

Australian Electoral Commission blocks evidence on its SEP ballot access ban

Mike Head
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Acting on behalf of the entire political establishment, the Australian Electoral Commission (AEC) has doubled down on its rejection of a Freedom of Information (FOI) application by the Socialist Equality Party (SEP).

Our FOI application sought the release of the information needed to verify the AEC's decision to bar the SEP's candidates from contesting the May 3 election under our party name.

The AEC's May 21 letter maintains a wall of secrecy around its party registration decisions.

On February 17, the AEC emailed a letter dated February 13, rejecting the SEP's party registration submission, filed last September, which had supplied more than 1,540 members as per the onerous, intrusive and highly anti-democratic requirements of the legislation.

The basis of the AEC's rejection was an unsubstantiated claim that four SEP members had declared they no longer wished to remain as members of the SEP. The SEP replied on February 18, requesting the names of the four members to verify the AEC's claim that they did not wish to be members, and if confirmed, to remove them from the membership list. The AEC did not respond until February 27, denying the request.

As it was not clear the AEC would respond and as we were conscious of the time constraints due to the impending federal election, the SEP, on February 21, filed the FOI request with the official Information Commissioner to oblige the AEC to provide the SEP with the names of the four purportedly resigned party members.

The AEC took one month to reply, sending a letter to the SEP on March 21, reaffirming its refusal to supply the information. Two months later, on May 21, the AEC sent a further letter, escalating its refusal and suggesting that the SEP should withdraw its FOI application.

The AEC's reasons for refusing to release the information—in particular claiming that it would not be in the “public interest” to do so—further underscore the far-reaching anti-democratic nature of its ban on the SEP's ballot access.

The AEC's stand also highlights the reactionary character of the bipartisan Labor-Liberal National Coalition electoral laws that the AEC is policing.

In 2021, the two main ruling parties of Australian capitalism joined hands to try to prop themselves up in the face of deepening discontent. They suddenly imposed legislation tripling to 1,500 the number of party members whose names and details a non-parliamentary party must hand over to the AEC, an agency of the state, in order to be registered for elections. This requirement does not apply to parties that have seats in parliament.

The AEC's decision to reject the SEP's party registration submission had been compounded by the unexplained delay of almost five months. This was, in part, a consequence of a month-long wait for the pseudo-left Socialist Alliance to confirm that it would not veto the SEP's right to use our name, which includes the word “socialist”—another feature of the anti-democratic electoral laws. These delays made it too late for the SEP to

challenge the ban in time for the election.

As a result, the SEP's candidates appeared on ballot papers with blank spaces alongside their listings, not the SEP's name. This not only denied the basic democratic rights of the SEP and its members, but also those of voters, who were prevented from being able to identify which candidates were socialist.

Despite this, nearly 19,000 votes were cast for our seven candidates, revealing a growing constituency for a revolutionary, socialist alternative to the program of war, austerity and authoritarianism advanced by Labor and the whole capitalist establishment.

The election also showed widespread opposition to the fascistic Trump agenda of trade war, militarism and dictatorship, which, in the minds of significant numbers of voters, was identified with the Liberal Party, leading to a further collapse in its vote. This enabled the Albanese government to retain office, despite winning only about a third of the primary vote.

More than a third of people voted for third-party candidates or independents, showing that a substantial portion of the population wants a choice beyond Labor and the Coalition.

The AEC doubles down

The AEC's May 21 letter, first of all, asserted that to give the SEP the names of the supposed “deniers” would deter individuals from indicating to the AEC their party membership or non-membership, and would undermine the work of the AEC.

The letter reiterated the AEC's initial claim to be protected by section 47E of the FOI Act, which exempts a document from disclosure if it “would, or could reasonably be expected” to “have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.”

The SEP strongly objected to this claim when it replied to the AEC's letter on May 29, refusing to withdraw our FOI application. The SEP reply stated:

In particular, we reject the assertion that the individuals in question may be apprehensive about denying their membership if they are aware that this information will be provided to the SEP.

The more than 1,540 members whose details were submitted to the AEC did so willingly and knowingly, based on their agreement with the policies and objectives of the SEP. Moreover, we are a voluntary party, with no power, let alone desire, to cause our members to be apprehensive about resigning their membership.

The obvious question arises, however, if, as the AEC asserts, there are members who no longer wish to be part of the Socialist

Equality Party: Who else would they inform but the organisation from which they intend to resign? You claim that notifying the SEP of their supposed resignation would prevent them from indicating their party membership. This is a ludicrous assertion.

