

File reference LS8120

Ms Harriet [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear Ms [REDACTED]

Response to email seeking review

1. I refer to your email to the Electoral Commission (the Commission) dated 5 May 2020, seeking a review under subsection 141(2) of the *Commonwealth Electoral Act 1918* (the Electoral Act).
2. In your email, you requested review of the delegate of the Commission's decision to change the name of "Involuntary Medication Objectors (Vaccination/Fluoride) Party" (the Party) to "Informed Medical Options Party" (the New Name) on the Register of Political Parties (the Register).
3. This letter is to notify you that the Commission is unable to review the delegate's decision in accordance with your request.
4. On 5 May 2020, the Commission Secretariat received your email, requesting a review of the delegate's decision to change the name of the Party on the Register.
5. The reasons provided by you in support of your request for review were that:
 - a. the Party's previous name "clearly" outlined the objectives and intentions of the Party;
 - b. the Party's new name is deceptive, deliberately misleading, and confusing for the general Australian public and is not reflective of the intentions of the Party, in particular by suggesting the Party's stance "is based on professional medical opinion (which is not the case)"; and
 - c. the decision of the delegate has "huge" national public health implications and is "at odds with the wellbeing of all Australians".

Section 129 of the Electoral Act

6. The Commission notes that section 129 of the Electoral Act provides the only grounds upon which the Commission can and must refuse the registration of the name of a political party. If a proposed name does not satisfy any ground of refusal in section 129 of the Electoral Act, the Commission has no discretion to refuse the registration of the name. In particular, section 129 of the Electoral Act does not permit the Commission to refuse the registration of the name of a political party on the grounds that the name is misleading. The Electoral Act would need to be amended to enable this outcome.

Section 141 of the Electoral Act

7. Subsection 141(2) of the Electoral Act provides for making an application to the Commission for review of a “reviewable decision”.
8. A subsection 141(2) application can only:
 - be made by a person affected by the decision who is dissatisfied with the decision; and
 - be made 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 Commission (either before or after the expiration of that period) allows;and subsections 141(2) and 141(3) of the Electoral Act require the application to:
 - be in writing;
 - be made to the Commission;
 - specify an address of the applicant; and
 - include reasons for making the application.
9. Your request for review received on 5 May 2020:
 - was received within the relevant timeframe;
 - was in writing;
 - was made to the Commission;
 - specified your address; and
 - included reasons for making the application.
10. However, the Commission has formed the view that it is unable to review the delegate’s decision at your request, because you are not a person “affected by” the delegate’s decision within the meaning of s 141(2) of the Electoral Act.
11. Although the term “person affected” is not defined within the Electoral Act and has not received judicial consideration within the context of electoral law, the term has been judicially considered in other contexts.
12. Your email clearly shows your dissatisfaction with the delegate’s decision to change the name of the Party on the Register. While it is apparent that you have strong intellectual or emotional concerns with the delegate’s decision, this alone is not sufficient to make you a person “affected by” the decision. The Commission does not regard a person as “affected by” the delegate’s decision simply because he or she is an elector enrolled on the Commonwealth Electoral Roll.
13. Should you have any further queries, please contact the Commission Secretariat by emailing commission.secretariat@aec.gov.au.

Yours sincerely

<signed>

The Hon. Justice Susan Kenny AM

Chairperson

22 October 2020

<signed>

Mr Tom Rogers

Electoral Commissioner

22 October 2020

<signed>

Dr David Gruen

Australian Statistician
(non-judicial member)

22 October 2020

Administrative Appeals Tribunal

Under subsection 141(5) of the Electoral Act, a person (including an organisation) affected by a decision who is dissatisfied with the decision may make an application to the Administrative Appeals Tribunal (the AAT) for review of the decision. More information on how to apply to the AAT can be found on the AAT website: <https://www.aat.gov.au/apply-for-a-review>.

Freedom of Information

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.

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