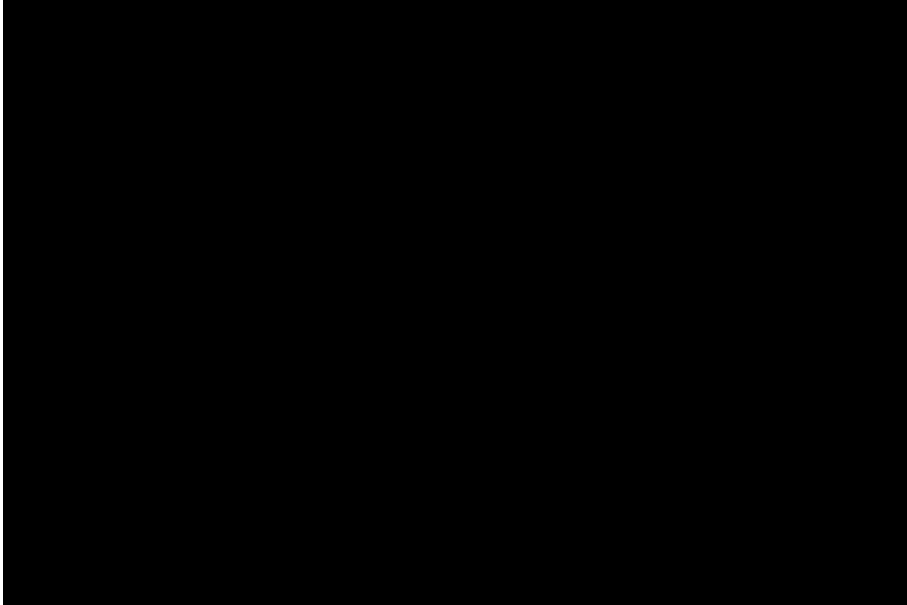


AEC reference: LEX6524



Dear [REDACTED]

Review of decision under s 141(4) of the Commonwealth Electoral Act 1918 – notice of decision under s 141(7)

1. The Australian Electoral Commission (“the Commission”) refers to the written application received by the Commission on 23 September 2024, for review of the delegate’s decision to deregister Health Environment Accountability Rights Transparency (HEART) (“the Party”) a non-Parliamentary Party, in the Register of Political Parties (“the Register”) under s 133(1) of the Commonwealth Electoral Act 1918 (“Electoral Act”) (“the application”).
2. A “reviewable decision” (within the meaning of s 141(1) of the Electoral Act) was made by the delegate under s 137(6) of the Electoral Act (“the delegate’s decision”). The delegate’s decision was made on the basis that the delegate was satisfied on reasonable grounds that the Party “has ceased to have at least 1,500 members” and, therefore, no longer met the requirements applicable at the time: see s 137(1)(b) of the Electoral Act.
3. Your application was made under s 141(2) of the Electoral Act. The Commission accepts that the application satisfies the statutory requirements for an application for review made under that provision.
4. The Commission is writing to give you notice of the decision made by the Commission on review, as required by s 141(7) of the Electoral Act.

Notice of decision – s 141(7)

5. The Commission has reviewed the delegate’s decision of 26 August 2024 to deregister the Party (“the delegate’s decision”).
6. The Commission has decided to **set aside** the decision under review and substitute a decision to take all such steps as are necessary to give effect to this decision, including to maintain the registration of the Party by re-registering the Party in the Register.

Reasons for making this decision

7. In making its decision, the Commission has had regard to:
 - a. your application for review dated 23 September 2024 and related correspondence between you and the Commission Secretariat (including submissions in support of your review application and correspondence regarding our invitation to provide an updated membership list for testing);
 - b. the material and other information before the delegate in making the delegate’s decision, including the membership lists provided by you on 16 October 2023, 12 January 2024 and 7 May 2024;
 - c. the delegate’s decision and the notice of the delegate’s decision and statement of reasons dated 26 August 2024;
 - d. the membership list provided by you on 21 November 2024, at the invitation of the Commission, in support of your review application (“the November 2024 membership list”);
 - e. the methodology for testing membership lists as outlined in the AEC’s Party Registration Guide (“Guide”) and published on its website (“Methodology”);
 - f. the results of the Commission’s testing of the November 2024 membership list, conducted in accordance with the Methodology; and
 - g. Part XI of the Electoral Act.
7. You relied on the November 2024 membership list in support of your review application. You made submissions in support of your review application by letter attached to your email of 23 September 2024.
8. These submissions raised a number of matters, including that the membership testing process is onerous, not fit-for-purpose and creates obstacles to the registration process that consequently deny political participation. Your submissions also contended that the Party was not provided sufficient time to provide the requested membership list.

