

Report of the Returning Officer on the 2023 OUSA Executive Elections

Provided in accordance with clause 3.3.
of the OUSA Elections Policy
13 October 2022

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1. Executive Summary

- 1.1. Overall, the election ran relatively smoothly and I am confident that all students had a fair opportunity to participate.
- 1.2. The biggest difficulty I encountered in my role was the lack of guidance around issuing penalties for breaches.
- 1.3. I received enquiries relating to 26 separate issues. All enquiries were resolved.
- 1.4. I received 4 complaints. All were resolved without appeal to an independent arbitrator.
- 1.5. This year's candidates were mostly good-natured, compliant and pleasant to deal with.
- 1.6. **Summary of Recommendations (see in full at 5.)**
 - 1.6.1. **I recommend** the development of a framework to guide the Returning Officer when deciding on penalties.
 - 1.6.2. **I recommend** that cl 11.1.5 be removed from the Elections Policy and replaced with a new clause.
 - 1.6.3. **I recommend** cl 10.1 be updated to fix a minor error.
 - 1.6.4. **I recommend** a ban on further expenditure of campaign funds and volunteer activities during the voting period, and a requirement that candidates submit their financial returns and volunteer lists before the close of voting.

2. Overview

- 2.1. Nominations opened at 9:00am on 12 September 2022 and closed at 4:00pm on 16 September 2022. The nomination period was extended once to allow for additional nominations. Nominations were eventually received for all Executive positions.
- 2.2. The following positions were contested:

President;
Administrative Vice President;
Finance and Strategy Officer;
Academic Representative;
Welfare and Equity Representative;
International Students Representative;
Political Representative; and
Residential Representative.
- 2.3. The following positions were uncontested:

Postgraduate Students Representative; and
Clubs and Societies Representative.

- 2.4. Voting opened at 9:00am on Monday 26 September 2022 and closed at 4:00pm on Wednesday 28 September 2022. Voting was conducted via an online voting system routed through a page managed by OUSA. Votes were cast and counted with the Single Transferable Vote method. I am satisfied that the voting system fulfilled the applicable criteria.
- 2.5. The following candidates were returned:

PRESIDENT:	Quintin Jane
ADMINISTRATIVE VICE PRESIDENT:	Imogen Macalister
FINANCE AND STRATEGY OFFICER:	Emily Fau-Goodwin
ACADEMIC REPRESENTATIVE:	Mia Heaphy Butts
WELFARE AND EQUITY REPRESENTATIVE:	Kaia Kahurangi Jamieson
POSTGRADUATE STUDENTS' REPRESENTATIVE:	Keegan Wells
INTERNATIONAL STUDENTS' REPRESENTATIVE:	Cyrus Yam
CLUBS AND SOCIETIES REPRESENTATIVE:	Reid Eberwein
POLITICAL REPRESENTATIVE:	Tessa Campbell
RESIDENTIAL REPRESENTATIVE:	Lilly Baird

3. Running of the election

- 3.1. Overall, the election ran relatively smoothly and I am confident that all students had a fair opportunity to participate. However, turnout was low and campaigning was markedly less visible than last year. I am concerned about the trend of few nominations and low turnout.
- 3.2. The biggest difficulty I encountered in my role was the lack of guidance around issuing penalties for breaches. Three candidates were penalised for breaching campaigning rules this year, compared to zero last year. While I am confident that all my decisions were reasonable, I would have appreciated some framework or criteria for administering penalties. This issue is addressed in my recommendations at 5.1.

3.3. The following enquiries were received:

- 3.3.1. There was an enquiry as to whether a candidate could use a QR code scavenger hunt as a promotional tool, offering a prize of a sausage sizzle to participants. I advised that the idea did not breach any rules as long as the candidate remained under budget, did not make the prize conditional on who the participants voted for, and followed relevant privacy laws and best practice regarding the collection of personal data.
- 3.3.2. There was an enquiry as to the application of campaigning rules to a candidate employed by OUSA as a News Reporter at Radio One FM. I advised that the candidate could not discuss or promote their campaign or do or say anything implying the endorsement or support of OUSA. The candidate was advised not to discuss the election or any of the candidates while reporting for Radio One FM. It was also noted that, if elected, the candidate would be required to resign their position as an OUSA employee.