According to your argument, there are some members who wish to resign from the SEP, so they have communicated their desire to the AEC, but not to the SEP. The AEC won't inform the SEP of who wished to resign because that would hinder them from stating that they did not want to be a member. So, the result of this tortured process is that members whom the AEC declares want to resign can't, because the SEP does not know they don't want to be members and therefore can't remove them from the membership list. This is Kafkaesque and utterly nonsensical.

It is not the SEP that exerts any punitive power over our members, but the AEC, acting on behalf of the Australian government, which is the Albanese Labor government.

The intrusive and invasive process is that of the AEC, an arm of the state apparatus, which contacts our members to demand that they reveal their political affiliations. This breach of our members' privacy constitutes a violation of the principle of the secret ballot—the essential democratic right of individuals to keep their political allegiances secret from official authorities.

The fact that this violation is selective to members of parties without parliamentary representation is designed to advantage the two-party system at the expense of those sections of the population who do not wish to vote for Labor, the Coalition or, quite frankly, the Greens.

The AEC secondly reiterated its claim that to provide the names of the supposed “deniers” to the SEP would violate their right to privacy. It again cited section 47F of the FOI Act, which refers to “the unreasonable disclosure of personal information about any person.”

That ignores the fact that all the SEP's electoral members had already given their details to the party. The SEP is not asking for the public disclosure of names. It is seeking the names of its own members, which it had submitted to the AEC, in order to check the AEC's untested claims of “denials.”

Thirdly, the AEC went further, making explicitly anti-democratic contentions to cast aside the FOI Act's requirement that even if documents come within the exemptions covered by these two sections, they must still be disclosed unless the agency proves that it would damage the “public interest.”

The SEP strenuously objected:

Further, we reject the AEC's contention that there is no public interest in giving the SEP or other parties denied registration the information they need to verify and challenge those decisions, based on the AEC's untested and unsubstantiated claims that members denied membership when questioned by an AEC official...

Remarkably, your correspondence states that our request for access to the necessary information to test the AEC's decision is “a private interest of the SEP.” Basic democratic rights are not private interests. They are fundamental political rights, tied to the right to vote itself, which was won through decades of collective struggle.

Your correspondence wrongly asserts, based on your “understanding” that the SEP is seeking this information for its supposed individual interest, “specifically, in particular to allow SEP to simplify the process of preparing a new membership list.”

As we stated, we seek this information to verify the AEC's untested claims of “denials.” The SEP will decide its future actions as it sees fit. If, however, the SEP decides to submit a new party registration application, is it the AEC's contention that its role is to hinder our ability to do so? If so, please explain the legislative provisions on which you act.

As we made clear, we are seeking this information, at this stage, not to submit a new list, but to challenge the AEC's decision to prevent our registration.

The AEC's stand is in line with its insistence on keeping its party registration decisions shrouded in secrecy. That includes refusing to give the public any information about the statistical methodology it uses to test party membership lists. This methodology, the SEP has proven, is deliberately opaque and inherently biased against parties applying for registration.

Regardless of the outcome of the FOI application, which will be determined by the Information Commissioner, the SEP will intensify its efforts, as part of the world Trotskyist movement, the International Committee of the Fourth International, to build the socialist and revolutionary party of the working class needed to lead the struggles that lie ahead.

As we explained in our analysis of the significance of the SEP's vote and campaign in the May election, there is a sense in the working class that the entire political establishment represents the interests of big business, and that the future, whoever is in government, will be one of war and deepening social hardship.

“Our candidates explained that the ascension of the fascist administration of US President Donald Trump marked a turning point in world history. Trump's attempts to erect a dictatorship in America, his turn to global economic war and to naked militarism, were not a US phenomenon, the SEP stated. They were the sharpest expression of the program of the ruling elite everywhere...”

“Labor is tasked by the ruling elite with responding to the crisis of Australian and world capitalism with sweeping cuts to social spending, as well as an even greater expansion of the military in preparation for war. Oppositional sentiments will deepen, and the Labor-union mechanisms for the suppression of the class struggle will increasingly break down, heralding major upheavals of the working class.”

We appeal to our readers and supporters to apply to join the SEP. This is urgently needed to provide the decisive leadership required to overturn the repressive capitalist order and establish a genuinely democratic and egalitarian society, that is, socialism.



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Socialist Equality Party visit:

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The SEP's letter added: