

Meeting of the University of Melbourne Student Union (“UMSU”)

Grievance Tribunal (“Tribunal”)

Minutes

1:30pm, 20th of May 2019

Location: Training Room 1, Third Floor, Union House

Attendance

Grievance Tribunal: Michael Gronow; Peter Lithgow and Belinda Fehlberg.

All interested parties including Ambrose Berlin, Christopher Kounelis, and the UMSU Clubs and Societies (“C & S”) Committee had been informed pursuant to s 208 UMSU Constitution on Monday, 13 May 2019 of the time and venue for the Grievance Tribunal Hearing on 20 May 2019, and asked to provide any written materials by 5:30pm on 17 May 2019.

Applicant: Ambrose Berlin (represented by Courtney Dixon)

Respondent: Christopher Melenhorst, Clubs and Societies Office Bearer

Others: Reece Moir, General Secretary of UMSU and Sarah Black, UMSU Administration Officer

INTRODUCTION

1. Michael Gronow, Peter Lithgow and Belinda Fehlberg introduced themselves as constituting the Grievance Tribunal.
2. The appeal relates to the Clubs and Societies (C&S) Committee decision on 8 April 2019 (motions 6 and 7) to “not accept” the Melbourne University Liberal Club’s (MULC) 2019 AGM and to direct MULC to hold another AGM within 20 academic days. See generally the requirements of the UMSU Clubs and Societies Regulations (C & S Regs) at clauses 5.2.3 and 5.2.5.
3. The Tribunal was informed by the UMSU Secretary that:
 - a. Christopher Kounelis, an interested party was not attending due to a family health issue; and
 - b. A written submission was expected to be received from Christopher Kounelis.

The Tribunal directed UMSU Secretary, Reece Moir to attempt to contact Christopher Kounelis by telephone to enquire about whether he wished to appear and/or provide a submission or

request an adjournment of the meeting. After approximately 10 minutes, Reece Moir informed the Tribunal he had been unable to contact Christopher Kounelis but had left a message on the voicemail of Christopher Kounelis.

4. At approximately 1.45pm, the Tribunal determined to proceed to hear the appeal.

APPEAL

5. The Applicant provided written submissions to the Tribunal.
6. In support of the appeal, Mr Berlin through his representative Mr Dixon made arguments that the C&S Committee had unfairly invalidated the MULC AGM.
7. In support of this Mr Berlin submitted that:
 - The C&S Committee did not have jurisdiction to exercise disciplinary powers because there was no breach of the MULC Constitution (see generally UMSU C & S Regs 6.1 – 6.3);
 - The C&S Committee did not have the power to take a disciplinary action to 'not accept' the results of the MULC AGM even if the MULC Constitution was breached;
 - MULC were not advised that they were not compliant with section 5.2.3 of the UMSU C & S Regs;
 - The attendance list for the MULC AGM was compliant, and the committee meeting at which it had been approved was quorate as two members were present by telephone.

Clubs & Societies Committee

8. C&S Committee provided written submissions to the Tribunal.
9. C&S indicated through its representative Mr Melenhorst that the C&S Committee had resolved to not take disciplinary action under C & S Reg 6 in 'not accepting' the MULC AGM as it was not relief able to be granted under the UMSU C & S Reg 6 for a disciplinary matter.
10. C&S accepted that MULC had complied with the Returning Officer and reporting requirements provided for in clause 5.2.5 of the UMSU C & S Regs.
11. The MULC AGM result was "not accepted" by the C & S Committee as a procedural step. There was an issue with the documentation, so it was taken to the C&S Committee. The C&S Committee made the decision.
12. There are questions around the membership list of MULC relevant to voting at the MULC 2019 AGM.
13. The C & S Committee received testimony about the conduct of the MULC AGM

14. The Tribunal was provided with the Declaration of the Elections of the MULC signed by the MULC AGM Returning Officer (Brent Crockford). Neither party suggested that Mr Crockford was not properly appointed as returning officer, or that the signed declaration was not genuine or in compliance with UMSU Reg 5.2.3.

The Tribunal adjourned at 2:15pm to consider its decision.

The Tribunal reconvened at 2:20pm.

DETERMINATION

The Grievance Tribunal upheld the application, and gave oral reasons for its decision.

Regarding the invalidation of the MULC AGM and the ordering of a new AGM, the Tribunal found that motions 6 and 7 of C&S Committee meeting on 8th of April 2019 were invalid and beyond power under C & S Regulation 5.2.3 (which was the only source of power to invalidate a Club AGM result and order a new AGM) and should be accepted by the C&S Committee as being invalid and not acted upon.

The Tribunal determined that C&S Committee had no power to “not accept” the MULC AGM under section 5.2.3 of the UMSU Regs.

Furthermore, it was noted by the Tribunal that under section 5.2.3 of the UMSU Regs the MULC Returning Officer is responsible for the validity of the MULC AGM and elections. The MULC AGM had appointed a Returning Officer (“RO”) who provided a declaration of the MULC AGM election results. The validity of the appointment of the RO was not disputed by either party, and it was agreed that his signed declaration of the results complied with the requirements of Reg 5.2.3. Under C & S Reg 5.2.3, it was the RO who had the responsibility for the proper conduct of elections at a Club AGM.

The Tribunal determined that C&S Committee had acted beyond power in “not accepting” the MULC AGM election results, and in directing a further AGM to be held.

The Tribunal did not consider that it had power to grant the other relief sought by Mr Berlin, since the balance of the claimed relief did not appear to relate to any alleged breach of the UMSU Constitution or Regulations made under it, and therefore could not for the subject matter of a “grievance” under s 201.5 of the UMSU Constitution. Some of the impugned conduct may (if substantiated) constitute

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grounds for disciplinary action by the C & S Committee under C & S Reg 6, but that was not a matter for the Tribunal.

Tribunal closed at 2:25pm