstances.

So, the Commission, to argue for their *conclusion*, cites another time they claimed, also without reason, a similar conclusion for a different method. Well, we have seen both claims proven false, here, haven't we?

This sort of evasion is to be expected. A different reason was given by the AEC in 2018 – that example is cited in [9. Feedback Loops Between AEC Policy and Party Behavior](#).

- 30. I consider that the membership testing results outlined above provide a more robust method [...] than a statement provided by the party.

Yes, indeed. That is her educated opinion as a statistician, I'm sure.

As it turns out, there is nothing that a party could say that would change the AEC's mind. That is dangerous. If the AEC is wrong, how will they know? They have no method. No error correction. Watch and see.

What should we have expected from this second membership test?

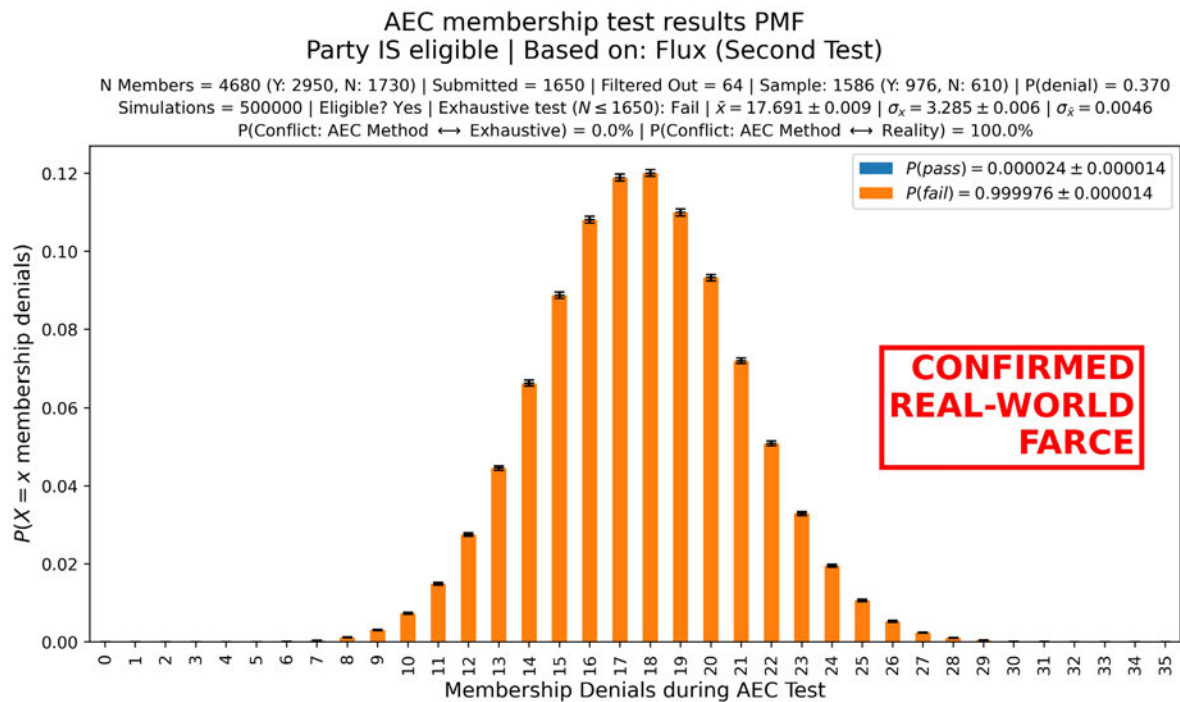


Fig 8.1: Despite being eligible under the Electoral Act, Flux could never have passed the AEC's test. In this case, the AEC's method has a failure rate > 99.996%. In the AEC's words, this test is "rational, fair and practical in all the circumstances". What a joke.

Rigged. There isn't much more to say.

9. Feedback Loops Between AEC Policy and Party Behavior

To my knowledge, parties typically don't try to build membership to many thousands of members. That's because it's expensive, time consuming, and difficult to manage. Most importantly – **there's no point when it comes to registration.**

The fact that the AEC has imposed this flawed method for years means that non-parliamentary parties' common practices are based around meeting the AEC's policies. When the limit was 550 (and 500 members required), there literally was no point building beyond that because it *would not help you* in registering or maintaining registration – it was largely wasted effort.

Additionally, the AEC's policies have entrenched these common practices which enabled the political elite to change the legislative requirements **suddenly and dramatically** – effectively eliminate competition. *The AEC is complicit.*

If the previous status quo was 550 members due to the AEC promulgating a culture of not going beyond this, and then parliament decides to radically change the limit (there is no reason they could not have done this gradually over, say, 10 years with a small bump each year), at what point do we acknowledge that something is rotten?

The AEC is on record about why it imposes a limit on membership lists used for verification:

26. In respect of the assertion in the application for review that the AEC failed to test the lists provided by the Party on 12 June 2017 (which contained 650 members) and on 20 August 2017 (which contained 739 members), the Commission notes that the 'Party Registration Guide' requests that parties provide a list of between 500 to 550 members. This is considered to be to a party's advantage, by minimizing the work required of the party in confirming the enrolment

status and contact details of additional other members.

Source:

<https://www.aec.gov.au/Parties and Representatives/Party Registration/Registration Decisions/2018/2018-commonwealth-of-australia-party-statement-of-reasons.pdf> (mirror)

Note: this case cannot be analyzed as the AEC neglected to include any results of membership tests.

How about the AEC stop making decisions on behalf of parties? Especially when those decisions have been *proven* (by this document) to have systemically disadvantaged non-parliamentary parties, to have decreased the accuracy of the AEC membership test, to be based on falsehoods, and, ultimately, to be a reflection of a condescension and hubris that has no place *running a democracy*.

10. Conclusion

With the AEC's existing policies, and on the assumption that Flux is a valid party, it is only reasonable to conclude that Flux will find it increasingly difficult to remain registered and pass registration tests, even if it grows in membership. This applies to all nonparliamentary parties. That is to say: the process has a predetermined outcome, and is an empty act done for show. *It is rigged, and a farce.*

With currently measured values (based on AEC results), it would take (on average) 7 repeated trials for Flux to have 1 successful membership test. So this is not a problem that can be solved by repeating the membership test.

At least 5 past cases have been identified with farcical properties – they are *suspected farces* – and at least 5 additional cases have incomplete information but may be farcical.

That is: in these cases the AEC's test is less than 50% accurate, provided that those parties had additional members (which the party would have been prevented from submitting only due to AEC policy). All 5 suspected cases required less than 15% additional members – i.e., the membership test was a farce for all cases if $N \geq 630$. *Note that all 5 cases predate the September 2021 change to membership requirements; at the time the required number of members was 500.*

It has thus been found that the AEC's method is rigged and a farce, and that there is sufficient evidence to back this up.

Appendix: Definitions

rigged *adjective*

[Wiktionary](#)

- Pre-arranged and fixed so that the winner or outcome is decided in advance.

[Urban Dictionary](#)

- The word rigged is used to describe situations where unfair advantages are given to one side of a conflict.

Note: Urban Dictionary is included here as Cambridge and Merriam-Webster didn't seem to have specific definitions for the adjective.

rig *verb*

(Note: *rigging* is the gerundive of *rig*)

Cambridge Dictionary

- to arrange an event or amount in a dishonest way
- to dishonestly influence or change something in order to get the result that you want

Wiktionary

- To manipulate something dishonestly for personal gain or discriminatory purposes.

farce *noun*

Cambridge Dictionary

- a situation that is very badly organized or unfair
- a ridiculous situation or event, or something considered a waste of time

Wiktionary

- A situation abounding with ludicrous incidents.
- A ridiculous or empty show.

Merriam-Webster

- an empty or patently ridiculous act, proceeding, or situation

Appendix: AEC Membership Testing Tables

Note: the first column of these tables (“Members lodged”, “Eligible membership”) is the reduced membership list after filtering out e.g., duplicates, members supporting the registration of other parties, deceased members, etc.

It is “[AEC Policy](#)” that lists are no more than 1.1x the legislative limit (e.g., a maximum of 550 prior to September 2021, and 1650 after September 2021). That is: lists with more members than this are rejected.

September 2021 to February 2022

Source: Page 24 of

https://web.archive.org/web/20220206003633/https://www.aec.gov.au/Parties_and_Representatives/Party_Registration/guide/files/party-registration-guide.pdf

Members lodged	Random sample size	Maximum denials to pass
1,500	18	0
1,506	27	1
1,523	33	2
1,543	38	3
1,562	42	4
1,582	46	5

1,599	50	6
1,616	53	7
1,633	57	8
1,647	60	9
1,650	60	9

Experimental Eval (No Published Accuracy Values)

Members lodged; N_reduced	Measured risk of accepting 1200; $P(\text{denial}) = (N - 1200)/N$; N = N_reduced;	Measured risk of rejecting 1500; $P(\text{denial}) = (N - 1500)/N$; N = N_reduced; f = 0 (no members filtered);	Measured risk of rejecting ≥ 1500 ; (Threshold case); $P(\text{denial}) = 150/1650 = 9.09\%$; N = 3300; f = 1650 - N_reduced;	Measured risk of rejecting ≥ 1500 ; $P(\text{denial}) = 20\%$; N = 3300; f = 1650 - N_reduced;
1,500	1.8% fig	0.0% fig	82.2% fig	98.2% fig
1,506	1.6% fig	0.5% fig	72.0% fig	98.2% fig
1,523	1.7% fig	1.2% fig	58.9% fig	97.3% fig
1,543	1.8% fig	1.9% fig	45.9% fig	96.2% fig
1,562	1.9% fig	2.3% fig	33.3% fig	94.4% fig
1,582	1.9% fig	2.8% fig	23.6% fig	92.2% fig
1,599	1.8% fig	3.1% fig	16.4% fig	89.9% fig
1,616	2.0% fig	3.2% fig	10.3% fig	85.9% fig
1,633	1.7% fig	3.7% fig	6.9% fig	83.3% fig
1,647	1.8% fig	3.6% fig	4.1% fig	78.8% fig
1,650	1.7% fig	4.0% fig	4.2% fig	78.9% fig

Circa 2017 to September 2021

Sources:

- Page 26 of [https://web.archive.org/web/20210409193623/https://aec.gov.au/Parties and Representatives/Party Registration/guide/files/party-registration-guide.pdf](https://web.archive.org/web/20210409193623/https://aec.gov.au/Parties%20and%20Representatives/Party%20Registration/guide/files/party-registration-guide.pdf)
- [https://web.archive.org/web/20200320074933/https://www.aec.gov.au/Parties and Representatives/Party Registration/files/party-registration-guide.pdf](https://web.archive.org/web/20200320074933/https://www.aec.gov.au/Parties%20and%20Representatives/Party%20Registration/files/party-registration-guide.pdf)

Members lodged	Random Sample	Max Denials to Pass
500	18	0

503	26	1
511	32	2
519	37	3
526	41	4
534	44	5
541	47	6
548	50	7
550	50	7

Circa 2012 to 2016

Sources:

- Page 33 of
[https://web.archive.org/web/20160314113418/http://aec.gov.au/Parties and Representatives/Party Registration/files/party-registration-guide.pdf](https://web.archive.org/web/20160314113418/http://aec.gov.au/Parties%20and%20Representatives/Party%20Registration/files/party-registration-guide.pdf)
- Page 32 of
[https://web.archive.org/web/20140212032435/http://www.aec.gov.au/Parties and Representatives/Party Registration/files/party-registration-guide.pdf](https://web.archive.org/web/20140212032435/http://www.aec.gov.au/Parties%20and%20Representatives/Party%20Registration/files/party-registration-guide.pdf) (Note: this source includes risk columns)
- [https://web.archive.org/web/20130208013723/http://aec.gov.au/Parties and Representatives/party registration/guide/forms.htm#table](https://web.archive.org/web/20130208013723/http://aec.gov.au/Parties%20and%20Representatives/party%20registration/guide/forms.htm#table) (Note: this source includes risk columns)
- [https://web.archive.org/web/20120425182026/http://www.aec.gov.au/Parties and Representatives/party registration/guide/forms.htm](https://web.archive.org/web/20120425182026/http://www.aec.gov.au/Parties%20and%20Representatives/party%20registration/guide/forms.htm) (Note: this source includes risk columns)

Members lodged	Random Sample	Max Denials to Pass	accepting only 400 - risk %	rejecting 500 - risk %
500	18	0	1.80	0.00
503	26	1	1.99	1.05
512	30	2	2.64	3.26
521	34	3	2.86	4.68
529	38	3	2.85	5.52
537	42	5	2.60	6.65
543	46	6	2.43	6.86
548	50	7	2.27	6.78
550	50	7	2.07	8.05

Note: It seems likely that max denials to pass =3 for the members lodged =529 row is a typo – it should probably be 4, however, in all source documents it was 3. In the [2016 RPA statement of reasons](#), a list of 530 lead to 38 contacts, and 4 or more denials was a fail (so max denials to pass =3). This typo has been enforced. (How many times? Only the AEC knows.)

According to the sampling methodology, as applied to a list of 530 names, if four or more people denied membership then the AEC could conclude that the party did not have 500 members.⁴

[Footnote 4:] According to the ABS, testing a sample of 38 from a list of 530 carried with it a 2.72% risk that the AEC could end up accepting a party that had only 400 members, and a 6.17% risk that the AEC could end up rejecting a party that had 500 members.

So there was a typo at some point, but the AEC actually used the typo to judge party membership. So a party with between 529 and 536 members during this period, with 4 denials, would have been wrongly denied **even by the AEC's own methodology**. Also, the footnote values don't match the previously advertised values in the table... is that just because it's calculated for 530 instead of 529? Or did the AEC get an updated table in 2016 and those risk values changed? If they did change, why? (It's not like the maths changed, right?)

The [2016 Australian Democrats statement of reasons](#) confirms 34 contacts for a list of 526 with maximum 3 denials.

According to the sampling methodology, as applied to a list of 526 names, if four or more people denied membership then the AEC could conclude that the party did not have 500 members.³

[Footnote 3:] According to the ABS, testing a sample of 34 from a list of 526 carried with it a 2.30% risk that the AEC could end up accepting a party that had only 400 members, and a 8.53% risk that the AEC could end up rejecting a party that had 500 members.

Experimental Eval

Note: The row with members lodged = 529 (corrected) corrects the erroneous max denials to pass from 3 to 4. The AEC did not pick up on this error for at least 4 years (if they ever did).

