

To: The Executive
Otago University Students' Association

From: Bokyong Mun
Returning Officer

Date: 1 June 2017

Subject: Report of the Returning Officer for the Referendum held 29-31 May 2017

Introduction

1.0 This report is submitted in accordance with section 10.2 of the OUSA Referenda Policy which outlines:

Within twenty working days of the close of voting, the Returning Officer must report to the OUSA Executive on the running of the referendum, improvements to the process and any other matters pertinent to the referendum as they see fit.

- 1.1 The referendum was conducted electronically, and a relatively good voter turnout was recorded, with approximately a 20% increase in comparison to the May referendum in 2016.
- 1.2 The referendum consisted of a number of standard propositions such as the acceptance of the Annual Report from 2016. Aside from these questions, there were a good number of engaging questions that covered a broad spectrum of issues ranging from a question regarding Hyde Street Party costumes, to that of whether OUSA should oppose the implementation of CCTV monitoring of the student residential area by the University of Otago.

Results

2.0 *See attached*

Complaints

3.0 One formal complaint was received on the first day of the referendum, being 29 May 2017. My response to this complaint resulted in no changes needing to be made to the final results of the referendum. The response provided to the complainant is attached at the end of this report for further information on the nature of the complaint and the decision made.

Recommendations

4.0 In light of the complaint received, I recommend that the OUSA Executive and the Policy Committee look into the possibility of including 'skip' votes. I envisage that this would allow a student to pass a certain number of questions, and not have to cast a vote. This mechanism is to be differentiated from actively abstaining, the inclusion of which had led to ineffective and uncertain

results in the past. I believe the inclusion of at least some ability to 'skip' past a question is important in the context that the referendum will always consist of a number of very discrete and separate issues.

4.1 I recommend that the OUSA Executive very seriously look into ways that they can effect changes into the structure of communications platforms at OUSA, particularly that of the website. When the referendum results were released online on the OUSA website just before 5pm on 31 May 2017, the fact that the results were only provisional was unfortunately omitted. The results were only provisional due to the fact that I had not finished dealing with the complaint I had received, and in accordance with clause 13.3 of the OUSA Referendum Policy, all affected results needed to be announced as provisional. After some discussions, this seems to have been a result of a mistake made somewhere along the chain of posting the results on the website. Moving past this mistake, I soon found out that there were no easy solutions to amending the website, with the communications manager logistically being unable to access the website to make changes. This meant that the provisional notice was only able to be added in on the morning of the 1 June 2017, and in the interim, I communicated an explanatory email to the complainant.

4.1.1 Firstly, I must emphasise the importance of following due process especially when it is outlined explicitly in a policy. Despite the fact that the provisional notice may not have actually been very important substantively in hindsight, it is in the interests of OUSA to ensure that all those that engage in governance processes are respected, and further to this, priority is given to ensure that these processes are transparent and upheld.

4.1.2 Further, I find that it unacceptable that only a single person has access to the website of a reasonably sized organisation that reports to thousands of members. There should be no barriers to something so simple as a website being updated, and the fact that this is reliant only on one person raises questions as to how much more effective the communications strategy could be at OUSA. Further to this, my discussions with the communications manager have illustrated the complexity that currently surrounds making any changes to the OUSA website, with the platform being primarily used through code language. Having been personally involved with a number of other reasonably sized organisations and charities, I know for a fact the ease and simplicity that is possible in managing and updating a professional, and secure website. While my criticisms may seem harsh, I see no reason why these two issues should not be addressed as they would only improve things.

Conclusion

5.0 There were no significant breaches of the OUSA Referendum Policy that would affect the results of the referendum. I believe that the formal complaint made does raise a valid proposition and further options into this should be investigated. Through a small mistake, I also found that there are internal restraints as to the operations within OUSA that inevitably, like this time, will restrict the organisation's ability to uphold and follow due process. I believe these are serious, but also not complex issues to solve (albeit requiring significant efforts). Finally I would like to give thanks to the OUSA Secretary for the always helpful support and guidance they have given me in regards to a number of queries I had. The OUSA executive should also be commended for the promotional efforts that resulted in such a high voter turnout for the referendum.



Otago uni **students'** association

31 May 2017

Total of 3681

Referenda held 29-31 May 2017	Yes	No	Total
Should the Otago University Students' Association Annual Audited Financial Statements for the year ended 31 December 2016 be received and accepted?	3684 95.94%	156 4.06%	3840
Should the Otago University Students' Association Annual Report for 2016 be received and accepted?	3694 96.27%	143 3.73%	3837
Should PricewaterhouseCoopers be appointed as Auditors for the Otago University Students' Association for 2017?	3403 88.76%	431 11.24%	3834
Should Anderson Lloyd be appointed as Honorary Solicitors for the Otago University Students' Association for 2017?	3402 91.16%	330 8.84%	3732
Should OUSA financially support the redevelopment and structural strengthening of its fully owned subsidiary the University Book Shop	2808 75.24%	924 24.76%	3732