- 3.3.3. There was an enquiry as to whether candidates could campaign in the Marsh Study Centre. I advised that this was allowed as the Marsh Study Centre is not a University library. However, I advised that the candidate should take care not to disrupt students studying in the Marsh, given that part of the rationale for the rule against campaigning in libraries is to avoid disruptions.
- 3.3.4. There was an enquiry as to whether candidates could campaign in the Link and the Union building. I advised that this was allowed but that posters should only be put up in designated poster areas such as noticeboards.
- 3.3.5. There was an enquiry as to the definition of “campaign volunteer”. I advised that the term includes anybody doing anything beyond just casually supporting/promoting a campaign, for example putting up posters or making regular campaign posts on social media.
- 3.3.6. There was an enquiry as to whether non-students could be campaign volunteers. I advised that anyone could volunteer, except for incumbent OUSA Executive members, OUSA staff and University staff.
- 3.3.7. There was an enquiry as to how printing costs should be recorded on the financial returns form. I advised that printing costs should be listed according to where/how they are printed. For printing from a student account, the University’s name and address should be given on the form. For printing through UniPrint, the name and address of UniPrint should be given.
- 3.3.8. There was an enquiry as to whether receipts should be provided for financial expenditure. I advised that receipts should be provided where possible.
- 3.3.9. There was an enquiry as to whether OUSA clubs and societies could endorse more than one candidate for the same position. I advised that this was allowed.
- 3.3.10. There was an enquiry as to whether a QR code linking to a candidate’s campaign Facebook page could be printed on posters. I advised that this was allowed.
- 3.3.11. There was an enquiry as to whether a candidate’s Facebook page could feature a link to the OUSA website. I advised that this was allowed.
- 3.3.12. There was an enquiry as to whether a candidate’s Facebook page could promote voting during the voting period. I advised that this was allowed as long as the voting link was not posted alongside any campaign messaging.
- 3.3.13. There was an enquiry as to whether candidates could seek advice from incumbent Executive members. I advised that this was allowed as long as incumbents did not publicly support candidates.
- 3.3.14. There was an enquiry as to whether organisations not affiliated to OUSA could endorse candidates. I advised that there was no rule against this and that OUSA cannot determine what external organisations do or say.
- 3.3.15. There was an enquiry as to whether an incumbent seeking re-election could write “experienced with OUSA” on campaign materials, or whether this implied an endorsement. I advised that this was allowed as it was simply a factual statement of a relevant attribute.

- 3.3.16. There was an enquiry as to whether there is a formal process required for endorsements from clubs and societies, and whether endorsements could be shared on social media. I advised that there is no formal process except where there is a conflicted party as defined by the Elections Policy, and that endorsements may be shared freely.
- 3.3.17. There was an enquiry as to the content which should be included in candidate blurbs. I advised that this was for the candidates to decide, but that blurbs were typically a combination of a personal introduction and an indication of what the candidate would do if elected.
- 3.3.18. There were several enquiries as to where posters could be placed on campus. I advised that posters could be placed on noticeboards or designated poster areas, but not inside University libraries or OUSA buildings. Posters could be placed in cafes on campus with the cafe's permission.
- 3.3.19. There was an enquiry as to whether candidates were allowed to write in chalk on the wall of the Leith by the Clocktower. I advised that this had been done in the past, but that candidates should seek permission from the University. Property Services later advised that they did not allow chalking on the Leith wall but that candidates could chalk the pavements around campus instead.
- 3.3.20. There was a separate enquiry as to whether chalking was allowed outside University libraries. I advised that this was allowed as long as it was only outside the building.
- 3.3.21. There was an enquiry as to whether candidates could distribute pamphlets at halls of residence. I advised that this was allowed as long as permission was obtained from each hall, and no hall staff were involved in distributing materials or otherwise promoting campaigns.
- 3.3.22. There was an enquiry as to whether the presidential candidates could appear on Radio One FM or whether this presented a conflict of interest as one candidate was employed by the station. I advised that there would be no conflict as long as the candidate did not bring attention to his employment or association with the station.
- 3.3.23. There were several enquiries as to whether candidates could use giveaways to promote their campaigns. I advised that this was allowed as long as there was no requirement to vote for any particular candidate.
- 3.3.24. There was an enquiry as to whether candidates could endorse incumbent OUSA Executive members seeking re-election. I advised that this was allowed, but incumbent members could not endorse any candidate unless they themselves were campaigning for re-election.
- 3.3.25. There were a number of enquiries as to the rules around posting active voting links during the voting period. I advised that candidates could not post the voting link alongside any campaign promotional material, but this created confusion around the proximity of online posts to one another. I have addressed this in my recommendations at 5.2.
- 3.3.26. There was an enquiry after the close of voting regarding the final tally of votes for the International Representative position. One candidate had received a penalty deduction of votes which they believed had altered the outcome of the election. I advised that this was not the case, as the published preliminary results reflected the vote tally *before* any deduction had been applied, so the outcome was the same regardless of any deductions. The candidate ultimately chose not to appeal the result or my decision.