Members lodged; N_reduced	Claimed: accepting only 400 - risk %	Measured risk of accepting 400; P(denial) = (N-400)/N;	Claimed: rejecting 500 - risk %	Measured risk of rejecting 500; P(denial) = (N-500)/N; f = 0 (no members filtered);	Measured risk of rejecting ≥ 500; (Threshold case); P(denial) = 50/550 = 9.09%; N = 1100; f = 550 - N_reduced;	Measured risk of rejecting ≥ 500; P(denial) = 20%; N = 1100; f = 550 - N_reduced
500	1.80%	1.7% fig	0.00%	0.0% fig	82.3% fig	98.2% fig
503	1.99%	1.8% fig	1.05%	0.8% fig	70.1% fig	97.8% fig
512	2.64%	2.3% fig	3.26%	2.8% fig	52.3% fig	95.8% fig
521	2.86%	2.5% fig	4.68%	4.1% fig	37.4% fig	93.3% fig
529	2.85%	0.7% fig	5.52%	14.6% fig	45.9% fig	96.3% fig
529 (corrected)	2.85%	2.4% fig	5.52%	4.8% fig	25.8% fig	90.6% fig
537	2.60%	2.2% fig	6.65%	5.9% fig	17.4% fig	87.6% fig
543	2.43%	2.0% fig	6.86%	6.0% fig	11.6% fig	84.6% fig
548	2.27%	1.8% fig	6.78%	5.8% fig	7.6% fig	81.5% fig

550	2.07%	1.6% fig	8.05%	7.0% fig	7.5% fig	81.5% fig
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Circa 2011

Source:

https://web.archive.org/web/20110220143705/http://www.aec.gov.au/Parties_and_Representatives/Party_Registration/Registration_Decisions/registration-tests.htm

The table below is an extract from a table based on a formula provided by the Australian Bureau of Statistics, giving approximately a 10% risk of refusing a party which has 500 members and a 2% risk of registering a party with only 400 members.

Eligible membership	Size of random sample	Denials permitted	Confirmations required
500	18	0	18
505	21	1	20
515	26	2	24
520	29	2	27
525	32	3	29
530	35	4	31
535	37	4	33
540	40	5	35
545	43	5	38
550	47	6	41

Appendix: Errata

Errors in Feb 13 response to AEC

First, in the section "The AEC's membership test methodology artificially reduces sample size":

Keep in mind that – given this experimental setup – we'd expect 9 or more failures 10% of the time. If we were doing this experiment in real life, 10% of the time we would underestimate the number of cars by a factor of more than 2500x.

This is a typo -- we'd expect 8 or more failures 10% of the time, and 9 or more failures ~5% of the time.

Second, in the section "Closing remarks":

Consider a soon-to-be-registered party with 1650 valid members (assume this is true). What happens if 200 malicious members join (prior to registration), with the sole purpose of preventing that party from registering? Then, it's expected that ~10.8% of the membership list provided to the AEC as part of their registration application are these malicious members. Thus the failure rate according to the AEC's methodology is expected to exceed the current threshold (set by the AEC) – the AEC would conclude that the party does not

meet requirements.

The italicized part is not correct. The AEC's method is much better than this -- it only fails 10% to 20% of the time (the above quote implies that the method fails more than 50% of the time). The exact false negative rate depends on the number of members filtered by the AEC, similar to how our December 2021 list of 1649 names had 24 entries filtered. The AEC's method is more reliable when fewer names are filtered, with the 20% false negative rate corresponding to 25 members filtered out. (0 names filtered corresponds to a 10% false negative rate.)

It is worth pointing out that there are similar (though slightly more extreme) parameters that do result in a >50% failure rate of the AEC's method. For example a party of 2000 members, 300 of which are malicious, and 15 names filtered has a failure rate of 50.4%.

Note, there are some other errors too, like the method mentioned in the *The AEC's membership test methodology artificially reduces sample size* section uses the random sampling size that was used in Flux's test, but it probably should have been 60 instead of 53. Not really a big deal.

Use of “confidence” in prior versions

In some prior versions of this document, the term “confidence” was used instead of “accuracy”. That is: it was used to describe how often the AEC's test arrived at the correct result.

From: [REDACTED]
To: [Commission Secretariat](#)
Subject: Request for review of the deregistration of VOTEFLUX.ORG
Date: Tuesday, 26 April 2022 12:02:56 AM

CAUTION: This email originated from outside of the Australian Federal Government. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Attention: Mr Tom Rogers - Australian Electoral Commissioner

Dear Mr Tom Rogers,

I am writing to request a review of the decision to deregister [VOTEFLUX.ORG](#) |Upgrade Democracy! (hereafter Flux) under Under s 141(2) of the Electoral Act. I only learned of the deregistration from the party on 20th April 2022.

I am a member of the party who was contacted by the AEC via email on the 16th March 2022 to confirm my membership of the Flux party. The AEC sent that email from the following address: PartyMembership-Testing@aec.gov.au (hereafter the 'testing email address'). I responded via email in the affirmative to confirm I am a member of the party. I have not received any further correspondence from the AEC to confirm my response was counted and included as part of their membership testing exercise. That is despite the fact I sent an additional email to the AEC requesting confirmation that my response had been counted.

I am asking the AEC now as part of this review process to confirm that:

1. My response was included in the "confirmed membership" category. Please provide documentation to show this;
2. any other members who asked to confirm their membership via the AEC's testing email address also had their response correctly recorded;
3. The date/s the AEC sent these emails to members and up until what date did the AEC check this email address for responses? Can the AEC be sure that it did not miss any responses that may have been received after the AEC stopped checking for responses but within an allowable time? The membership testing correspondence received did not indicate the date by which responses had to be received so there is a risk members who were contacted and did reply have had their confirmations received but ignored.

In addition to the points above, the email I received from the AEC made reference to a "random sample."

I am requesting a review into both this **process** and the **statistical method** used. I am concerned that a random sample was not used because in the statement of reasons for deregistration the Assistant Commissioner stated they "*instructed that the top 1,650 names be tested.*" That would be a biased sample "slanted" towards the first letters of the alphabet.

I am asking the AEC to:

4. Review that procedural errors may have occurred when taking a random sample from the list of 4,680 members provided by Flux that led to a biased sample.

In regards to the statistical method used I am concerned about its reliability.

I am asking the AEC to:

5. share the mathematical proof of the sampling method used; and
6. review the rate at which this method would return a false negative. Please share the results of that review. Does the AEC consider the rate of false negatives to be acceptable?

If that review is not available from the AEC, I ask this review process to extend to the expertise of the Australian Bureau of Statistics.

This submission is made in good-faith and with every effort to comply with this review process.

I hope the matters are addressed directly and in writing.

Regards,

s 47F (Personal Privacy)

s 47F (Personal Privacy)

s 47F (Personal Privacy)

s 47F

From: s 47F (Personal Privacy)
To: [Commission Secretariat](#)
Subject: Please review your recent decision to deregister flux party.
Date: Friday, 6 May 2022 2:12:20 AM

CAUTION: This email originated from outside of the Australian Federal Government. Do not click links or open attachments unless you recognise the sender and know the content is safe.

My name is s 47F (Personal Privacy), my current residence is s 47F (Personal Privacy)
[REDACTED]

I was linked to an article on the website of the flux party via one of their communication channels:

<https://www.voteflux.org/2022/04/20/wrongful-deregistration/>

This article outlines reasons that the flux party believe their deregistration was unfair/unjust and I agree with their reasoning; that there is no reason not to poll the list of active memberships extensively to reach the firmest result. The flux party pose a plausible attempt at contesting the status quo and creating a better life for all Australians, so I ask that you please review your recent decision to deregister flux party.

Thanks,
[REDACTED]

From: [FAD](#)
To: [s 47F \(Personal Privacy\)](#)
Cc: [FAD; Legal Services Mailbox](#); [s 47F \(Personal Privacy\)](#)
Subject: RE: Please review your recent decision to deregister flux party. [SEC=OFFICIAL:Sensitive]
Date: Monday, 27 June 2022 12:30:01 PM
Attachments: [image003.gif](#)
[image004.gif](#)

Hi [s 47F \(Personal Privacy\)](#)

According to our records, I can confirm that [s 47F \(Personal Privacy\)](#) name was not on the list of 4,680 names submitted by VOTEFLUX.ORG | Upgrade Democracy!. PEPRS tested a list of a maximum of 1,650 names for the purpose of the Party's s 137 response.

Please let us know if you need anything further.

[s 47F - Personal Privacy](#)

[s 47F \(Personal Privacy\)](#) | **Project Officer**
Parliamentary Engagement and Party Registration Section | Disclosure, Assurance & Engagement Branch
Australian Electoral Commission

T: [s 47F \(Personal Privacy\)](#)

From: [s 47F \(Personal Privacy\)](#)
Sent: Monday, 27 June 2022 11:50 AM
To: [s 47F \(Personal Privacy\)](#)
[s 47F \(Personal Privacy\)](#)
Cc: FAD <FAD@aec.gov.au>; Legal Services Mailbox <Legal@aec.gov.au>; [s 47F \(Personal Privacy\)](#)
Subject: FW: Please review your recent decision to deregister flux party. [SEC=OFFICIAL:Sensitive]

Hi all,

Would you please be able to confirm whether or not this individual is a member of this party (as far as you can tell from your records)? Alternatively (or if we can't confirm conclusively) it may be that we have to write to him to confirm his interest in the matter. It may be that if he is just a member of the public he may not have standing for this application.

Thanks in advance everyone.

Kind regards,
[s 47F \(Personal Privacy\)](#) | **Legal Officer**
Legal Services Section | Legal & Procurement Branch
Australian Electoral Commission
[s 47F \(Personal Privacy\)](#)

From: Commission Secretariat <Commission.Secretariat@aec.gov.au>
Sent: Friday, 24 June 2022 12:29 PM
To: [s 47F - Personal Privacy](#)
[s 47F \(Personal Privacy\)](#)
[s 47F \(Personal Privacy\)](#)
[s 47F \(Personal Privacy\)](#)
Cc: Legal Services Mailbox <Legal@aec.gov.au>; FAD <FAD@aec.gov.au>

Subject: FW: Please review your recent decision to deregister flux party. [SEC=OFFICIAL]

Hi All,

Please find below and attached the application for review from **s 47F (Personal Privacy)** regarding the Flux Party.

All the best,

s 47F (Personal Privacy)

s 47F (Personal Privacy) | ECANZ Secretariat | Commission Secretariat
Executive Leadership Team
Australian Electoral Commission

s 47F (Personal Privacy)

From: **s 47F (Personal Privacy)**

Sent: Friday, 6 May 2022 2:12 AM

To: Commission Secretariat <Commission.Secretariat@aec.gov.au>

Subject: Please review your recent decision to deregister flux party.

CAUTION: This email originated from outside of the Australian Federal Government. Do not click links or open attachments unless you recognise the sender and know the content is safe.

My name is **s 47F (Personal Privacy)**, my current residence is **s 47F - Personal Privacy**

I was linked to an article on the website of the flux party via one of their communication channels:
<https://www.vote flux.org/2022/04/20/wrongful-deregistration/>

This article outlines reasons that the flux party believe their deregistration was unfair/unjust and I agree with their reasoning; that there is no reason not to poll the list of active memberships extensively to reach the firmest result. The flux party pose a plausible attempt at contesting the status quo and creating a better life for all Australians, so I ask that you please review your recent decision to deregister flux party.

Thanks,

s 47F (Personal Privacy)

From: [Commission Secretariat](#)
To: s 47F (Personal Privacy)
Cc: [Commission Secretariat](#)
Subject: RE: Commission - Flux - Return of writs [SEC=OFFICIAL]
Date: Monday, 4 July 2022 1:21:52 PM

Dear s 47F (Personal Privacy)

I refer to your application for review by the Electoral Commission dated 6 May 2022.

In order to consider an application for review, the Commission must be satisfied that the requirements in s 141(2) for the application have been met, in particular that the application was made:

- within 28 days of the delegate's decision (or, if it was not, why an extension of time should be granted), and;
- by a 'person affected' by the decision.

If the Commission is satisfied of the above matters it will consider your submissions as they relate to the delegate's decision to deregister VOTEFLUX.ORG | Upgrade Democracy!.

Should you wish to provide any comments to support the Electoral Commission considering your application under 141(2), or you wish to provide further submissions, please do so by **COB 8 July 2022**.

If you have any further queries, please contact the Secretariat for the Electoral Commission by emailing commission.secretariat@aec.gov.au

Yours sincerely,

s 47F (Personal Privacy)

Commission Secretariat
Australian Electoral Commission

From: Commission Secretariat <Commission.Secretariat@aec.gov.au>
Sent: Friday, 24 June 2022 2:21 PM
To: s 47F (Personal Privacy)
Cc: Commission Secretariat <Commission.Secretariat@aec.gov.au>
Subject: Commission - Flux - Return of writs [SEC=OFFICIAL]

Dear s 47F (Personal Privacy)

I refer to your application to the Electoral Commission for review of the decision of the delegate dated 14 April 2022, for review of the decision of 24 March 2022 to deregister "VOTEFLUX.ORG | Upgrade Democracy!" (the Party) under Part XI of the *Commonwealth Electoral Act 1918* (the Electoral Act)..

I am writing to advise you that the writ for the **2022 federal election** was returned on **23 June 2022**. Accordingly, section 127 of the Electoral Act ceased to be in operation that day.

Invitation to provide further material

As the Electoral Commission has not been able to process your application for review during the operation of section 127 of the Electoral Act, if you wish to submit an updated application (or any additional material for the Electoral Commission to consider) please do so on or before **Friday 1 July 2022**.

If the Electoral Commission does not hear from you on or before **Friday 1 July 2022**, the Commission will consider your original application in conducting its review of the decision of the delegate.

Internal review process

An internal review is a merits review of the delegate's decision. This means that the Electoral Commission is required to review all of the relevant information (including any additional relevant information provided), and make a new decision on your application.

In accordance with the principles of natural justice and procedural fairness, the Electoral Commission will provide the Party with a copy of your application for review (or updated application) with personal information redacted, to give the Party the opportunity to submit any further information in support of the change of the Party's name on the Register.

Next steps

Your application for review of the delegate's decision will be considered by the Electoral Commission under subsections 141(2) and 141(4) of the Electoral Act at the next available meeting. You will receive written notice of the decision of the Electoral Commission on your application, and a statement of reasons (including further review rights) once the Electoral Commission has considered your application.

