

3 October 2023

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By email: [REDACTED]

Tēnā koe Mr Hague

### **New Zealand Loyal — Party List Candidates**

I refer to your letter dated 2 October 2023, attaching a draft statement of claim for judicial review proceedings.

The Electoral Commission is unable to accede to your request to accept an amended New Zealand Loyal party list, and provide amended information about the New Zealand Loyal party list to voters.

Party lists for the 2023 General election were required to be submitted no later than noon, Thursday 14 September (Electoral Act 1993, s 127(3)(a)). New Zealand Loyal's party list, nominating three eligible candidates, was submitted at 11:56am that day.

Once submitted, New Zealand Loyal's party list could have been withdrawn up until noon, Friday 15 September (ss 128C(1), (2)). A withdrawn party list could have been replaced by another party list — but only if the resubmission took place no later than noon, Thursday 14 September (ss 128C(3), 127(3)(a)). Once that time passed, there was no ability to resubmit New Zealand Loyal's party list.

The draft statement of claim refers to s 146H(1) of the Electoral Act 1993. This provides a power for party secretaries to amend bulk nomination schedules to remedy defects or omissions. Bulk nominations schedules differ from party lists. Section 146H may not be used to amend New Zealand Loyal's party list in the way suggested, for at least three reasons.

- Bulk nomination schedules are an alternative means for nominating candidates for election for electoral districts (s 146A). They are not a means of nominating candidates for election on party lists.
- The power to amend could only have been exercised up until noon, Friday 15 September (s 146H(1)).
- The power to amend may not be used to nominate candidates who were not originally nominated (s 146H(4)(b)).

The Electoral Commission takes its responsibility to facilitate participation in the democratic process very seriously. However, it is the responsibility of candidates and parties to ensure they comply with all relevant statutory requirements. In particular, the Electoral Commission is unable to extend deadlines imposed by statute.

In the event New Zealand Loyal commences judicial review proceedings, please provide copies to Crown Law's Constitutional & Human Rights Team: [chr@crownlaw.govt.nz](mailto:chr@crownlaw.govt.nz).

Nāku noa, nā



Karl Le Quesne  
Electoral Commissioner