3.4. **Other matters arising:**

- 3.4.1. The OUSA Marketing and Communications team objected to one candidate's poster which featured a QR code linking to objectionable content on YouTube. I advised that the submission of the poster to OUSA may have breached cl 10.6 of the Elections Policy. The Association Secretary contacted the candidate, who agreed to remove the QR code. No further action was taken.
- 3.4.2. I identified that cl 10.1 of the Elections Policy was not up to date. I have addressed this in my recommendations at 5.3.

4. **Candidates' conduct**

- 4.1. This year's candidates were mostly good-natured, compliant and pleasant to deal with. No complaints of malicious or highly inappropriate conduct were received, though some penalties were given out for less serious rule breaches. I commend almost all candidates for their high standard of behaviour and the level of respect they showed to me and to one another, though I was occasionally disappointed by instances of immature or impolite behaviour.
- 4.2. A number of candidates did not submit financial returns or volunteer lists, even when prompted more than once. This is wholly unsatisfactory. I have addressed this in my recommendations at 5.4.
- 4.3. Three candidates received minor penalties for breaches of campaigning rules. More detail is provided below.

4.4. **The following complaints were received:**

- 4.4.1. There was a complaint regarding Critic Te Arohi's publication of a Letter to the Editor written by one of the presidential candidates. I found that no breach of the Elections Policy had occurred. My full reasons are attached in Appendix A.
- 4.4.2. I initiated an own-motion investigation into a potential breach of campaigning rules after discovering a campaign poster prominently displayed in Central Library. I found that the candidate had breached the Elections Policy and ordered a five vote deduction. My full reasons are attached in Appendix B.
- 4.4.3. There was a complaint regarding the publication of the voting link on social media alongside campaign promotional materials by a volunteer on behalf of a candidate. I found that the candidate had breached the Elections Policy but that under the circumstances no penalty was justified. My full reasons are attached in Appendix C.
- 4.4.4. There were three complaints regarding the publication of the voting link on social media alongside campaign promotional materials by nine candidates. I found that seven of the candidates had not breached the Elections Policy, but that two candidates had. I ordered a four vote deduction for both candidates. My full reasons are attached in Appendix D.

5. Recommendations

- 5.1. At present, there is no framework or criteria to guide the Returning Officer when deciding on penalties for breaches of the Elections Policy. I found that this contributed to uncertainty and confusion when ruling on complaints.

I recommend that the Policy Committee review the Elections Policy and the Returning Officer Handbook and produce a framework to guide the Returning Officer when deciding on penalties. I suggest for instance that a method be devised for apportioning vote deductions according to the severity of the breach and the potential for impacting the election result.