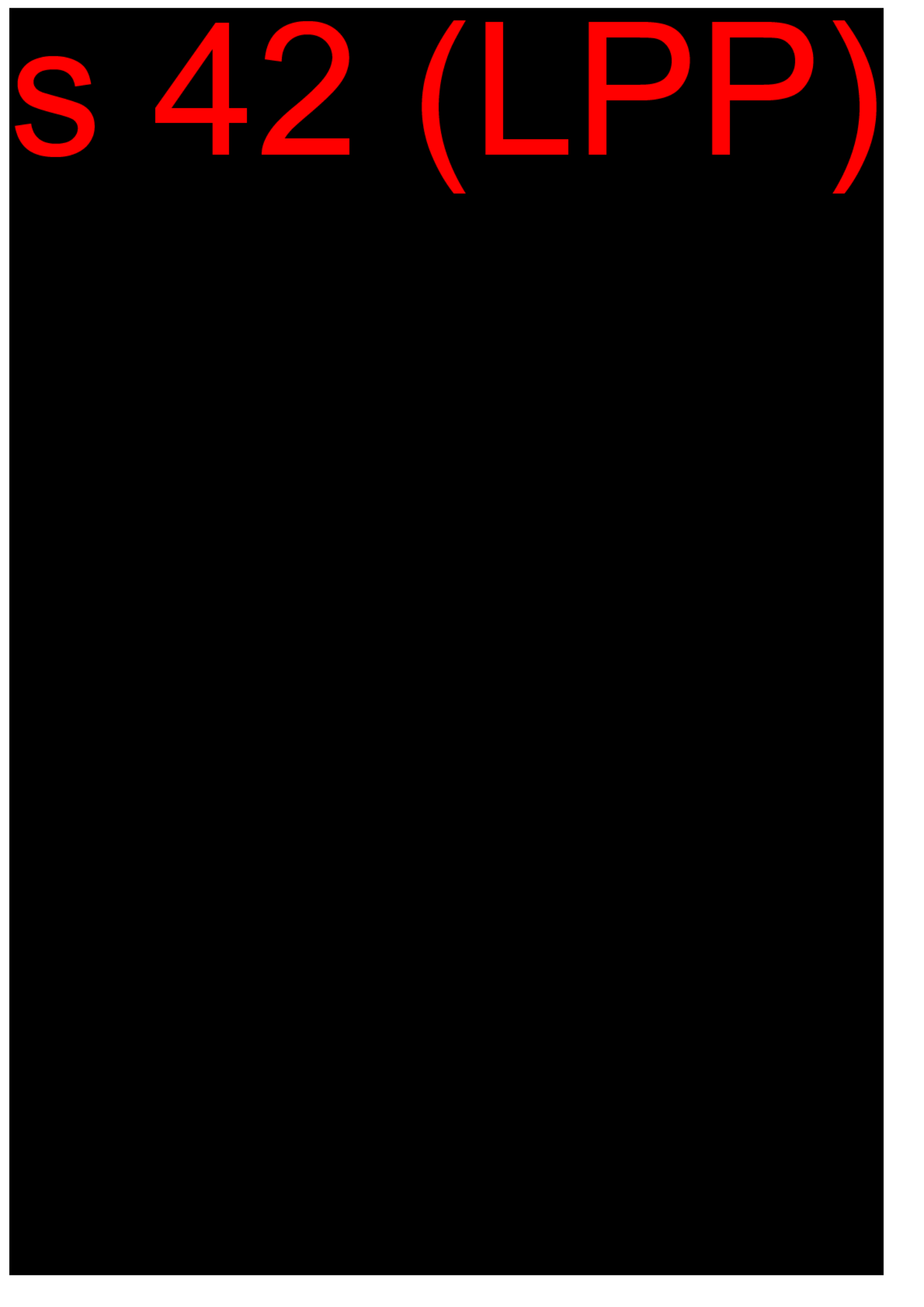
If you have any further queries, please contact the Secretariat for the Electoral Commission by emailing commission.secretariat@aec.gov.au

Sincerely,

A small black rectangular box redacting the signature of the Commission Secretariat.

Commission Secretariat
Australian Electoral Commission

S 42 (LPP)



S 42 (LPP)

s 42 (LPP)

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Guide for registering a party

Federal registration of political parties

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Introduction

Part XI of the [Commonwealth Electoral Act 1918](#) (Electoral Act) deals with the registration of political parties. The Australian Electoral Commission (AEC) maintains the [Register of Political Parties](#) (the Register) and administers the Commonwealth party registration scheme on behalf of the Electoral Commission. The primary function of the scheme is to establish a register of party names, abbreviations and logos that can be printed on ballot papers at elections for the Senate and House of Representatives.

Registration as a federal political party is not compulsory to contest federal elections. Unendorsed (independent) candidates can also nominate for election to the Commonwealth Parliament.

The benefits of registration as a federal political party include:

- the party's registered name, registered abbreviation or registered logo may be printed next to the names of its endorsed candidates and Senate groups on ballot papers
- political parties can have additional registrations for their branches. Each branch registered will need to separately prove its eligibility for registration
- the registered officer or deputy registered officer of a political party can nominate the party's endorsed candidates without requiring the signatures of 100 electors in the particular electorate. 100 electors are required to nominate an unendorsed (independent) candidate
- the registered officer or deputy registered officer of a political party can make a bulk nomination of all the party's House of Representatives candidates in respect of the Divisions situated in a particular State or Territory to the Australian Electoral Officer for that State or Territory, without needing to nominate individually with each Divisional Returning Officer
- election funding for endorsed candidates who receive at least four per cent of the formal first preference votes. The election funding entitlements of candidates who were endorsed by a registered political party are paid through the party agent
- access to information held by the AEC including:
 - electronic copies of the Commonwealth Electoral Roll (Electoral Roll) and additional elector information, plus
 - copies of the printed Electoral Roll voting information in relation to an election.

Applications to register a new political party must include all of the requirements for an application to be accepted by the AEC for assessment (for example, the AEC cannot 'reserve' the name of a political party on behalf of a prospective applicant who has not lodged all of the requirements for a new political party application).

The guides incorporate text boxes to highlight important information.



The 'light bulb' symbol indicates a useful tip.



The 'note' symbol indicates information relating to the Electoral Act.

The *Guide for registering a party* (Guide) is intended to assist people to understand the party registration provisions of Part XI of the Electoral Act. It provides general guidance on the requirements and process for registering a political party.

The [Guide for maintaining party registration](#) provides general guidance on the requirements and process for:

- maintaining party registration
- changing party details and party officers
- deregistration of political parties.

These guides are part of a series of publications to help parties better understand the requirements of the party registration, election funding, and financial disclosure provisions of the Electoral Act.

The guides provide information derived from the Electoral Act as well as from the experience of the AEC in the administration of its provisions.

While these guides are intended to act as user-friendly guides to the requirements of the Electoral Act, they cannot fully address every possible issue that may arise.

Importantly, do not use the guides as a substitute for legal advice on specific detailed compliance, disclosure, and party registration issues. Users are urged to seek their own independent advice where necessary and to read and familiarise themselves with the relevant parts of the Electoral Act.

On 3 September 2021, amendments to the Electoral Act under the [Electoral Legislation Amendment \(Party Registration Integrity\) Act 2021](#), came into effect. For further information see [Party registration guidance](#) on the AEC website and the [Electoral Act](#).

Eligibility requirements for registration



A new party must meet the eligibility requirements for political party registration under section 126 of the Electoral Act.

All federally registered political parties must meet the eligibility requirements for political party registration on an ongoing basis. These requirements include:

- being an organisation with an aim of endorsing candidates for election to the Senate and/or House of Representatives
- having:
 - at least 1,500 members who are on the Electoral Roll and who are not also relied upon by another party for registration purposes, or
 - at least one member of the party who is a Senator or Member of the House of Representatives in the Parliament of the Commonwealth and not a member of another party.

Key elements of an application

A new party applying for registration **must**:

- submit a written constitution
- submit a party name
- set out the party's proposed registered officer
- state whether it wishes to receive election funding
- state the supporting applicants
- submit a \$500 application fee
- And either:
 - a membership list containing at least 1,500 members, or
 - provide supporting evidence from the party's Senator or Member.



A new party applying for registration **may optionally submit** an abbreviation of the party's name and/or a logo.

These submissions must meet the requirements of the Electoral Act. There is a detailed description of the requirements for names, abbreviations and logos later in this Guide.



All forms relating to a new party registration application are shown in **Appendix 1**.

Register of Political Parties

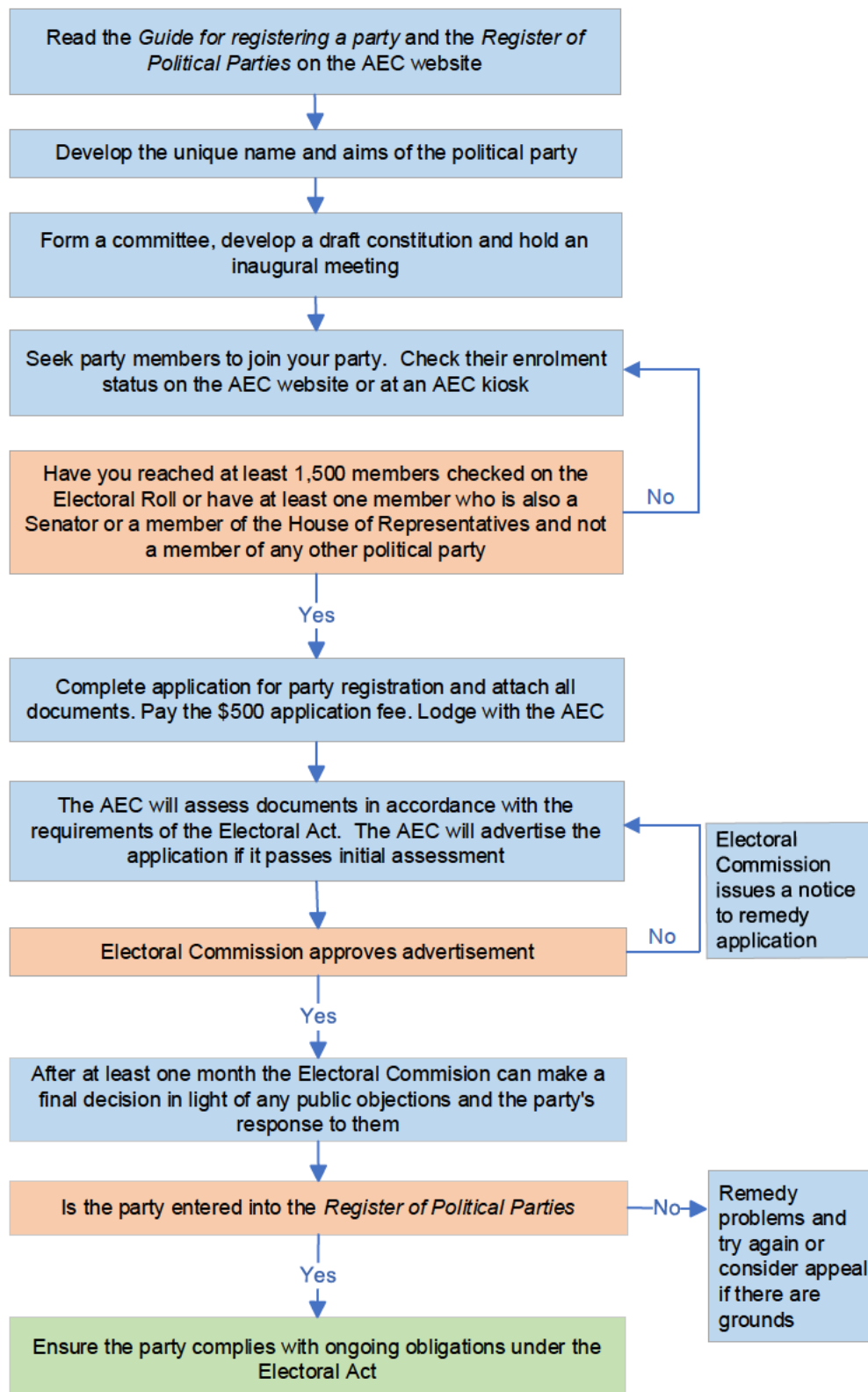
The AEC maintains the Register. The [Register of Political Parties](#) published on the AEC website contains a list of the registered names of all federally registered political parties and the party details.

The party details include:

- the party's name
- the party's registered abbreviation (if any)
- the party's registered logo (if any)
- if the party is a Parliamentary party
- if the party is a non-Parliamentary party
- the name and address of the registered officer
- the name(s) of the deputy registered officer(s) (if any)
- the party's correspondence address, and
- whether the party chooses to receive election funding.

It is the responsibility of any registered political party to ensure the information in the Register is up to date and accurate.

Party registration process



Party name selection

Limitations in choice

Section 129 of the Electoral Act provides that an application will be refused if the party name (or its abbreviation):

- is more than six words long
- is obscene, frivolous or vexatious¹
- is the same as, or is likely to be confused with, or mistaken for, the name of a 'recognised political party'², unless that other party is a 'related party'³
- suggests a relationship or connection with a registered political party if that connection or relationship does not in fact exist
- uses the words 'Independent Party', or the word 'Independent' along with the name, or abbreviation or acronym of the name, of a recognised political party, or in a way that is likely to be confused with the name, abbreviation or acronym of a recognised political party.



The AEC does not reserve names for potential future applicants.

Names to be registered with consent

A party's name and proposed abbreviation will be refused if:

- it contains a word that is in the registered name or abbreviation of a registered political party; and
- the party's application for registration is not accompanied by written consent from the registered officer of that previously registered political party to the applicant party.

If there is more than one registered political party with the word in its registered name or abbreviation, the written consent needs only to be from the party who was first to register the relevant name or abbreviation.



The consenting party must be the party with the longest continuous registration of that name or abbreviation.

In the situation where a federal branch and a related federally-registered State or Territory branch register a name on the same day, only the registered officer of the federal branch can provide consent to another party using that word.

The need for consent does not apply to a function word, a collective noun for people, the word "country", the name of a country or recognised geographical place in Australia, or the word

¹ The terms 'frivolous' and 'vexatious' are to be given their ordinary meanings, and are intended to include party names or abbreviations that are nonsensical or are malicious in their application. This would include, for example, an applicant seeking to register 'Australian Electoral Commission', or 'Australian Government' as a political party.

² For this part of the Electoral Act, recognised political party means a Commonwealth Parliamentary party, a federally registered political party, or a party that is recognised or registered in a State or Territory and has endorsed a candidate in its current name in that State or Territory in the previous 5 years (subsection 129(2) of the Electoral Act).

³ A political party is related to another political party if it is part of the same party, for example, one is a branch or division of the other.

“democratic”. The intention is to ensure registered political parties are sufficiently distinct in name, while also providing appropriate exceptions for non-key words.



Read [Party registration guidance](#) to understand section 129 of the Electoral Act and the constraints on the name and abbreviation of a political party that may prevent it from being registered.