9. Your submissions also requested access to the Commission's comprehensive membership testing data generated through previous testing of the Party's membership lists. On 2 October 2024, the Commission Secretariat advised you that the Electoral Act does not give the Commission legal authority to provide this data to you.
10. For the following reasons, the Commission is satisfied that the Party has at least 1,500 members, having regard to the November 2024 membership list. Therefore, the Commission considers that it is unnecessary to specifically address the matters you raised in your submissions, as summarised at paragraph 8 above.

Methodology

11. The Commission notes that the Electoral Act does not provide a method for ascertaining whether a political party satisfies the numerical membership requirements of the Electoral Act. The staff of the Commission followed the Methodology outlined in the Guide for determining whether a non-Parliamentary party satisfies this membership requirement. The Commission notes that the Methodology was the same as the sampling methodology recommended by the Australian Bureau of Statistics ('ABS'). The Commission concluded that the Methodology is appropriate for this purpose.
12. In summary, the Methodology requires:
 - a. the provision of a membership list of between 1,500 and 1,650 names for membership testing;
 - b. the removal from that list of:
 - i. names that cannot be matched, either via an automated process or manually, to the Electoral Roll; and
 - ii. duplicate names.
 - c. the list of the remaining names is then checked against other party membership lists to identify any members already relied on by another non-Parliamentary registered political party for the purpose of registration or continued registration (referred to as 'cross-party duplicates'). Any cross-party duplicate members are contacted to identify which party may rely on the individual as a member for the purpose of registration. If a response is not received within 30 days, the cross-party duplicate member is removed from the membership list;
 - d. the list of the remaining names (the examined list) is assessed to determine whether there are reasonable grounds for the Commission to be satisfied that the party does not have "at least 1,500 members" (noting that if at this stage the examined list contains less than 1,500 names, the party is given an opportunity to provide a further membership list);

- e. if the examined list contains between 1,500 and 1,650 names, that list is randomised using an excel function, the size of the random sample being determined by the number of names on the examined list in conformity with advice received from the ABS: see Appendix 2 of the Guide for a shortened version of the sample size table;
- f. the people named in the random sample are contacted first by email and, if no response is received after 24-48 hours, then by phone. Contact is attempted on three separate occasions. If the person named remains uncontactable after the third attempt, the person is deemed a "non-response" (not a denial). Then the next person on the list is sought to be contacted. The process continues until a response is obtained from the requisite number according to the ABS advice.

November 2024 membership list

- 13. By email sent on 21 November 2024, you provided a membership list containing the names of 1,650 people that the Party considered to be members ("members"). The staff of the Commission cross-checked that list with the Commonwealth electoral roll ("the electoral roll") to ensure that each listed person was "an elector" as required by the definition of 'a member of a political party' in s 123(3) of the Electoral Act.

Submitted membership list	1650
Automatically matched to the electoral roll	1332
Manually matched to the electoral roll	316
Unable to be matched or not enrolled on the electoral roll	2*
Total	1,648

*Of the two members unable to be matched or not enrolled on the electoral roll, one of the members was deceased.

- 14. Of the 1,648 members matched to the electoral roll, staff of the Electoral Commission identified 6 duplicates within the November 2024 membership list.

Approach to cross-party duplicate members in the November 2024 membership list

- 15. On 21 November 2024, in the covering email to the November 2024 membership list, the Party expressly disavowed any reliance on members identified as having been previously relied on for the registration of another registered political party (referred to as "cross-party duplicate members" in the Methodology).
- 16. On 17 December 2024, the Commission Secretariat wrote to the Party to advise that the Commission had identified 24 cross-party duplicate members in the November 2024 membership list. In light of the Party's explicit request to disregard any cross-party duplicate members from the November 2024 membership list, the Commission

Secretariat invited the Party to select from the following options as to how the Party wished to proceed:

- a. Option 1 – The Party does not seek to rely on the cross-party duplicate members identified in the November 2024 membership list. The Party does not seek to provide a supplementary list containing 24 substitute members. The Party requests that the AEC proceed with membership testing without relying on the identified cross-party duplicate members identified in the November 2024 membership list.
- b. Option 2 – The Party does not seek to rely on the cross-party duplicate members identified in the November 2024 membership list. The Party will provide the supplementary list within 7 days, unless further time to provide the supplementary list is required. The Commission will then proceed to review the supplementary list in accordance with the Methodology, prior to progressing the balance of the membership testing.
- c. Option 3 – The Party does seek to rely on the cross-party duplicate members identified in the November 2024 membership list. The Party requests that the AEC proceed to contact cross-party duplicate members in accordance with the Methodology.

- 17. On 18 December 2024, the Party confirmed it did not seek to rely on the 24 identified cross-party duplicate members in the November 2024 membership list, and requested that the Commission proceed with membership testing without the Party providing a supplementary list of 24 substitute members.
- 18. The Commission proceeded to remove the identified duplicates and cross-party duplicate members from the November 2024 membership list for the purposes of further membership testing.