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Should OUSA directly ask the Tertiary Education Minister to, “Commit to wipe all student loan debt by 2025 and make University attendance free within five years?” and then upload the Minister's response in an appropriate form on the OUSA website as soon as practicable?	2646 70.94%	1084 29.06%	3730
Should OUSA establish an online poll to determine the most offensive costume at the Hyde Street party and then publish the three most offensive costumes each year?	1183 31.85%	2531 68.15%	3714
Should OUSA support the Dunedin Hospital SOS campaign to keep the Dunedin Hospital rebuild in the centre city?	3412 91.89%	301 8.11%	3713
Should OUSA lobby the University to cease development of a new animal research facility until the University has transparently consulted with students on the financial, ethical, and scientific value and implications of investing in animal-based research?	1882 50.69%	1831 49.31%	3713
Should OUSA support a change of government at the 2017 general election?	2064 55.72%	1640 44.28%	3704
Should OUSA oppose the implementation of CCTV monitoring of the student residential area by the University of Otago?	1896 51.22%	1806 48.78%	3702

Bokyong Mun – Returning Officer

Donna Jones – Association Secretary

Otago University Students' Association May 2017 Referendum

Date: 31/05/17

Subject: Response of the Returning Officer to the formal complaint received

Introduction

- 1 This response outlines the Returning Officer's conclusions after investigation into the formal complaint reported for the Otago University Students' Association (OUSA) May 2017 Referendum.

1.1 On the 30/05/17 at 12:46 pm, a formal complaint was received by the OUSA Secretary via email. The contents of the formal complaint have been included below

To The Returning Officer,

I would like to make a formal complaint regarding the lack of an option to abstain from questions in the OUSA referendum of May 2017.

In a meeting, or in a paper referendum, one always has the option to give no answer to questions such as those provided in this month's online referendum; however, the current online referendum does not provide this option. In fact, it would appear that choosing not to provide an answer to *just one* question in the current referendum means that one cannot submit one's referendum from. This means that anyone who lacks an opinion on *just one* of the issues in the referendum cannot have their voice heard on *any* of the items in the referendum.

I'm sure I am not alone in wanting to abstain on certain of the items in the current referendum, and I would politely request the current referendum either be amended immediately or considered null and void. The current situation compels voters to express opinions on issues that they may know nothing about. I'm sure this state of affairs is not one that OUSA wishes to foster, and I trust that changes will be made.

I look forward to your reply, and to hearing that this situation has been rectified,

Sincerely,

- 2 The OUSA Referendum Policy 13.2 states that "when examining an alleged breach of the rules, the Returning Officer must have regard to the principles of natural justice and will carry out a full, fair and impartial investigation". It is within this context that I have come to my conclusion.

The Complaint

- 1 The complaint received was not in regards to a specific rule in the Referendum Policy. However it can be framed to address a breach of the purpose of the Referendum Policy, in that the referenda was not run in a "fair and democratic" way.

- 2 The complainant sought for the referendum voting process to be amended immediately, or for the Returning Officer to hold all results inconclusive.
 - 2.1 An amendment to the voting system was inappropriate, given that voting had opened to all students, and further to the fact that the amendment sought would not have been one open to be made in such a short time frame.
- 3 This response will focus on whether or not the results should be held inconclusive.

Investigation

- 1 As the current OUSA Referendum Policy stands, there is no right to abstain from voting for any single, or whole part of a referendum. The ability to abstain from questions in a referendum was removed in 2016. As process requires, this amendment to the policy was proposed by the Policy Committee, and was then considered by the OUSA executive of the time. The amendments made were accepted by the OUSA executive as seen in the executive meeting minutes of the 12/09/16
- 2 As stated in the executive meeting minutes of the 12/09/16, the amendments were made based on legal advice that was received as to the meaning of abstention votes, and whether they should be included as an option.
 - 2.1 It is to note that I personally was on the Policy Committee when these considerations were made. I have been careful to ensure this has not biased the way I have come to my conclusion. Rather, it has allowed myself to drawback on considerations made at the time the changes were put forward to aid in this investigation.
- 3 I find that upon considerations, the conclusions reached in the legal opinion received when the changes were made, continue to reflect the most effective way that OUSA should conduct referenda in a “fair and democratic” way. These, and further conclusions will be stated below.

Conclusions

- 1 The inability to abstain from voting on questions does not constitute a breach of the OUSA Referendum Policy, and therefore no remedy is needed.
- 2 A important function of the OUSA Referendum Policy is to ensure that certain and clear results are able to be obtained from referenda, so that the OUSA executive is able to fairly and accurately represent the student opinion on issues obtained through a democratic process.
 - 2.1 The inclusion of abstention votes in the past had resulted in majorly passive voting, and is likely to do so in the future. This would be ineffective and bring uncertainty as to the actual majority opinion of the student population, taking away the right of students to have their opinions heard clearly, and fairly through referenda.
 - 2.2 Further the OUSA constitution is silent on the way in which abstaining is interpreted, and would lead to further uncertainty.

- 3 Therefore on balance, I find that the uncertainty that would result from including abstention votes outweighs any natural justice arguments for such inclusion. Conclusively, the current OUSA Referendum Policy does comply with the purpose of outlining a policy to “run fair and democratic referenda”.
- 4 Further I find that the formal complaint received reflects a much more specific issue in the way that the referenda voting should take place. While there has been no breach in this instance, I find there is scope for improvement in the voting process. This finding will be reflected in my final Returning Officer’s report.

Recommendations

- 1 That no further steps are required, and that the results of the OUSA May 2017 Referendum be held final.
- 2 In light of this formal complaint, and other informal complaints received, I will be making a recommendation in my final Returning Officer’s report to investigate into the possibility of allowing the ability to ‘skip’ voting on individual questions. For clarification, this would not be a right to actively abstain.

Bokyong Mun

Returning Officer for the OUSA May 2017 Referendum