The intention of section 129 is to prevent the registration of party names and abbreviations that risk causing voter confusion with existing registered names and abbreviations.

Registered abbreviation

A party may register an abbreviation of its name, which is a shortened version or an acronym of its full party name. The abbreviation or acronym cannot be a separate or alternate name for the party. A registered abbreviation is simply a shorter version of the party name which can be printed on the ballot papers instead of the full party name.

When choosing the name and abbreviation in the initial application for party registration, the party should consider the ways in which it might want its party name to appear on ballot papers. The registered officer or deputy registered officer can select whether the party name or abbreviation will appear near endorsed candidates' names on the ballot papers for the Senate and House of Representatives.

Similarity to names of currently registered parties

The most contentious party names are those that may be too similar to the name of an already registered or recognised party.

- [Similarity to names, abbreviations or logos of currently registered parties](#)

Party logo selection

Limitations in choice

Section 129A of the Electoral Act provides that registration of a logo may be refused if it:

- is obscene
- is the same as, or is likely to be confused with, or mistaken for, the logo of another person⁴
- suggests a relationship or connection with a registered political party if that connection or relationship does not in fact exist
- uses the words 'Independent Party', or the word 'Independent' and the name of a recognised political party, or abbreviation or acronym of that name, or in a way that is likely to be confused with the name, abbreviation or acronym of a recognised political party.

⁴ 'Person' covers a wider range than just political parties, and so includes the logos of other organisations including companies, unincorporated associations and Government bodies.



The inclusion of a logo in an application is optional. The refusal of a logo does not fail the registration of a political party.

Logos to be registered with consent

A party's proposed logo will be refused if:

- it contains a word that is in the registered name or abbreviation of a registered political party; and
- the party's application for registration is not accompanied by written consent from the registered officer of that previously registered political party to the applicant party.

The intention is to minimise the risk that a voter might be confused or potentially misled in the exercise of their choice at an election due to a political party having a registered logo similar to the registered name or abbreviation of another registered political party.



Read 'Names to be registered with consent' (above), section 129 and section 134A of the Electoral Act to understand the constraints on the name, abbreviation and logo of a political party.

Format and submission of logo

A party's logo must meet the following requirements as set out in the [Commonwealth Electoral \(Logo Requirements\) Determination 2016](#):

- be a vector graphic in electronic format
- be 100% black in a CMYK (Cyan-Magenta-Yellow-Black) colour space
- be contained within a frame of 10 mm by 10 mm
- be able to be reproduced correctly within a frame of 7 mm by 7 mm
- not include these features:
 - live text
 - transparency or overprinting
 - custom halftone, transfer curve or colour profile settings
- be a PDF file, of less than 5 megabytes, that complies with International Standard ISO 32000-1:2008 as was in force on 22 March 2016.

The logo must be emailed to the AEC at: fad@aec.gov.au (the email cannot exceed 30 megabytes).

Size of logos on ballot papers

When applying for a logo it should be noted that the maximum size for a logo as it appears on the ballot paper is 10 mm by 10 mm:

Sample logo (10 mm by 10 mm)



A logo must also be able to be reproduced correctly within a frame of 7 mm by 7 mm:

Sample logo (7 mm by 7 mm)



Develop a party constitution

Sections 4 and 123 of the Electoral Act define an eligible political party as an organisation with an object or activity of promoting the election of its endorsed candidates to the Senate and/or House of Representatives. An eligible political party must be established on the basis of a written constitution which sets out the aims of the party, and the party must meet the membership criterion. The membership criterion is at least one member who is a Senator, or a Member of the House of Representatives of the Parliament of the Commonwealth of Australia, or at least 1,500 members who are on the Electoral Roll.



To qualify for registration under the Electoral Act, a political party must have, and lodge as part of its application, a written constitution that establishes it as an organisation - section 123.

While the Electoral Act is not specific about all the matters which must be included in the party constitution, it should include:

- the name of the party
- the aims of the party, which must include that the party intends to stand candidates for Senate and/or House of Representatives elections (must be included in the constitution submitted to the AEC for a new political party application)
- the structure and office bearers of the party, including provisions for electing or appointing those office bearers and describing the duties of the office bearers. These provisions should include details about the administration of the party and the handling of the party's assets such as money
- detailed provisions for obtaining and retaining membership of the party
- the requirements for holding annual general meetings or committee meetings and their conduct
- the means by which the party constitution can be amended
- provisions governing State, Territory or local branches if the party is to comprise a branch structure
- provisions for winding up the party and apportioning its assets.

The Electoral Act does not require a political party to be incorporated or registered as an unincorporated association. Some new parties have advised the AEC, however, that they have been unable to open party bank accounts to receive membership fees or party post office boxes without evidence that the party is a formal entity.



The AEC does not maintain a library of political party constitutions.

Office bearers

Parties seeking registration need to appoint the office bearers listed below. Office bearers must be selected in accordance with the terms of the party's constitution.

Secretary

The Electoral Act requires a party to have an office bearer responsible for the day to day management of the party. In section 123 of the Electoral Act, the position is defined as:

- secretary, in relation to a political party, means the person who holds the office (however described) the duties of which involve responsibility for the carrying out of the administration, and for the conduct of the correspondence, of the party.

Under section 126(1) of the Electoral Act, the secretary is required to be one of the signatories to an application for registration by a non-Parliamentary party.

As the manager of day to day duties, the AEC expects the secretary to be the office bearer who is the party's contact for general election and enrolment matters, appointments of party officials or to notify updates to the contact details for the party or its office bearers.

When the AEC is writing to parties about election and enrolment matters in general, it normally writes to the secretary. An [Appoint Party Secretary](#) form should be completed and lodged with a party's application for registration.

Registered officer

The registered officer is the party office bearer empowered to:

- nominate the party's endorsed candidates
- select either the party's registered name or the party's registered abbreviation or logo to be printed on ballot papers adjacent to the party's endorsed candidates.

Section 140 of the Electoral Act requires the AEC to send any formal notices about party registration, including reviews of a party's continued eligibility to remain registered, to the party's registered officer.

The name of each party's registered officer is recorded in the *Register of Political Parties*, and therefore the appointment of a registered officer is part of the application for registration. The Electoral Act requires the registered officer must provide a street address that will be published on the AEC website. However, they are not required to give their residential address; the street address of the party's office is sufficient. A post office box is not permitted for this purpose by section 123 of the Electoral Act.

The registered officer of a party may appoint deputy registered officers to assist in the nomination process. To appoint a deputy registered officer the registered officer should complete an [Appoint Deputy Registered Officer](#) form. The registered officer can also revoke the appointments of their deputies.

Section 126(2B) of the Electoral Act provides that a person cannot hold the position of registered officer and/or deputy registered officer for more than one political party. Failure to

resolve any instance where a person holds multiple appointments as a registered officer/deputy registered officer constitutes grounds for the party to be deregistered.

Party agent

Section 288 of the Electoral Act provides that registered parties and their State or Territory branches shall appoint a party agent. The appointment of an agent must meet the following conditions:

- (a) the person appointed is at least 18 years old
- (b) written notice of the appointment is given to the Electoral Commission
- (c) the name, full street address and suburb or locality of the person appointed are set out in the notice
- (d) the person appointed:
 - i. has signed a form of consent to the appointment; and
 - ii. has signed a declaration that he or she is eligible for appointment.

A party agent must not have been convicted of an offence against the funding and disclosure provisions of the Electoral Act.

Party agents have significant financial obligations under the Electoral Act in relation to lodging financial disclosures and compliance. A breach of these obligations may be subject to civil penalties. Information regarding the responsibilities of a party agent can be found in the [Financial Disclosure Guide for Political Parties](#) available on the AEC's website.

Election funding is paid through the party agent. If no current party agent is appointed, no election funding can be paid or claimed even if some of the party's endorsed candidates meet the four per cent formal first preference threshold.

An [Appoint Party Agent](#) form should be completed and lodged with the party's registration application.

Party membership

The Electoral Act provides for two types of political parties which may be registered.

Parliamentary parties

Parliamentary parties are political parties which have at least one member who is also a Senator or a Member of the House of Representatives. While a Parliamentary party must be an organisation, it does not need to provide the AEC a membership list to attain registration. One member who is also a Senator or a Member of the House of Representatives (and not a member of any other political party) qualifies the party against the membership criterion.

If a new political party is seeking registration as a Parliamentary party, it needs to lodge a declaration signed by a Senator or Member of the House of Representatives, on their parliamentary letterhead, stating that they are a member of the party and not a member of any other registered political party.

Non-Parliamentary parties

Most new political parties seeking registration are non-Parliamentary parties and need to prove that they have at least 1,500 members who are on the Electoral Roll.

The party needs to lodge a [membership list](#) of between 1,500 and 1,650 members as part of its application. The membership list needs to contain each member's full name, residential address and date of birth as it appears on the Electoral Roll. To allow the processing of a party's application to proceed quickly, email and telephone contacts should be included for each member. Failure to provide comprehensive contact details for members may delay processing the application.

Party members used to support the application must be listed on the Electoral Roll. The party can check the enrolment of each member in the membership list by using the [check my electoral enrolment facility](#) on the AEC website. The Electoral Roll can also be viewed in electronic form at AEC offices.



It can save a party several weeks in delays if the party does its own check of its members' electoral enrolment online or at an AEC office.

The AEC requires a party to choose a maximum of 1,650 members for the membership list included with their application. The AEC will return a membership list in excess of 1,650 members and ask the party to lodge the membership list with between 1,500 and 1,650 members.

Appendix 2 details the membership testing process.

The Electoral Act does not require the party to charge its members a membership fee. This decision is left to the discretion of the party.

Completing the application

Application form

To register a party, an [Application for registration of a Parliamentary party](#) or an [Application for registration of a non-Parliamentary party](#) form (as appropriate) should be completed. All parts of the respective form should be completed to avoid delays in processing the application. The form contains a checklist to help ensure documentation is complete before submitting to the AEC.

The application form must contain:

- the proposed name of the party
- whether the party wishes to register an abbreviation of that name if the party wishes to use a shorter name on ballot papers
- whether the party wishes to register a logo (and include a proposed logo that meets the requirements as set out in the [Commonwealth Electoral \(Logo Requirements\) Determination 2016](#)).
- contact details for the party office such as website, phone number, street address, postal address, fax number and email address
- whether the party is a branch or part of another registered party
- whether the party wishes to receive election funding if its endorsed candidates receive at

least four per cent of the first preference vote

- the name, street address and signature of the proposed registered officer of the party (the street address does not have to be a residential address as it will be published on the AEC's website, and may be the street address for the party's office)
- the details and signature of the secretary of the party
- the name, street address, party position and signature of nine other members of the party (not required for a Parliamentary party)
- either:
 - an electronic membership list containing at least 1,500 members (non-Parliamentary party) or
 - supporting evidence from a Senator or Member of the House of Representatives (Parliamentary party)
- completed appoint Party Secretary form
- completed appoint Party Agent form
- evidence of the payment of the \$500 application fee.



All forms relating to a new party registration application are shown in **Appendix 1**.

Application fee

Each application to register a political party must be accompanied by a fee of \$500. This fee can be paid by direct deposit to:

BSB: 092-009
Account: 113554
Bank: Reserve Bank of Australia
Branch: Canberra ACT

Please ensure that the funds transfer is clearly described.

If paying by cheque, it should be made payable to The Collector of Public Monies, Australian Electoral Commission.

Lodge the application

The application and its supporting documentation can be sent via email to fad@aec.gov.au or

Funding and Disclosure
Australian Electoral Commission
Locked Bag 4007
CANBERRA ACT 2601



Please use the checklist on the application form to ensure you lodge all the required documents.

Processing an application

Acknowledgement

The AEC will write to the applicant to acknowledge receipt of the application and enclose a receipt for the application fee. The letter will also advise of the process of applying for registration and potential time frames and next steps.

Initial assessment

The AEC will examine the application against all the requirements of the Electoral Act. That is, the AEC will test for evidence that:

- the party is an organisation, established on the basis of a written constitution that sets out the aims of the party, including that the party intends to promote the election to the Senate and/or House of Representatives of candidates endorsed by it
- the name of the party and any abbreviation sought are not prohibited
- any logo sought is not prohibited and has been provided in a format that conforms to technical requirements as set out in the [Commonwealth Electoral \(Logo Requirements\) Determination 2016](#).
- the application is made by the secretary of the party or a current Senator or Member of the House of Representatives in the Parliament of the Commonwealth for a Parliamentary party, or in the case of a non-Parliamentary party the secretary, and a further nine members
- the application form is complete with all the details and the attachments required under the Electoral Act, including office bearer appointments
- at least 1,500 of the members provided to support the party's registration can be found on the Electoral Roll.



If there are apparent problems with an application that might require the AEC to refuse it when the initial assessment is complete, section 131 of the Electoral Act provides for the Electoral Commission to issue a formal notice to the party, giving it an opportunity to vary the application.

The party can vary the application so that the AEC is able to proceed with advertising it, or request that the Electoral Commission determine the application in its current form. If the application is not amended, it is likely the Electoral Commission will refuse to register the party.

If the application passes its initial assessment, the AEC will advertise the party's application as required by section 132 of the Electoral Act.

Publication Australia-wide

When the Electoral Commission is satisfied that the party's application is in order, it must advertise the application in accordance with section 132 of the Electoral Act on the AEC website and in newspapers circulating generally in each State and Territory. The advertisement will give any person or organisation an opportunity to object to the registration of the party.

Objections are considered only on the following grounds:

- that the application does not relate to an eligible political party (as defined in sections 4 and 123 of the Electoral Act)
- that the application does not accord with all the requirements set out under the Electoral Act (as outlined in section 126 of the Electoral Act)
- that the name or abbreviation of the party is prohibited under section 129 of the Electoral Act
- that the logo is prohibited under section 129A of the Electoral Act.

The advertisement provides a period of one month in which any person or organisation can lodge an objection. If an objection meets the grounds set out above, the AEC will forward it to the proposed registered officer of the party so that the party can respond to the objection, should they choose to do so. Redacted copies of the objection and any response from the applicant party are made available on the AEC website.

Final determination – decision and Statement of Reasons

The application, any objections lodged and any response to those objections from the party are then put to a delegate of the Electoral Commission who will make a final determination on the application. The AEC will advise the registered officer of the party of the final decision and provide a copy of a Statement of Reasons for the decision. The Statement of Reasons is also published on the AEC website. The Electoral Act provides appeal rights in relation to party registration decisions. See “Appeals” later in this Guide.

If the party has been registered, the AEC will provide the registered officer with a copy of the party’s entry in the Register and relevant information for newly registered political parties. The AEC will also update the copy of the Register on the AEC website to include the new party.