- 5.2. There was a great deal of confusion, and three rule breaches, relating to the application of cl 11.1.5 of the Elections Policy, which prohibits campaigning near polling booths, to the online voting system. My decision in 2021 was that this rule should be interpreted so as to prohibit posting an active voting URL link alongside any campaign promotional material, in keeping with the spirit of the original rule. This did not work well in practice due to the near impossibility of determining what ‘proximity’ means in an online context, and the apparent arbitrariness of the rule. I also believe it contributed to lower voter turnout.

I recommend that cl 11.1.5 be removed from the Elections Policy and replaced with a new clause which specifically prohibits stand-over tactics or aggressive campaigning in-person, but clearly excludes any limitations on promoting the voting link online.

- 5.3. Clause 10.1 of the Elections Policy contains an outdated reference to “*Section 14 of this Policy*”.

I recommend it be updated to state “*Clause 15 of this Policy*”.

- 5.4. A number of candidates did not submit financial returns forms or volunteer lists, even after being reminded to do so. This undermines transparency and the integrity of the electoral process, but is currently impossible to address under the Elections Policy.

I recommend that the Elections Policy be amended to ban further expenditure of campaign funds and volunteer activities during the voting period, and require candidates to submit their returns and volunteer lists before the close of voting, with a set vote deduction penalty for any candidate who does not do so. I believe this is the only way to ensure financial reporting and avoid exploitation of current weaknesses in the system. I note that last year a candidate overspent the maximum budget by more than 20% and there was effectively nothing I could do in response.

6. Conclusion

- 6.1. Overall, I believe this election was relatively well organised and effectively orchestrated. It was rewarding to be able to assist the candidates and help to facilitate the process for a second time. Voter turnout was concerningly low, and I implore the incoming Executive to think hard about how to improve this. I wish the outgoing Executive well and welcome the 2023 Executive on board to carry the OUSA kaupapa ahead.

- 6.2. I submit this report as a full record of key events, decisions and recommendations from the 2023 OUSA Executive Elections per cl 3.3 of the Elections Policy.



George Sabonadiere
2021 Returning Officer

APPENDIX A: Report of the Returning Officer on a Complaint Received Regarding a Letter to the Editor Published in Critic Te Arohi – 18 September 2022

Background

On 8 September 2022, Josh Stewart (current candidate for OUSA President) submitted a letter to the Editor of Critic Te Arohi. In the letter, Mr Stewart outlined his views on recent local government debates about the safety of parts of Albany Street. The full letter is annexed to this report. The same evening, Mr Stewart received a response from the Editor indicating that his letter was slightly too late to be published in the 11 September issue (Issue 22) but would be published the following week. This correspondence is also annexed.

On 12 September, nominations opened for the OUSA Executive election. Mr Stewart was nominated for the position of President that week. Nominations closed on Friday 16 September, marking the beginning of the campaign period. On 18 September, Issue 23 of Critic Te Arohi was distributed around campus, featuring Mr Stewart's letter as 'letter of the week'.

Later that day, I received a complaint regarding the letter, alleging that it breached campaigning rules. The contents of that complaint are also annexed, along with Mr Stewart's response.

Although the complainant implied that the publication of the letter was in breach of cl 11.2.4 of the Elections Policy, it is my view that the more relevant rules are cls 13.3, 14.1 and 14.1.1. I address each in turn.

Clause 13.3: Using OUSA resources

Clause 13.3 provides that:¹

Candidates must not use any OUSA resources in the course of the campaign, including but not limited to OUSA related websites, printing and social networking web pages.

In this case, I am satisfied that Critic Te Arohi could be considered an OUSA resource, given that it operates as a subsidiary of OUSA. However, for several reasons I do not find that the publication of the letter in the present case was in breach of this rule.

Firstly, the purpose of the rule appears to be principally to prevent incumbent OUSA Executive members from taking advantage of their access to OUSA resources, rather than controlling the conduct of non-incumbent members. I suggest this is the reason the rule is found under the 'campaign finance' heading, rather than 'campaigning'.² If, for example, an incumbent member running for re-election were to use an official OUSA column in Critic Te Arohi for campaign purposes, that would certainly breach the rule. In the present case, however, Mr Stewart wrote to the Editor as a member of the public, as any other person was entitled to do, and was selected for publication on the merits of his submission. Mr Stewart did not obtain any improper advantage or abuse the perks of any special position. Finding him in breach would therefore not be in keeping with the spirit or purpose of the rule.