Total matched to the electoral roll	
Duplicates identified in the November 2024 membership list	6
Cross-party duplicate members identified in the November 2024 membership list	24
Total	1,618

Testing of the November 2024 membership list

- 19. For a list of 1,618 members, the advice from the ABS was that there can be statistical confidence that the Party has at least 1,500 members where a random sample of 53 individuals confirm that they are members of the Party, with 7 denials permitted (“ABS advice”).
- 20. The members named in the random sample were contacted, or sought to be contacted, as set out in paragraph 12.ff. above. When contacting members, staff of the

Commission informed members of the Party’s current name, current abbreviation, and most recent former registered name (“Informed Medical Options Party”). The Commission informed contacted members of the Party’s former registered name at your request. The results were as follows:

The relevant numbers for this membership test were	
Random sample size	53
Denials permitted	7
Contact attempts made*	69
Responses received	
- Confirmed Membership	52
- Denied Membership	1
PASS/FAIL	PASS

*as some members were uncontactable, or were unable to confirm or deny membership at the time of contact

21. The Commission considered that the results of testing the November 2024 membership list were reliable because the testing process undertaken by staff of the Commission was in conformity with the Methodology.
22. Having regard to the ABS advice, the Commission is satisfied that, since only 1 individual denied membership out of a random sample of 53 individuals, there could be sufficient statistical confidence that the Party has at least 1,500 members. The Commission is therefore of the opinion that the Party has **passed** the membership testing assessment and should not be deregistered.

Conclusion and review rights

23. For these reasons, the Commission is satisfied that the Party should not be deregistered under s 137(6) of Electoral Act. The Commission has decided under s 141(4)(c) of the Electoral Act to **set aside** the decision under review and substitute the decision to take all such steps as are necessary give effect to its decision, including to maintain the registration of the Party by re-registering the Party in the Register.
24. A statement of review rights in respect of this decision is enclosed.

Yours sincerely,



The Hon Susan Kenny AM KC

Chairperson

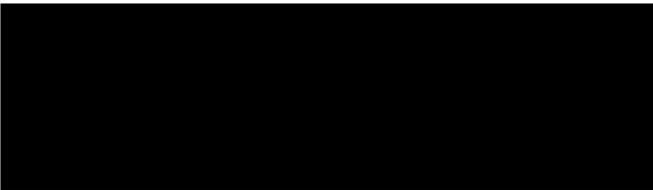
4 February 2025



Mr Jeff Pope APM

A/g Electoral Commissioner

4 February 2025



Dr David Gruen AO

Australian Statistician

4 February 2025

Your review rights

Under s 141(5) of the Electoral Act, a person (including an organisation) affected by the Commission's decision who is dissatisfied with the decision may make an application to the Administrative Review Tribunal (the ART) for review of the decision.

How is an application made to the ART for a review of a Commission decision?

In accordance with s 34 of the *Administrative Review Tribunal Act 2024* (Cth), the application:

- (a) may be made in writing or in any other manner specified for the application in the practice directions;
- (b) include the information specified for the application in the practice directions; and
- (c) be accompanied by any prescribed fee.

More information on how to apply to the ART can be found on the ART website:

<https://www.art.gov.au/applying-review>.

Practice directions published by the ART are available on the ART's website:

<https://www.art.gov.au/help-and-resources/professionals-and-practitioners/practice-directions-guides-and-guidelines>. The practice directions specify the information required to be included in an application, such as your details, details regarding the decision, and the reasons why you say the decision should be reviewed.

Prescribed fee

The ART has a standard application fee. In certain circumstances, an applicant may be entitled to pay a reduced fee.

If an applicant pays the standard application fee and the ART review is resolved in the applicant's favour, the ART will refund the difference between the standard application fee and the reduced fee. There is no refund if the applicant paid the reduced fee.

Further information about fees is available on the ART website: <https://www.art.gov.au/help-and-resources/fees>; <https://www.art.gov.au/applying-review/other-decisions>.

Prescribed time

You may apply to the ART for review of the Commission's decision during the period commencing on the day on which the Commission's decision was made and ending on the twenty-eighth day after this letter was given to you.

The ART may extend the time for making an application to the ART for a review of a decision, if an application for extension is made in writing to the ART and the ART is satisfied that it is reasonable in all the circumstances to do so.

Further information about time limits is available on the ART website:

<https://www.art.gov.au/applying-review/other-decisions>.

Conduct of a review by the ART

The ART can exercise the same powers and discretions as the Commission to make a decision on an application to register a party in the Register afresh 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; or
 - remit the matter for reconsideration in accordance with any directions or recommendations of the ART.

Further information about the review process can be found on the ART website:

<https://www.art.gov.au/applying-review/other-decisions>.

Should you have any further queries regarding the Commission's decision, please contact the Commission Secretariat by emailing commission.secretariat@aec.gov.au.