How long will the process take?

The minimum timeframe to process an application for party registration is three months.

The stages of assessment being:

Initial Assessment	expected to take a minimum of five weeks
Delegate consideration and advertising	expected to take a minimum of two weeks
Public consideration period	a minimum of one month*
Final assessment	a minimum of one week**

*Timeframe prescribed under section 132 of the Electoral Act.

**Should written particulars be received objecting to an application, the final assessment timeframe is expected to be longer than one week.

No action during an election

Section 127 of the Electoral Act provides that “no action shall be taken in relation to any application for the registration of a political party” in the period commencing on the day of the issue of a writ for a federal election and finishing on the day of the return of that writ. That means that the processing of applications is suspended on the issue of a writ for a federal election (including a by-election) and can recommence only after that writ is returned.



Section 127 of the Electoral Act provides that the AEC shall take no action in relation to an application for registration, during the period commencing on the day of the issue of a writ for a federal election and finishing on the day of the return of that writ.

Registered State or Territory branches



Section 130 of the Electoral Act provides that the Electoral Commission may register an eligible political party that is related to a political party.

Often a political party may establish branches or divisions in one or more states or territories and want to separately register those branches or divisions. Registration of a branch would follow the same process as applying to register a party outlined in this Guide. The application to register a branch includes that it must be established in accordance with a written constitution, have at least 1,500 members (non-Parliamentary), appoint office bearers and use the appropriate form:

- [Application for registration of a Parliamentary party, or](#)
- [Application for registration of a non-Parliamentary party.](#)

Recognised State or Territory branches

An alternative to the registration of a branch is applying for branch recognition. A registered political party may approach the AEC to request that it recognise a State or Territory branch.

In determining whether to recognise a State or Territory branch, the AEC relies on the definition of State branch in Part XX of the Electoral Act.



Section 287(1) of the Electoral Act defines a State branch, in relation to a political party, means a branch or division of the party that is organised on the basis of a particular State or Territory.

The AEC must be satisfied that the branch or division is organised on the basis of a particular State or Territory. The type of evidence the AEC would consider when making a determination would include:

- details of the establishment of the branch including the inaugural meeting minutes
- details of the current office bearers and their most recent appointment or election
- a copy of the constitution of the branch
- details of the activities of the branch, its website, the way it services the members in that State or Territory
- the level of ongoing financial activity along with copies of statements from the branch's bank accounts
- any further evidence that might show that the branch should be recognised, such as registration with the electoral commission in that State or Territory, or other evidence of the membership of the branch.

If the AEC formally recognises a State or Territory branch of a registered political party, the branch is required to appoint a secretary and party agent. The party agent is required to lodge financial disclosure returns for the recognised branch.

The recognised branch is entitled to have access to Electoral Roll data.



Section 90B of the Electoral Act governs the provision of information on the Electoral Roll for the State or Territory in which a recognised branch of a political party is organised.

Obligations of registered political parties

Financial disclosure obligation under the Electoral Act

The AEC provides publications designed to assist political parties with financial disclosure obligations under the Electoral Act.

The [Financial Disclosure Guide for Political Parties](#) assists political parties to understand their financial disclosure obligations under the provisions of Part XX of the Electoral Act.

Political parties registered with the AEC and their state or territory branches are required to lodge an annual Political Party Disclosure Return by 20 October each year.

For the purposes of disclosure, organised state or territory branches of registered political parties are treated as being separate to the registered party and must complete their own annual return form.

Recognised branches

Where a registered political party has State or Territory branches which are separately recognised by the AEC, these State or Territory branches must lodge a separate annual financial disclosure return covering the operation of the party in their State or Territory.

Date for public inspection of annual returns

Annual returns are made available for public inspection on the first working day of February each year.

Returns can be seen on the [Transparency Register](#) on the AEC website.

Election funding

After each federal election or by-election, the AEC distributes money to eligible political parties, candidates and Senate groups to reimburse them for electoral expenditure. Payment of election funding is included in Division 3 of Part XX of the Electoral Act.

The AEC publishes on its website the [Election Funding Guide](#) which is intended to assist eligible political parties, candidates and Senate groups to access election funding. It does not address the whole of the Electoral Act. Users should familiarise themselves with the relevant part of the Electoral Act and seek independent legal advice where necessary.

The Electoral Act and all guides published by the AEC are available at www.aec.gov.au.

Appeals

Section 141 of the Electoral Act provides for the review of certain decisions of the Electoral Commission, or of a delegate of the Electoral Commission.

Section 141(2) provides that where a delegate of the Electoral Commission makes a reviewable decision, a person affected by the decision, who is dissatisfied with the decision may, within the period of 28 days after the day on which the decision first comes to the notice of the person, or within such further period as the Electoral Commission (being the three Commissioners of the AEC) allows, make a written application to the Electoral Commission to have the decision reviewed.

A reviewable decision means a decision of the Electoral Commission, or of a delegate of the Electoral Commission:

- to register a political party; or
- to refuse an application for the registration of a political party; or
- to enter a logo of a political party in the [Register of Political Parties](#); or
- to refuse to enter a logo of a political party in the [Register of Political Parties](#); or
- to grant an application under section 134(1) to change the [Register of Political Parties](#); or
- to refuse an application under section 134; or
- to uphold an objection under section 134A(1) relating to the continued use of a name by a political party; or
- to refuse to uphold an objection under section 134A(1); or
- to deregister a political party under section 137(6).

An application for review must include the person's name, street address and the reasons why the decision should be overturned.

Section 141(5) of the Electoral Act provides that an application may be made to the Administrative Appeals Tribunal (the Tribunal) for review of a reviewable decision made by the Electoral Commission or a decision under section 141(2) or section 141(4). An application to the Tribunal can be made under the provisions of the *Administrative Appeals Tribunal Act 1975*. Further information is available on the Tribunal's website at www.aat.gov.au.

When the Electoral Commission makes a reviewable decision, it must advise all interested parties of their review rights as set out above.

Appendix 1 - Forms relating to a new party registration

The following forms are available on the AEC website at www.aec.gov.au.

For the registration of a new party:

- Application for registration of a non-Parliamentary party [PDF 111KB] | [RTF 1.1MB]
- Application for registration of a Parliamentary party [PDF 110KB] | [RTF 1.1MB]
- Appoint Party Secretary [PDF 95KB] | [RTF 986KB]
- Secretary's statutory declaration [PDF 79KB] | [RTF 234KB]
- Sample membership spreadsheet [XLS 34KB]
- Appoint Party Agent [PDF 92KB] | [RTF 418KB]
- Lodging a written submission under s.131 (3) – non-Parliamentary party [PDF 94KB] | [RTF 638KB]
- Lodging a written submission under s.131 (3) – Parliamentary party [PDF 94KB] | [RTF 638KB]



See the AEC website for further information about [maintaining the registration of a party](#).

Appendix 2 - Membership testing

Membership testing process

When a membership list is submitted to the AEC to support either registration or a review, the following steps are taken:

1. The membership list is checked to confirm that it contains between 1,500 and 1,650 names.
2. The membership list is checked against the Electoral Roll through an automated process. Party members will fall into the following three categories: matched to one; matched to many; or no match.
3. The names in the categories 'matched to many' and 'no match' are individually checked against the Electoral Roll. These members now fall into one of four categories: matched to the Electoral Roll; deceased; not currently enrolled to vote; or not found on the roll.
4. **Unique members** – Two or more parties cannot rely on the same members for the purpose of registration or continued registration. The names of party members matched to the Electoral Roll in both stages of testing are then compared to membership lists of other registered political parties to identify any cross-party duplicates. Duplicates are removed from the membership list.
5. **Less than 1,500** – If after this verification process the membership list does not contain 1,500 names, the party will be issued with a Notice to vary or review its application.
6. **1,500 or more** – If after this verification process is completed, the membership list contains between 1,500 and 1,650 names of electors, the second phase of testing commences.
7. **Random testing** – The membership list is now randomised using an excel function. The size of the random sample is determined by the number of members on the list after steps 2 to 4 are completed.
8. Party members are contacted starting from the top of the randomised list. In the first instance emails are sent to those members with an email address. If no response is received after 24-48 hours the member will be contacted via phone.
9. Contact is attempted on three separate occasions. If after the third attempt the member is still uncontactable they are deemed a non-response (**not a denial**) and the next consecutive person on the list is contacted. Phone contact is continued in this way until the required number of contacts is reached.

Membership testing table

To determine whether a political party meets the requirements of the Electoral Act relating to number of members, the AEC as part of party membership testing will contact a random sample of 18-60 members. The determination of the sample size is based on advice from the Australian Bureau of Statistics (ABS). Dependent on the actual sample size, and to allow the Electoral Commission to be confident that a political party meets the requirements, a certain percentage of members must confirm their membership when contacted by the AEC.

Based on a recommendation from the ABS a political party is permitted a number of denials, before the Electoral Commission would determine that the political party does not meet the number of members required for registration under the Electoral Act.

Members lodged	Random sample size	Maximum denials to pass
1,500	18	0
1,506	27	1
1,523	33	2
1,543	38	3
1,562	42	4
1,582	46	5
1,599	50	6
1,616	53	7
1,633	57	8
1,647	60	9
1,650	60	9

Minutes

Australian Electoral Commission

Meeting No. 274

Date: Wednesday 6 October 2021 **Time:** 4:00pm **Location:** Microsoft Teams

Attendees:

The Hon. Justice Susan Kenny AM (Chair);
Mr Tom Rogers (Electoral Commissioner);
Dr David Gruen (Australian Statistician)
Mr Anders Holmberg (Chief Methodology)

Action Officer: s 47F (Personal Privacy) (Commission Secretariat)

Agenda

Item

1. Welcome

2. For decision: Membership testing process and approach

Paper – Party registration - ABS advice for membership testing lists for 'at least 1,500 members'

3. For decision: Manner and timing of non-parliamentary political party register review

Paper – Political Party Registration - Manner and timing of Register review

4. Closing

Agenda item 1: Welcome and Commissioner's introduction

The Chair opened the meeting at 4:00pm. The meeting commenced with the three-person Australian Electoral Commission (the Commission) members; the Hon. Justice Susan Kenny, Mr Tom Rogers, and Dr David Gruen, and Mr Anders Homberg, Chief Methodologist of the Australian Bureau Statistics (ABS), as a guest for Item 2.

Mr Rogers provided an update to the Commission on administrative matters concerning the Australian Electoral Commission (AEC).

Agenda item 2: For decision: Membership testing process and approach

In response to recent amendments to the *Commonwealth Electoral Act 1918* (the Electoral Act) by the *Electoral Legislation Amendment (Party Registration Integrity) Act 2021* (the Party Registration Act), the Commission discussed proposed sample sizes for registered non-Parliamentary political party membership list testing as outlined in the paper entitled 'Party registration – ABS advice for membership testing lists for 'at least 1,500 members''.

The proposed methodology, which examined sample sizes derived from data provided by the ABS, is based on the current method with updated sample sizes.

The Commission endorsed the methodology of the proposed approach but requested additional statistical advice from the ABS regarding the percentage chances of incorrectly rejecting or accepting membership lists.

Commission decision:

- **Agree that** ABS staff will recalibrate the parameters in the data provided to the Commission to ensure a reasonable (low) probability of rejecting a valid list or accepting an invalid list. The Commission will examine the re-worked parameters out-of-session.
- **Agree that** the Commission endorses the current general approach, noting that the methodology is an extension of the existing methodology.

Agenda item 3: For decision: Manner and timing of non-parliamentary political party register review

In response to the recent amendments to the Electoral Act by the Party Registration Act, the Commission examined administrative processes for the AEC to ensure registered non-Parliamentary parties meet new membership eligibility requirements within the three-month period provided by the Party Registration Act. The Commission endorsed a review of the registered non-Parliamentary parties under section 138A of the Electoral Act, with subsequent action to be taken under section s137 of the Electoral Act if appropriate.

Decision:

- **Agree that** the Commission will, for the purpose of reviewing the Register, provide a notice under s 138A of the Electoral Act to each registered non-Parliamentary party to request specified information to establish that the party meets the 1,500 membership eligibility requirement as at 2 December 2021.

Agenda item 4: Closing

The Chair thanked members for attending and closed the meeting at 5:10pm.

AUSTRALIAN ELECTORAL COMMISSION

MEETING NUMBER 262

20 March 2017

Item 5: Party registration – membership testing methodology

Item No. 5: Party registration: membership testing methodology

Purpose

- The purpose of this paper is to seek the Electoral Commission's endorsement to:
- maintain the Australian Electoral Commission's (AEC) current policy of treating 'non-responses' as neither confirming nor denying membership
 - update the risk parameters in the membership testing table used by the AEC when assessing the registration or review of non-parliamentary political parties under s. 126(2) and s. 138A of the *Commonwealth Electoral Act 1918* (Electoral Act) respectively.

Background

On 24 August 2016, the Electoral Commission discussed the risk of a legal challenge of the methodology used to determine if a political party has 500 members. To address this risk, the Electoral Commission decided to seek advice from the Australian Bureau of Statistics (ABS) on the validity of the current method.

On 21 September 2016, the Electoral Commissioner wrote to Mr David Kalisch in his capacity as the Australian Statistician, seeking confirmation of the methodology currently employed by the AEC for the random sampling testing of political party membership lists. The Electoral Commissioner requested that the ABS confirm the level of risk associated with the sampling method used by the AEC.

On 9 November 2016, Mr Kalisch replied to the Electoral Commissioner. This response included:

- reiteration of previous advice that the ABS considered still current on the AEC's approach to managing non-responses and recommending minor updates to the risk parameters in the membership testing table
- an updated table showing confidences in membership testing for a membership list between 500 and 550 members. The table lists the 'probability of rejecting a valid list = 10%' and 'probability of accepting an invalid list = 2%'.
- an Excel workbook which included a table showing confidences in membership testing for a membership list between 500 and 1000 members, a risk calculator for alternative invalid list size and risks assumptions, and the algorithm underpinning the basis for this advice.

Membership testing process

The current membership testing process was introduced in 2010, and with some minor changes in 2011, has been used consistently to determine if parties have the 500 enrolled unique members required to support or maintain registration. To determine whether a political party meets this requirement of the Electoral Act, the AEC contacts a random sample of members. The sample size is based on previous advice from the ABS. Dependent on the actual sample size a political party is permitted a number of denials before the AEC would determine that a political party does not meet the number of members required for registration under the Electoral Act. (See **Appendix 1** for details of the testing process).

The AEC publishes on its website a Party Registration Guide¹ which provides information for parties regarding the party registration process, application process, and reviews of party registration including process and methodology. This includes the current membership sampling rates and number of denials permitted.