Secondly, based on the timeline provided by Mr Stewart and substantiated by records of correspondence with the Editor of Critic Te Arohi, I do not find that Mr Stewart used the publication "in the course of the campaign". This is because the letter was submitted for publication on 8 September, at which point Mr Stewart had not yet been nominated for President. In fact, nominations

¹ OUSA Elections Policy 2022 (v 7), cl 13.3.

² Compare OUSA Elections Policy, cls 10–11.

did not open until four days later. According to Mr Stewart, he had not at that stage decided to run. Mr Stewart submitted the letter with the intention it be published in the 11 September issue of Critic Te Arohi – before the opening of nominations – but missed the deadline by a few minutes. The Editor liked the letter and decided to publish it in the following week’s edition. Given that the campaign period did not start until 16 September, a full 8 days after Mr Stewart submitted the letter, I do not think it can reasonably be said that Mr Stewart used Critic Te Arohi “in the course of the campaign”.³

Finally, nothing in Mr Stewart’s letter was related to the election or to Mr Stewart’s campaign. This is unsurprising considering that at the time of writing he had no campaign to speak of. I am satisfied that Mr Stewart wrote the letter as a concerned member of the public, rather than in an effort to secure political support. I note that Mr Stewart’s vocal advocacy on this issue well pre-dates his campaign. I do not think the publication of the letter procures any substantial special advantage for Mr Stewart.

Clauses 14.1 and 14.1.1: Campaigning in a manner that implies an OUSA endorsement

Given the link between OUSA and Critic Te Arohi, the present complaint could also be seen as touching on cls 14.1 and 14.1.1, which provide that:⁴

14.1. Candidates must not campaign in a manner that implies an endorsement by OUSA. This includes, but is not limited to;

14.1.1. Using OUSA staff to promote the campaign

I find that the publication of the letter did not breach either rule in this case. Although OUSA owns Critic Te Arohi, it is well-established and widely known that the publication enjoys a substantial degree of editorial freedom.⁵ Given this fact, and considering the aforementioned lack of any reference to Mr Stewart’s candidacy or the upcoming election in the letter, I do not think the Editor’s decision to publish the letter implied to the reasonable reader that OUSA was endorsing Mr Stewart for the role of President.

Furthermore, although the Editor counts as “OUSA staff” for the purposes of the policy, Mr Stewart did not “use” the Editor to promote his campaign. As discussed, there was no campaign in existence when the letter was submitted, and it was at the Editor’s own discretion that it was selected for publication. I reiterate that Mr Stewart’s intention was for the letter to be published well in advance of the campaign period and to advance an unrelated point of concern.

Conclusion

For these reasons, I do not find any breach of the rules or any wrongdoing on Mr Stewart’s part. The timing of publication was perhaps unfortunate, but I do not consider that the publication of the letter has afforded Mr Stewart any substantial advantage in the election. It is not my role to question the editorial decisions of Critic Te Arohi, and in any event I am satisfied that the decision to publish the letter was made well before Mr Stewart’s candidacy was announced and without any ill intent. I accordingly dismiss the complaint and do not impose any restriction, limitation or penalty.

Right to appeal

³ See OUSA Elections Policy, cl 2.1.2.

⁴ OUSA Elections Policy, cls 14.1–14.1.1.

⁵ See OUSA Media Independence Policy 2019 (v 1), cls 1.1–1.2.

The complainant, the candidate or any OUSA member may appeal this decision to an independent arbitrator within five working days by submitting to the Association Secretary a written record of the grounds of appeal and any evidence supplied.⁶

Association Secretary: Donna Jones (donna@ousa.org.nz)



George Sabonadiere
OUSA Returning Officer

18 September 2022

⁶ OUSA Elections Policy, cls 16.3 and 16.5–16.6.