Managing non-responses

The primary legislative intent of Part XI of the Electoral Act is to give applicant political parties every reasonable opportunity to gain or retain registration, providing they meet certain threshold requirements such as having a constitution and providing, through submission of a list, evidence of 500 members who are on the electoral roll.

The AEC's practice has been to treat members who cannot be contacted as 'non-responses' not a 'denial' and to contact the next consecutive person on the random sample list of members used for testing. That is, a non-response is treated as neither confirming nor denying membership. The AEC considers this aligns with the legislative intent to enable parties to gain and retain registration should they meet the requirements set out in the Electoral Act.

Currently, party members are contacted starting from the top of a randomised list. This list is the sample size plus a further 100 per cent of additional names. Contact is attempted on three separate occasions. If after the third attempt the member is still uncontactable they are deemed a 'non-response' (not a denial) and the next consecutive person on the list is contacted. Contact is continued in this way until the required number of contacts for the sample size is reached.

¹ Available at http://www.aec.gov.au/Parties_and_Representatives/Party_Registration/files/party-registration-guide.pdf

Random sample size

To date no party has exceeded or used the full 100 per cent extra. If the number of contacts required neared the quota, this would raise concerns about the validity of the list. Advice, taking into account the depth of testing, would be prepared for the delegate's consideration.

Issues or risks

The ABS's suggested approach to treat a 'non response' as a 'denial' was originally provided to the AEC in 2010. However, the AEC decided at that time not to adopt that approach. While the onus is on the applicant or currently registered parties to demonstrate that they meet the necessary legislative requirements, the suggested change to treatment of non-responses would impact on parties gaining or retaining registration without legislative or parliamentary consideration, oversight of endorsement.

If the approach suggested by the ABS in relation to the treatment of non-responses had been employed for the 2014–15 s. 138A review, of the 24 parties that maintained their membership after the review, 18 parties would have been deregistered. For the 2011–12 s. 138A review, of the 16 parties that maintained their membership after the review, 13 parties would have been deregistered. Since the beginning of 2016, of the eight parties granted registration, only two would have passed testing. This includes Derryn Hinch's Justice Party, (now a parliamentary party), which would have failed to gain registration.

The table below outlines the effect the ABS advice if employed would have had on previous reviews.

138A review	No. of parties reviewed	No. of parties that maintained registration	No. of parties that failed membership testing	No. of parties that would have maintained registration if 'non-responses' had been treated as 'denials'
2014–15	41	24	17	6
2011–12	18	16	2	3

If the ABS advice is applied there would likely be a substantial increase in party membership lists failing initial testing with a flow on effect of an increased number of notices to vary an application (s. 131 notice) or the AEC considering deregistering a party (s. 137 notice) being issued to parties. It could also lead to a corresponding increase in

'review of decisions' submitted to the Electoral Commission and to applications to the Administrative Appeal Tribunal.

Contact attempts

The contact attempts and methodology undertaken by the AEC for determining non responses could be subject to scrutiny if treated as denials. For example, there is a risk the AEC fails a party's membership on the basis that the maximum number of denials has been exceeded due to non-responses. There may also be cases where the AEC receives a late confirmation of membership from a 'non-respondent' after a delegate's decision to reject an application or deregister a party.

On the other hand, treating non-responses as a denial may encourage parties to be more vigilant in providing accurate and robust lists. This may reduce the administrative burden on the AEC in addition to having a flow on effect on the size of Senate ballot papers if fewer parties are registered.

Validity of the current membership testing methodology

The updated membership testing table provided by the ABS for a list of 500 to 550 members contains some minor changes to the risk parameters which change some of the 'number of contacts required' and the 'denials allowed' ratios. There is no change to the current overall risk ratios which remain a 'probability of rejecting a valid list = 10%' and 'probability of accepting an invalid list = 2%'.

Maintaining a sample based on a range of 500 to 550 members will, according to the ABS advice, remain a statistically valid method of checking that a party has 500 members. Based on the ABS advice undertaking larger sampling based on a larger list being submitted would not make it any more or any less of a valid outcome as the number of 'yes' responses and the number of 'denials' are percentage based and therefore the percentages in each sample size are equally valid.

Continuing to limit the membership list a party provides to the AEC to between 500 and 550 members allows all parties regardless of their actual size to be on an even playing field in meeting the same requirement for registration. It also ensures resourcing and timeliness for undertaking membership testing remain reasonable – currently it takes on average 10 hours to test a membership list.

The current process for membership testing provides a good balance between a robust and defensible process and a reasonable use of Commonwealth resources. As yet no Electoral Commission decision has been overturned on the grounds of process. This provides a degree of assurance as to the validity and defensibility of the current system.

Changes to membership testing and timeframe for implementation

Electoral Commission endorsement is being sought to continue to treat non-responses as per current AEC policy and to update the risk parameters in the membership testing table to reflect the recent advice from the ABS. The membership testing table and the Party Registration Guide would be updated to reflect the changes advised by the ABS.

Recommendations

That the Electoral Commission:

1. **Endorse** updating the membership testing table to reflect updated ABS advice.

Endorsed/not endorsed/set aside

2. **Endorse** maintaining the AEC's current policy of treating 'non-responses' as neither 'confirming nor denying' membership, *as amended by resolution 1.*

Endorsed/not endorsed/set aside

20 March 2016.

Appendix 1

Current administrative process – membership testing

When a membership list is submitted to the AEC to support either registration or a review, the following steps are taken:

1. The membership list is checked to confirm that it contains between 500 and 550 names.
2. The membership list is checked against the electoral roll through an automated process. Party members will fall into the following three categories: matched to one; matched to many; or no match.
3. The names in the categories 'matched to many' and 'no match' are individually checked against the electoral roll. These members now fall into one of four categories: matched to the electoral roll; deceased; not currently enrolled to vote; or not found on the roll.
4. **Unique members** – Two or more parties cannot rely on the same members for the purpose of registration or continued registration. The names of party members matched to the electoral roll in both stages of testing are then compared to membership lists of other registered political parties to identify any cross party duplicates. Duplicates are removed from the membership list.
5. **Less than 500** - If after this verification process the membership list does not contain 500 names, the party will be issued with a Notice to either vary their application or review submission.
6. **500 or more** - If after this verification process is completed, the membership list contains between 500 and 550 names of electors, the second phase of testing commences.
7. **Random testing** - The membership list is now randomised using an excel function. The size of the random sample is determined by the number of members on the list after steps 2 to 4 are completed.
8. Party members are contacted starting from the top of the randomised list. In the first instance emails are sent to those members with an email address. If no response is received after 24-48 hours the member will be contacted via phone.
9. Contact is attempted on three separate occasions. If after the third attempt the member is still uncontactable they are deemed a non-response (**not a denial**) and the next consecutive person on the list is contacted. Phone contact is continued in this way until the required number of contacts is reached.

The table below shows the desired sample size and maximum number of denials for each list size from 1500 up to 3000

The error probabilities for these have been set to:

- Probability of rejecting a valid list = 6%
- Probability of accepting an invalid list = 2%

NOTE: the error probabilities have been adhered to as strict constraints. There are some combinations that can achieve close to the desired error rates with smaller sample size. For example, with 1523 members, a sample size of 27 and max denials of 1 will give a Probability of rejecting a valid list of 6.09%. As this is above the constraint value it is not included

Members Lodged	Random Sample Size	Maximum denials to pass	Accepting 1200 - risk	Rejecting 1500 - risk
1500	18	0	1.8%	0.0%
1501	18	0	1.7%	1.2%
1502	18	0	1.7%	2.4%
1503	18	0	1.7%	3.6%
1504	18	0	1.7%	4.7%
1505	18	0	1.7%	5.8%
1506	27	1	1.6%	0.4%
1507	27	1	1.6%	0.6%
1508	27	1	1.6%	0.8%
1509	27	1	1.6%	1.0%
1510	27	1	1.5%	1.3%
1511	27	1	1.5%	1.5%
1512	27	1	1.5%	1.8%
1513	27	1	1.5%	2.1%
1514	27	1	1.5%	2.4%
1515	27	1	1.4%	2.8%
1516	27	1	1.4%	3.1%
1517	27	1	1.4%	3.5%
1518	27	1	1.4%	3.9%
1519	27	1	1.3%	4.3%
1520	27	1	1.3%	4.7%
1521	27	1	1.3%	5.2%
1522	27	1	1.3%	5.6%
1523	33	2	1.8%	1.2%
1524	33	2	1.7%	1.4%
1525	33	2	1.7%	1.5%
1526	33	2	1.7%	1.7%
1527	33	2	1.6%	1.9%
1528	33	2	1.6%	2.1%
1529	33	2	1.6%	2.3%
1530	33	2	1.6%	2.5%
1531	33	2	1.5%	2.7%
1532	33	2	1.5%	3.0%
1533	33	2	1.5%	3.2%
1534	33	2	1.5%	3.4%
1535	33	2	1.4%	3.7%
1536	33	2	1.4%	4.0%
1537	33	2	1.4%	4.3%



Our ref: BCSHC1

s 47F - Personal Privacy

Registered Officer
VOTEFLUX.ORG | Upgrade Democracy!

s 47F (Personal Privacy)

s 47F (Personal Privacy)

Electoral Legislation Amendment (Party Registration Integrity) Act 2021 – Application Provision – Membership Requirement – subsection 138A(3) notice

Further to my email of 8 September 2021, the purpose of this letter is to advise you that, in accordance with the *Electoral Legislation Amendment (Party Registration Integrity) Act 2021* (Amendment Act), all registered non-Parliamentary parties, including VOTEFLUX.ORG | Upgrade Democracy! (the Party), have until 2 December 2021 to comply with the legislative requirement to have 'at least 1,500 members'. Failure to comply may lead to deregistration of the Party under s 137(1)(b) of the *Commonwealth Electoral Act 1918* (Electoral Act).

Section 138A of the Electoral Act enables the Australian Electoral Commission (AEC) to review the *Register of Political Parties* (the Register) to determine whether parties included in the Register remain eligible for federal registration under Part XI of the Electoral Act.

Accordingly, this letter includes a written notice under s 138A(3) of the Electoral Act for the purposes of a review of the eligibility of the Party to remain registered on and after 2 December 2021. The information specified in the Schedule to this Notice is to be provided to the AEC between **8 October 2021 and 8 December 2021** (the Specified Period) by email to fad@aec.gov.au or by mail at the address below. Please note you should provide such information (as identified in the Schedule) as you consider best shows that the Party meets, or will meet, the new 1,500 membership requirement as at 2 December 2021.

Failure to comply with the Notice may lead to deregistration of the Party under s 137(1)(cb) of the Electoral Act. Requests for extension of the Specified Period should be made in writing and provide reasons why further time is required.

Further information about s 138A reviews is outlined in the *Guide for maintaining party registration* which is available in the following link:

https://www.aec.gov.au/Parties_and_Representatives/Party_Registration/guide/files/maintain-party-registration-guide.pdf

If you require assistance to comply with this notice contact the AEC on 02 6271 4552 or fad@aec.gov.au.

s 47F (Personal Privacy)

A large black rectangular redaction box covering the signature area.

Yours sincerely,

Joanne Reid
Delegate
Disclosure, Assurance and Engagement

8 October 2021

SCHEDULE 1

NOTICE TO VOTEFLUX.ORG | UPGRADE DEMOCRACY!

UNDER SUBSECTION 138A(3) OF THE *COMMONWEALTH ELECTORAL ACT 1918* (ELECTORAL ACT)

The specified material the Party's Secretary is requested to provide to the Australian Electoral Commission (AEC) is:

A list of at least 1,500 and no more than 1,650 people currently on the Commonwealth Electoral Roll, who are members of the Party.

The membership list must be an electronic list of at least 1,500 and no more than 1,650 members of the Party enrolled on the Commonwealth Electoral Roll. This list **should contain** the full name, date of birth, enrolled address, a contact phone number and an email address for each member. as outlined in the sample membership spreadsheet available from the following link:

https://www.aec.gov.au/Parties_and_Representatives/party_registration/

If the electronic list is not provided in the sample format, it will inhibit membership testing by the AEC and delay consideration of eligibility. The membership testing process the AEC employs is outlined in Appendix 2 of the *Guide for registering a party* which is available at the following link:

https://www.aec.gov.au/Parties_and_Representatives/Party_Registration/guide/files/party-registration-guide.pdf

Please note the AEC will use the details in the electronic list to contact a random sample of Party members to confirm their current membership of the Party.

From: s 47F (Personal Privacy)
To: FAD; s 47F - Personal Privacy
Cc: secretary@aus.flux.party; Flux Party News
Subject: Re: Correspondence from the Australian Electoral Commission [SEC=OFFICIAL]
Date: Tuesday, 7 December 2021 3:10:54 PM
Attachments: [image002.gif](#)
[image001.gif](#)
[VOTEFLUX Membership List 2021 AEC.xlsx](#)

CAUTION: This email originated from outside of the Australian Federal Government. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Electoral Commission,

In response to the communication from Joanne Reid to s 47F - Personal Privacy on 8 October 2021, please find attached the requested information of 1,649 members from VOTEFLUX.ORG | Upgrade Democracy.

Kind regards,

s 47F (Personal Privacy) (Party Director) - Acting on behalf of s 47F - Personal Privacy

s 47F (Personal Privacy)

s 47F (Personal Privacy)



On Sun, 10 Oct 2021 at 16:27, s 47F - Personal Privacy wrote:

----- Forwarded message -----

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

Date: Fri, 8 Oct 2021 at 7:22 pm

Subject: Correspondence from the Australian Electoral Commission [SEC=OFFICIAL]

s 47F - Personal Privacy s 47F - Personal Privacy

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

s 47F - Personal Privacy

Please see the attached correspondence from the Australian Electoral Commission.

If you have any queries please contact the AEC on 02 6271 4552 or email fad@aec.gov.au.

Kind regards

Party Registration Team

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

Australian Electoral Commission

T: (02) 6271 4552 | **F:** (02) 6293 7655

[Australian Electoral Commission logo](#)



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Leader
Flux Australia

s 4F (Personal Privacy)

s 4F (Personal Privacy)

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s 4F (Personal Privacy)

s 4F (Personal Privacy)

File: BDLPN0

Mr Nathan Spataro
Registered Officer
VOTEFLUX.ORG | Upgrade Democracy!
s 47F (Personal Privacy)

s 47F - Personal Privacy**Notice under s 137(1)(b) of the *Commonwealth Electoral Act 1918* (Electoral Act) –
Intention to Deregister – VOTEFLUX.ORG | Upgrade Democracy!**

I refer to the Notice issued to you on 8 October 2021 as Registered Officer of
VOTEFLUX.ORG | Upgrade Democracy! (the Party) under s 138A(3) of the Electoral Act
(the s138A Notice).

The s138A Notice required you to produce specified information on the Party's eligibility to
remain registered by 8 December 2021.

On 7 December 2021, the Party responded to the s 138A Notice by providing a list of
between 1,500 and 1,650 members of the Party.

I am notifying you under s 137(1)(b) of the Electoral Act 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. A copy of the s 137(1)(b)
Notice is enclosed.

Membership testing breakdown

The membership list submitted by the Party contained 1,649 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	1,649
Automatically matched to the electoral roll	1,614
Manually matched to the electoral roll	22
Unable to match or not enrolled on the electoral roll	(11)
Deceased	(2)
Total	1,636

No members were identified as duplicated within the list and 11 members were identified as
supporting the registration of other political parties.

Total matched to the electoral roll	1,636
Duplicates identified in the membership list provided by the Party	(0)
Members identified as also supporting the registration of another party	(11)
Total	1,625

Under the membership testing methodology and formula provided by the Australian Bureau of Statistics (ABS) a list of 1,625 members requires contact with a random sample of 53 individuals on the membership list, and up to seven denials of membership are permitted by the individuals contacted. 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 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.

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

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

On that basis, I am satisfied 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 Registered Officer of the Party, or 10 members of the Party, may submit a statement in response to this Notice. This statement must be lodged with the AEC by **13 February 2022**. Responses can be emailed to fad@aec.gov.au or mailed to the address below.

If such a statement is provided, the Electoral Commission shall consider that statement and determine whether the Party should be deregistered under s 137(5) of the Electoral Act. If a statement is not provided, the Electoral Commission shall deregister the Party under s 137(4) of the Electoral Act.

I enclose a copy of the s 138A Notice, which provides information about the eligibility requirements for parties to remain registered on the Register.

If you have any further queries contact the AEC on 02 6271 4552 or email fad@aec.gov.au.

Yours sincerely

s 47F (Personal Privacy)

Joanne Reid
Assistant Commissioner
Disclosure, Assurance and Engagement

13 January 2022

SCHEDULE 1
NOTICE OF INTENTION TO DEREGISTER
SUBSECTION 137(1) OF THE COMMONWEALTH ELECTORAL ACT 1918
(ELECTORAL ACT)
VOTEFLUX.ORG | UPGRADE DEMOCRACY!

The Electoral Commission is considering deregistering VOTEFLUX.ORG | Upgrade Democracy! (the Party) under s 137(1)(b) of the Electoral Act.

The Electoral Commission is satisfied on reasonable grounds that the Party, not being a Parliamentary party, does not have at least 1,500 members, because:

- upon contacting a random sample of 53 individuals from the membership list provided by the Party, who were electors and not identified as supporting the registration of another political party, nine people denied they were members of the Party. This number being greater than the permissible denials of seven for a sample size of 53.

How to respond to this Notice

If you wish to respond to the Notice, the Registered Officer, or 10 members of the Party must provide within one (1) month of the date of this Notice:

- a statement, in writing, setting out the reasons why the Party should not be deregistered.

The response to the Notice must:

- be in writing;
- signed by:
 - the Registered Officer, or
 - ten members of the Party (including their names, addresses, and contain a statement that they are members of the Party);
- addressed to:
 - FAD@aec.gov.au, or
 - Locked Bag 4007, Canberra City ACT 2601.

How the Electoral Commission will consider your response

The Electoral Commission will consider any response received within 1 month of this Notice in determining whether to deregister the Party for the reasons outlined above. If a response is not received within 1 month of this Notice, the Electoral Commission shall deregister the Party.

Further information

For more information call 02 6271 4552, visit www.aec.gov.au or email fad@aec.gov.au.



VOTEFLUX.ORG | Upgrade Democracy!

13th February 2022

To:
Joanne Reid
Assistant Commissioner
Disclosure, Assurance and Engagement
Australian Electoral Commission

Re: Notice under s 137(1)(b) of the Commonwealth Electoral Act 1918 (Electoral Act) – Intention to Deregister – VOTEFLUX.ORG | Upgrade Democracy!

Dear Ms Reid,

In your January 13 correspondence, you said:

> I am notifying you under s 137(1)(b) of the Electoral Act 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.

I speak on behalf of the Party. We do not believe that such a decision would be based on reasonable grounds. This is because the AEC's methodology is flawed. Below, we will detail why we believe that this is the case and provide reasoning and evidence to back this up.

We have 3 arguments supporting our case. Each argument is *individually* sufficient to show that a decision (by the AEC) to deregister the Party would not be based on reasonable grounds; each argument is a *decisive criticism* of the current methodology.

- The statistical method used fails ~10% of the time for borderline cases.
- The statistical method uses an artificially limited sample size and thus does not estimate party membership, though does (roughly) measure membership attrition.
- We have sufficient membership and provide evidence. **Attached is a list of 4680 members. Each entry was, at some point, verified against the electoral roll.**

Unless *each* of these criticisms can be addressed, we do not believe that a decision by the AEC to deregister the Party would be based in reality.

The AEC's membership test methodology fails 10% of the time in borderline cases

Our understanding of the AEC's method is to sample the membership provided and use this as a basis for *statistical analysis* that provides an answer to whether the Party meets membership requirements. That is: given a list of N members ($1500 \leq N \leq 1650$) and n trials, estimate the ratio of N which are valid members. Although this is (presumably) done without replacement, given that $n \ll N$, we can estimate the distribution as binomial (this is good enough for a "sniff test").

Assume that a party submits a list of 1650 members, and exactly 1500 of these claimed members still consider themselves to be members. That is, the true probability of a random member confirming their membership is $P(\text{success}) = 1500/1650 = 0.909$; i.e., $P(\text{failure}) = 0.0909$. Let us consider the binomial distribution with $p = 0.0909$ (the failure rate). Given $n = 53$, $x = 7$ (x is the maximum number of failures) what is the probability that $P(x < X)$? (That is: how likely is it that 7 less than the number of observed failures, X ?)

In this case, $P(7 < X) = 10.5\%$.

Note: this can be verified quickly in excel with the formula:

=1 - BINOM.DIST.RANGE(53, 0.0909, 0, 7)

So, if exactly 1500 of 1650 were valid, the AEC would make an *incorrect* determination (i.e., one that is in **conflict with reality**) 10.5% of the time.

In your previous correspondence you said:

> [...] the Electoral Commission is satisfied on reasonable grounds [...]

Does the AEC believe that a false negative rate of 10.5% is acceptable and constitutes "reasonable grounds"? We do not.

The AEC's membership test methodology artificially reduces sample size

Let us consider whether there are more than 1500 cars, owned by residents, in Sydney. Assume that Sydney has a residential population of 5,000,000 and the probability of a resident owning a car is 91% (the expected failure rate is 0.09). All residents own 0 or 1 cars.

Using the AEC's membership testing methodology as a template, we can estimate the number of cars in Sydney via this method: first, select 1650 residents. Conduct 53 trials. If there are more than 7 failures, then there are less than 1500 cars owned by residents in Sydney. In this hypothetical case, there were 9 failures.

I trust that you can plainly see that this methodology is flawed. It is flawed because it is artificially reducing the sample size without accounting for the full population. The same error is being made by the AEC when evaluating party validity on the basis of membership testing.

What sort of error correction could we do here to *actually* estimate the number of cars in Sydney? Here is one rudimentary method: by inspection we can see that a binomial distribution with approximately twice the failure rate (0.17) has mean of 9 – i.e., if the failure rate were 0.17 then we would expect 9 of 53 trials to fail (with a std. dev. of 2.74). If the true failure rate was 0.17 (i.e., 83% of residents own a car), then we can guess that there are $0.83 \cdot (5 \cdot 10^6) = 4.15 \cdot 10^6$ cars; a bit over 4 million.

Keep in mind that – given this experimental setup – we'd expect 9 or more failures 10% of the time. If we were doing this experiment in real life, 10% of the time we would underestimate the number of cars by a factor of more than 2500x. (Of course, this large

because the population of Sydney is large – the exact factor isn't important; the fact that we underestimated by an unquantifiable degree is, though, and indicates flawed methodology.)

We trust that the connection to the current matter is obvious. Artificially reducing the sample size, and then treating this sample size as the population size, will lead to significant errors.

Returning to specifics of the matter at hand: if we correct for the AEC's artificial reduction in sample size using the rudimentary method above, based on the Party's claimed membership count (4,680), then it would be expected that the Party has a verifiable membership count of 3,884 members. This exceeds the requirements in s 137(1)(b) of the Electoral Act. Even if this were an overestimation by a factor of 2x, the Party would still meet the requirements of the Act.

Thus, we reject any decision to deregister the party – based on the procedures that the AEC has undertaken to date – on the grounds that it is in **conflict with reality**.

Bonus: a decisively superior methodology at no additional cost

We note that the AEC could, at very little cost (time, energy, expense, etc), dramatically increase the confidence of their membership testing by accepting lists of more than 1650 members and following this procedure:

1. Automatically match all possible members against the electoral roll (as is already done). The cost of automatically matching names against the electoral roll is constant regardless of the input size (because it is done by computer). If less than 1650 names are automatically matched, proceed to manual verification (as is done currently) and stop at 1650. Note that this *will only ever save the AEC time and money*. It is economically rational to do this.
2. Where more than 1650 members can be automatically matched, record this number.
3. Select 1650 names from that list and conduct 53 trials. use the failure rate to estimate the probability of a member being valid.
4. Use this probability, combined with the length of the list in step (2) to estimate the valid membership population of the party being tested.
5. Calculate error measurements and confidence intervals, etc. (Or evaluate against predetermined thresholds.)
6. Determine eligibility.

This method is *profitable* for the AEC – i.e., the AEC would save money using this procedure over the current procedure. Additionally, parties that are *true negatives* will still be *true negatives* at no additional cost. Incidence of *false negatives*, however, will be greatly reduced.

Finally, we have sufficient membership and attach proof

Please find attached a list of 4,680 members of the Party. *Note that these are the subset of members for whom we have been able to pre-validate their electoral roll details at some point.*

Based on the observation that 4,680 is a lot more than 1,500, we reject any decision to deregister the Party on the grounds that it is in **conflict with reality**.

Closing remarks

There are other issues at play that the AEC is ignoring in continuing to use broken methodology. The following example is not part of our rejection of a decision to deregister, but is another criticism of the AEC's methodology.

Consider a soon-to-be-registered party with 1650 valid members (assume this is true). What happens if 200 malicious members join (prior to registration), with the sole purpose of preventing that party from registering? Then, it's expected that ~10.8% of the membership list provided to the AEC as part of their registration application are these malicious members. Thus the failure rate according to the AEC's methodology is *expected to exceed the current threshold* (set by the AEC) – the AEC would conclude that the party does not meet requirements. However, **we know that the party in question is eligible because it is an assumption of this paragraph!**

This is another demonstration of the AEC's method producing results that conflict with reality. Although ***this example is not relevant to the current matter between the Party and the AEC***, it is an important demonstration of the insufficient nature of the current methodology. Furthermore, preventing these sort of grieving attacks should be a concern of the AEC, and the Commission should seek to rectify such methodological issues – as is its responsibility.

We submit to you that we have presented 4 *independent and decisive criticisms* of the AEC's methodology (3 of which are grounds for our rejection of a decision to deregister). Furthermore, we have shown how the AEC can improve the accuracy of their method *and save money doing it* (in the worst case, the cost is the same).

For the sake of clarity: a *decisive criticism* is a reason that an idea will not work. If someone plans to take a holiday on Mars, some decisive criticisms are that they have no way to get there, not enough money to buy transport with appropriate life support, the technology for such life support has not yet been developed, etc. If that person wanted to holiday on Mars, they would need to solve *each* of those criticisms (solving one is not enough).

Similarly, solving one of the 3 key criticisms we have presented above is not enough. All 3 must be solved for us to consider accepting a decision to involuntarily deregister the Party. The AEC's current methodology is insufficient to support a decision to deregister, as such a decision would **contradict the evidence**.

We trust that the Commission has understood the nature and severity of the criticisms we have raised, and will proceed with due consideration.

s 47F (Personal Privacy)

s 47F - Personal Privacy

Registered Officer

s 4F (Personal Privacy)

s 4F (Personal Privacy)

s 4F (Personal Privacy)

s 4F (Personal Privacy)

s 4F (Personal Privacy)

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s 4F (Personal Privacy)

From: s 47F (Personal Privacy)
To: FAD
Cc: s 47F (Personal Privacy)
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 s 47F (Personal Privacy)

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

s 47F (Personal Privacy)

From: FAD <FAD@aec.gov.au>
Sent: Wednesday, 2 March 2022 11:24 AM
To: s 47F (Personal Privacy)
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

s 47F (Personal Privacy)

s 47F (Personal Privacy) | **A/g Senior Project Officer**
Parliamentary Engagement and Party Registration Section | Disclosure, Assurance & Engagement Branch
Australian Electoral Commission

s 47F (Personal Privacy)

From: s 47F (Personal Privacy)
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

s 47F (Personal Privacy) | Director

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

s 47F (Personal Privacy)

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

Sent: Tuesday, 1 March 2022 1:17 PM

To: s 47F (Personal Privacy) s 47F (Personal Privacy)

Cc: s 47F (Personal Privacy)

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

Hello s 47F (Personal Privacy)

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. Attached is the relevant legal advice. Can you please let me know if you support this prior to sending to the delegate.

Regards,

s 47F (Personal Privacy)

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), s 47F - Personal Privacy 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 s 47F (Personal Privacy) 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 [REDACTED], 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.

Legal advice

s 42 (LPP)

s 42 (LPP)

-

- s 42 (LPP) [REDACTED]

Further Legal advice

s 42 (LPP) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

s 42 (LPP) [REDACTED]

- [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
- [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, associated legal advice, and the statement from the Party will form part of a formal minute pending your determination of the eligibility review of the Party.