APPENDIX B: Decision on breach of campaigning rules

Kia ora Emily,

Thanks for your response.

I have determined that the placement of the poster was in breach of the campaigning rules of the OUSA Elections Policy (cls 11.1.4 and 2.1.3), and given that it was placed in the library by one of your volunteers you are vicariously responsible for the breach (cls 12.1 and 15.4).

Although only one poster was placed in the library, and for a relatively short period of time, it was in a prominent location where it would have been visible to a large number of passers-by. This afforded you an unfair advantage over your opponents who did not promote their campaigns in the central library area, bearing in mind that posters are one of the primary means of campaign promotion.

There is an expectation that you understand and comply with campaigning rules, and ensure your volunteers do so as well – especially given that this is your second campaign and you are an incumbent OUSA officer. The prohibition of campaigning in University libraries is one of the more prominent rules.

Balancing the need to enforce the rules and uphold the fairness and integrity of the election with the relatively minor extent of this breach and your lack of direct intention, I have decided that as a nominal penalty 5 votes will be deducted from your final tally (see cl 15.8). This amounts to a penalty of approximately 0.2% based on past vote totals, reflecting the unfair advantage obtained by the breach and the need to denounce rule breaches.

You have the right to appeal this decision to an independent arbitrator by submitting a written request disclosing the grounds of appeal and any supporting evidence. Such a request must be submitted within five working days.

You may not publicly disclose any details of this decision until that period has elapsed.

Ngā mihi,

George Sabonadiere

Returning Officer

Otago University Students' Association

APPENDIX C: Determination on alleged campaigning rules breach

Kia ora Lily,

Thank you for your quick response to my notification.

I have investigated the complaint in accordance with the Elections Policy and concluded that a technical breach of the rules occurred, but that no penalty should be imposed. My reasons are provided below.

Clause 11.1.5: Voting links and campaigning

Clause 11.1.5 of the Elections Policy prohibits campaigning near polling booths during the voting period without the Returning Officer's prior permission. In recent years, as voting has moved online, this rule has been broadly interpreted to prohibit posting clickable voting links alongside campaign materials, as this is the digital equivalent of campaigning near a physical voting booth.

For example, the Returning Officer Handbook records that in 2021:

There was an enquiry as to whether the voting link could be published on campaign posters. It was decided that this was allowed as long as the link was not a clickable URL, as posting a clickable link alongside promotional campaign material would breach the spirit of cl [11.1.5] of the Elections Policy

Accordingly, the social media posts forming the subject of this complaint appear to breach this rule.

Clauses 12.1 and 15.4: Vicarious responsibility

These clauses provide that candidates may be held responsible for the acts of volunteers or other individuals, including where they breach the Elections Policy. In this case, although the posts were not made at the candidate's request, they quickly came to the attention of the candidate and no action was taken to remove them. It was at this point that the candidate assumed responsibility for the posts and any associated repercussions.

Clause 15.8: Assessing penalties

I am required to consider a range of factors when determining whether (and which) penalties are appropriate. The context of the breach must also be taken into account.

In this case, I find it significant that the candidate had no intention whatsoever of breaching the rules, because she had no idea that the action in question amounted to a breach. This is for a few reasons. Firstly, the interpretation of the rules described above remains unwritten in the Elections Policy and is therefore not clear to even the most scrupulous reader. Secondly, this interpretation was explained to candidates at the initial briefing, however the candidate in this case was not present at that briefing. Thirdly, the candidate provided a legitimate explanation for her absence and requested a follow-up meeting, however I suggested that was not necessary. This was my error, not the candidate's, and as a result the rule was never explained to her.

With this context in mind, and considering that there was no ill intention and efforts were immediately made to rectify the breach, I do not see any need to impose any restriction or penalty.

Conclusion and right to appeal

The matter is closed, with the caveat that both the candidate and the complainant have the right to appeal this decision to an independent arbitrator by submitting a written request disclosing the grounds of appeal and any supporting evidence. Such a request must be submitted to the Association Secretary, Donna Jones, within five working days.