-

Regards,

 s 4F (Personal Privacy)

A/g Senior Project Officer

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

 s 4F (Personal Privacy)

Membership testing outcomes

Purpose – reporting and checking the membership list

Party name:	VOTEFLUX.ORG-Upgrade Democracy!		
Total list submitted:	1650		
RMANS (04/03/2022)	Matched one to one	1,575	
	No match	68	
	Multiple matches	7	
	Total	1650	
GENESIS (07/03/2022)	Matched one to one	1,575	
	Manually matched to Electoral Roll	45	
	Deceased	12	
	Not enrolled to vote	18	
	Not found on Electoral Roll	0	
	Total	1620	
	Checked By	MG	
FCRM (08/03/2022)	Under 18 year old members?	0	
	Inner Party Duplicates	0	
	Cross Party Duplicates	34	
	Total unique members	1586	
Sample (15/03/2022)	Total Members (for the random sample)	1586	
	Required contacts	46	
	Denials permitted	5	
	Contacts Attempted	66	
	Confirmations	29	
	Denials	17	
Result of Membership Testing		FAIL	
Name	§ 4F (Personal Privacy)		
Position	Project Officer		
Date completed	18/03/22		

From: [Commission Secretariat](#)
To: [\[REDACTED\] \(Personal Email\)](#)
Cc: [Commission Secretariat](#)
Subject: Commission - Flux - Return of writs [SEC=OFFICIAL]
Date: Friday, 24 June 2022 2:21:19 PM
Attachments: [SampleMembershipSpreadsheet.xls](#)

Dear [\[REDACTED\] \(Personal Email\)](#)

I refer to your application to the Electoral Commission for review of the decision of the delegate of the decision of 24 March 2022 to deregister “VOTEFLUX.ORG | Upgrade Democracy!” (the Party) under Part XI of the Commonwealth Electoral Act 1918 (the Electoral Act).

I am writing to advise you that the writ for the **2022 federal election** was returned on **23 June 2022**. Accordingly, section 127 of the Electoral Act ceased to be in operation that day.

Invitation to provide further material

As the Electoral Commission has not been able to process your application for review during the operation of section 127 of the Electoral Act, if you wish to submit an updated application (or any additional material for the Electoral Commission to consider) please do so on or before **Friday 1 July 2022**.

The membership list provided by the Party on 13 February 2022 (the 31 February List) did not satisfy on reasonable grounds that the Party does not have at least 1,500 members. If no further list is received, the Commission may have to rely on the 31 February List for the internal review to determine whether the Party meets the requirements of the *Commonwealth Electoral Act 1918* (the Electoral Act), along with the statement you provided with your application for internal review.

If the Party would like to consider providing a list of members that meets the requirements of the Electoral Act, or if you wish to provide any further material in support of your reasons for making an application for internal review, you should do so before **Friday 1 July 2022**.

Any membership list provided by the party must adhere to the guidelines outlined in the ‘[Guide for registering a party](#)’; The party needs to lodge a membership list of between 1,500 and 1,650 members. The membership list needs to contain each member’s full name, residential address and date of birth as it appears on the Electoral Roll. Please use the attached template to assist with processing.

If the Electoral Commission does not hear from you on or before **Friday 1 July 2022**, the Commission will consider your original application in conducting its review of the decision of the delegate.

Internal review process

An internal review is a merits review of the delegate’s decision. This means that the Electoral Commission is required to review all of the relevant information (including any additional relevant information provided), and make a new decision on your application.

Next steps

Your application for review of the delegate’s decision will be considered by the Electoral

Commission under subsections 141(2) and 141(4) of the Electoral Act at the next available meeting. You will receive written notice of the decision of the Electoral Commission on your application, and a statement of reasons (including further review rights) once the Electoral Commission has considered your application.

If you have any further queries, please contact the Secretariat for the Electoral Commission by emailing commission.secretariat@aec.gov.au

Sincerely,

A small black rectangular box redacting the signature of the Commission Secretariat.

Commission Secretariat
Australian Electoral Commission

From: [Commission Secretariat](#)
To: s 4F (Personal Privacy)
Cc: [Commission Secretariat](#)
Subject: RE: Applications for review - FLUX [SEC=OFFICIAL]
Date: Wednesday, 29 June 2022 12:54:24 PM

Apologies, Nathan. I appear to have misspelled your last name in my previous email.

Sincerely,

s 4F (Personal Privacy)

Commission Secretariat
Australian Electoral Commission

From: Commission Secretariat <Commission.Secretariat@aec.gov.au>
Sent: Wednesday, 29 June 2022 12:50 PM
To: s 4F (Personal Privacy)
Cc: Commission Secretariat <Commission.Secretariat@aec.gov.au>
Subject: Applications for review - FLUX [SEC=OFFICIAL]

s 47F - Personal Privacy

I am writing to advise you that the Electoral Commission received two further applications requesting review of the decision of 24 March 2022 to deregister “[VOTEFLUX.ORG](#) | Upgrade Democracy!” (the Party) under Part XI of the *Commonwealth Electoral Act 1918* (the Electoral Act).

The two redacted applications have been attached:

- Application of 6 May 2022
- Application of 26 April 2022

A further application (with attachment) was made by s 47F (Personal Privacy) as Deputy Leader of the Party on 14 April 2022, which will also form part of the review, and has been attached for completeness.

As writs for the 2022 federal election were issued on 11 April 2022, under s127 of the Electoral Act, no further action was able to be undertaken on this matter until the return of writs, 23 June 2022.

Internal review process

Under subsection 141(2) of the Electoral Act, a person (including an organisation) affected by the decision who is dissatisfied with the decision, may make a written application to the Electoral Commission for internal review of this decision.

An internal review is a merits review of the delegate’s decision. This means that the Electoral Commission is required to review all of the relevant information, including the application for party registration submitted by the Party in considering the application under subsections 141(2) and 141(4) of the Electoral Act. However, the Electoral Commission can also consider additional information in making its decision on the application.

Invitation to submit additional information to the Electoral Commission

As the Registered Officer of the Party that is the subject of this application for review, you may

wish to respond to the application for review and to submit additional information for the Electoral Commission to consider in reviewing the delegate's decision.

If you wish to submit additional information in support of the Party's application for registration on the *Register of Political Parties*, please send your written application, including any additional material to commission.secretariat@aec.gov.au before **Wednesday 13 July 2022**.

If the Electoral Commission does not receive any further information review from you the matter will be decided on the information available to the Electoral Commission.

What can I do if I disagree with the outcome of an internal review?

If an internal review decision has been made by the Electoral Commission, a person whose interests are affected and who is dissatisfied with the decision may apply to the Administrative Appeals Tribunal (AAT) for an external merits review of the decision. More information on how to apply to the AAT and any applicable fees can be found on its website: www.aat.gov.au/applying-for-a-review/how-to-apply.

If you have any further queries contact the Secretariat for the Electoral Commission by emailing commission.secretariat@aec.gov.au

Yours sincerely,

A small black rectangular box used to redact a signature.

Commission Secretariat
Australian Electoral Commission

Membership testing outcomes

Purpose – reporting and checking the membership list

Party name:	VOTEFLUX.ORG-Upgrade Democracy!		
Total list submitted:	1649		
RMANS (8/12/2021)	Matched one to one	1614	
	No match	34	
	Multiple matches	1	
	Total	1649	
	GENESIS (13/12/2021)	Matched one to one	1614
Manually matched to Electoral Roll		22	
Deceased		-2	
Not enrolled to vote		-10	
Not found on Electoral Roll		-1	
Total		1636	
Checked By		Kisangie/Mitch/Tim	
FCRM (13/12/2021)		Under 18 year old members?	
	Inner Party Duplicates	0	
	Cross Party Duplicates	11	
	Total unique members	1625	
	Sample (13/12/2021)	Total Members (for the random sample)	1624
Required contacts		53	
Denials permitted		7	
Contacts Attempted		75	
Confirmations		44	
Denials		9	
Result of Membership Testing		FAIL	
Name	s 4F (Personal Privacy)		
Position	A/g Senior Project Officer		
Date completed	5/01/2022		

From: [Anders Holmberg](#)
To: s 4F (Personal Privacy)
Subject: RE: AEC party sampling methodology - summary of meeting of 21 July 2022 (LEX1984) [SEC=OFFICIAL]
Date: Friday, 29 July 2022 5:08:53 PM

Dear s 4F (Personal Privacy)

I think you got it. I have added some extra clarification and some edits in red below. The purple I suggest you delete. (It is impossible to use statistical theory to say anything about the confidence of rejecting (or accepting) that there are ≥ 1500 among the 4680. You can be *pretty sure* that there are not 1500 among the 1650 but I cannot calculate how sure you can be and it is a bit beside the point. With a small sample size and poor quality list it's just not how you would set up and perform a statistical test.

(As a simple example, if the first 150 you checked were invalid you'd need to find one more among the remaining 1500 to definitely reject with 100 % certainty. At the same time if the first 1499 were members you still need one more of the remaining 151 to 100% accept. Through randomised sampling probability theory controls the risks and optimises (minimises) the required sample size for those controls. If there are systematic patterns in the lists and it is not randomised it is more or less impossible to be very accurate about the decision probabilities of a test.)

Hope this helps.

Best regards,

Anders

From: s 4F (Personal Privacy)
Sent: Friday, 29 July 2022 2:18 PM
To: Anders Holmberg s 4F (Personal Privacy)
Cc: s 4F (Personal Privacy) s 4F (Personal Privacy)
Subject: AEC party sampling methodology - summary of meeting of 21 July 2022 (LEX1984) [SEC=OFFICIAL]

CAUTION: External email. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Anders

Thank you for meeting with s 4F (Personal Privacy) and I last week on Thursday 21 July. At that meeting we discussed the ABS methodology for sampling and testing membership of political parties used by the AEC. You kindly reviewed some questions we had and considered some issues raised by applications for review of the decision to deregister VoteFlux.Org | Upgrade Democracy! (the Party). The purpose of this email is to summarise the key points raised in that discussion. I would be grateful if you could confirm that I have set out your advice correctly. If not, I would be grateful if you could edit the response or reply clarify any points.

If possible, we would be grateful for your response by Monday 1 July 2022. We may provide this information to the Electoral Commission for the purposes of their review of the decision to deregister the Party.

1. What conclusions can be drawn in relation to the list of 4680 names in the Party's list, following the delegate's decision to test the top 1,650 names of that list (the sub-list)?

With respect to the test conducted it is not the randomisation or not that is causing the false rejection (or false acceptance) rate to land outside the limits. It is the sample size that control the test conditions. If you had randomised you would have been able to say something about the whole list as the final sample (probabilistically) would have referred to the 4680 not just the 1650. Nevertheless you still would have needed a bigger sample size to get the desired risk rates.

You advised that as the Party's list was not randomised before the sub-list was made (as only the top 1650 names were selected) it is not possible to draw any meaningful statistical conclusions about the Party's **whole** list of 4680 from the results of testing the sub-list. **You can only say something about the selected 1650.** This is because, without randomisation there is *no chance* of the other records being selected. You explained this by the analogy of attempting to sample **from** a deck of cards for aces. Having failed to first shuffle the deck, **chunking the bottom half away, and then sample from what is left will not give you useful information about all original cards.** Those thrown away were never in the running.

The test done indicates a list with low proportion of eligible members among the 1650.

DELETE As would usually be the case, as the test of the sub-list failed, it is possible to conclude (to the level of confidence to which the test is set) that the sub-list of 1,650 did not include 1,500 members.

2. What are the alternative options for testing the larger list?

You explained that a larger sample size would be required to test a large list to the same degree of confidence. Current sampling is calibrated so that the probability of accepting an invalid list is less than 2%, and the probability of falsely rejecting a valid list is less than 6%. You estimated that the sample size required to test the full list of 4680 names would be over 300. You also advised that excel spreadsheet calculator provided to the AEC could provide information about the sample size required to test a list of 4680 names to different levels of confidence.

We have now used the calculator (attached), to calculate that sampling a list of 4680 members, where the desired probability of false rejection is 6% and the desired probability of false acceptance is 2%, would require an approximate sample size of **564 and a maximum number of denials allowed of 399.**

3. Does filtering names affect the error rates?

You explained that in your view, the arguments made in Mr Kaye's paper with respect to filtering names increasing the error rate are without foundation. You explained that, provided the

filtering process is done in accordance with the ABS methodology, filtering names works in favour of parties by removing from a list members who would not have been capable of meeting the requirements.

Correct this would improve the 'quality' of the list and decrease the occurrence of finding denials (non-members) in the list sample.

4. Your general comments on Max Kaye's paper

You considered that it was not instructive to consider in depth Mr Kaye's hypothetical example. That example started from the premise that the party has more than 1,500 and sought to prove that a specific list could be rejected by the sampling methodology.

You agreed with the general proposition that if the correct sampling size was not adopted in relation to a larger list, the likelihood of false rejection increased. This is shown by the calculator.

We also discussed generally the rationale for requiring a smaller sampling size as a practical and fair method for testing party lists. We discussed the difficulties of testing a larger list. Since the requirement is minimum 1500 a party with a very large list that is 'low quality' in the sense that it contains a high percentage of non-members will require a very big sample size to control false rejection risks. This relates to the incentives of parties to keep good records of their members and provide the AEC with a high quality list. Providing large low quality lists should be discouraged.

s 4F (Personal Privacy) **Senior Government Lawyer**
Legal Services Section | Legal & Procurement Branch
Australian Electoral Commission
s 4F (Personal Privacy)

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Number	Registered Party Name	Dated Started Processing for this Party	First Name	Surname	Date of Birth	Phone Number	Email	Address	Suburb	Outcome	Notes	
1	VOTEFLUX.ORG Upgrade Democracy!		s 4F (Personal Privacy)								Neutral	Email
2	VOTEFLUX.ORG Upgrade Democracy!										Confirmed	Email
3	VOTEFLUX.ORG Upgrade Democracy!										Non-constructive	Message left
4	VOTEFLUX.ORG Upgrade Democracy!										Confirmed	Phone
5	VOTEFLUX.ORG Upgrade Democracy!										Den ed	Phone
6	VOTEFLUX.ORG Upgrade Democracy!										Non-constructive	Message left
7	VOTEFLUX.ORG Upgrade Democracy!										Confirmed	Email
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10	VOTEFLUX.ORG Upgrade Democracy!										Non-constructive	Message left
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25	VOTEFLUX.ORG Upgrade Democracy!										Confirmed	Email
26	VOTEFLUX.ORG Upgrade Democracy!										Non-constructive	Message left
27	VOTEFLUX.ORG Upgrade Democracy!										Non-constructive	No Answer
28	VOTEFLUX.ORG Upgrade Democracy!										Non-constructive	Message left
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45	VOTEFLUX.ORG Upgrade Democracy!										Confirmed	Email
46	VOTEFLUX.ORG Upgrade Democracy!										Confirmed	Phone
Supplementary list												
47	VOTEFLUX.ORG Upgrade Democracy!		s 4F (Personal Privacy)								Confirmed	Email
48	VOTEFLUX.ORG Upgrade Democracy!										Confirmed	Email
49	VOTEFLUX.ORG Upgrade Democracy!										Confirmed	Email
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52	VOTEFLUX.ORG Upgrade Democracy!										Non-constructive	Number not connected
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69	VOTEFLUX.ORG Upgrade Democracy!											Number not connected
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