You may not publicly disclose any details of this decision until that period has elapsed.

Ngā mihi,

George Sabonadiere
Returning Officer
Otago University Students' Association

APPENDIX D: Returning Officer's Determination on Two Complaints Regarding the Posting of Voting Links

I'd like to firstly apologise for this process being quite formal and stressful – the rules are fairly strict about the way I have to approach these things and I have been doing my best to juggle communicating with over 10 different people here. Thank you for your patience and cooperation.

This is a tricky issue. I acknowledge that the rule is confusing and not explicitly written down anywhere. Those who missed the briefing may have been in the dark about it until today. On the other hand, some candidates will have received votes through the link in a manner that others couldn't benefit from – this is inherently unfair and prejudices the outcome of the election.

Each candidate is in a slightly different position so there are different outcomes for different people. I'll provide the general reasons for my decision below.

Clause 11.1.5: Voting links and campaigning

Clause 11.1.5 of the Elections Policy prohibits campaigning near polling booths during the voting period without the Returning Officer's prior permission. In recent years, as voting has moved online, this rule has been broadly interpreted to prohibit posting clickable voting links alongside campaign materials, as this is the digital equivalent of campaigning near a physical voting booth. This decision was made as provided for in cl 3.9 of the policy.

For example, the Returning Officer Handbook records that in 2021:

There was an enquiry as to whether the voting link could be published on campaign posters. It was decided that this was allowed as long as the link was not a clickable URL, as posting a clickable link alongside promotional campaign material would breach the spirit of cl [11.1.5] of the Elections Policy.

Accordingly, the social media posts forming the subject of this complaint appear to breach this rule.

Clauses 12.1 and 15.4: Vicarious responsibility

These clauses provide that candidates may be held responsible for the acts of volunteers or other individuals, including where they breach the Elections Policy. In this case, some posts were made by a club, the Otago University Canoe Club, while others were made by two candidates. In the case of the OUCC posts, I am satisfied from the responses I have received that they were not made with the approval or knowledge of any candidates.

Therefore, I do not find these candidates responsible for any breach and no penalties will be imposed on them:

Peter Barclay, Quintin Jane, Imogen Macalister, Reid Eberwein, Will Murrell and Millie Hogg.

I note that OUCC cooperated in taking the relevant posts down promptly once I could reach them. There is no way to penalise OUCC anyway as they are not a candidate and I do not believe any candidate was behind the posts.

Candidates who made posts directly

The following candidates made separate posts themselves:

Keegan Wells and Kaia Jamieson.

I note that neither candidate was present at the briefing where this rule was discussed, and neither met with me separately to establish the rules. Accordingly, neither knew that posting the link in this way was against the rules. Nonetheless, the rule was breached.

The intentions of the candidates are only one factor of many to be weighed up under cl 15.8 when deciding on penalties. Turning to the other factors, the breaches were not especially serious considering the short period of time the posts were up and the relatively low level of interaction they received. They were not malicious and did not target other candidates. Also, neither candidate has broken the rules in the past and both were cooperative and apologetic when the complaints were made. For these reasons, I see no need to punish the candidates. That would not be fair or reasonable.

However, I find that the breaches are likely to have an adverse effect on the election. As a benchmark, 11 people clicked the OUCC link out of 241 people who viewed the post. Applying this clickthrough rate to the estimated 90 people who viewed Keegan and Kaia's posts, that translates to 4 votes each. This is obviously a rough estimate, but given the limited information available it is the best I can do.

Result

Therefore, 4 votes will be deducted from the final tally of Keegan and Kaia's votes. This amounts to a roughly 0.15% deduction based on past voting numbers. I believe this remedies the unfairness while not unduly punishing anybody for accidental breaches or actions taken by others outside of their control.

Right to appeal

Both the complainants and the candidates subject to these complaints have the right to appeal this decision to an independent arbitrator by communicating their wish to appeal in writing to the Association Secretary, Donna Jones, within 5 days. Nobody may publicly disclose any part of this decision until that 5 day period has elapsed.