

Addendum to 2023 Election Report

On 11th September Patrick Irwin, a candidate in the 2023 election, lodged an appeal with the electoral tribunal against the election of Raphael Duffy, over an alleged incident between them.

Both Mr Irwin and I contacted University Security about getting access to CCTV footage of the incident, if it was available. Although we fairly quickly established that the incident had indeed been visible from a camera, getting access proved much harder. Initially, I was bumped around between different arms of the university as to who we needed to put the request to, and then how the request should be made.

Even after this, the people I spoke to in the administration changed their mind repeatedly as to whether the footage should be made available. I believe Mr Irwin had a similar experience. Initially, I was told the footage could not be supplied while the university was conducting its own investigation. Then the reason shifted to a claim that out of privacy concerns the footage could not be provided without the consent of both parties, one of whom had not provided it.

The chair of the tribunal stated that there were no privacy concerns about releasing footage of an event which had happened in a public place, but for a long time the relevant university staff did not take this view, despite my attempts to persuade them.

Eventually, the footage was provided, albeit in a way that prevented its distribution. No explanation was offered as to the reason for the change of heart. However, by the time this occurred, the period for the Tribunal to hear appeals, set out in regulation 47.4 and 47.5 had expired. The Tribunal ruled that it could no longer make a decision regarding the appeal.

In this case one member of the Tribunal indicated they would probably not have considered the incident sufficiently serious for disqualification. Consequently, the delay may not have affected the outcome of this election, but the precedent is much more serious.

As we stressed in our report, online voting creates opportunities for serious breaches of the rules that could not occur when polling was restricted to limited locations, and we have reason to believe these breaches occurred frequently in this election.

In future elections, such breaches are likely to be even more common if the election appears likely to be closer than this one. There are ethical concerns about eyes in the sky keeping a lookout for bad behavior, but they are one of the few ways currently available to control such breaches. Ideally, the fear of being caught by a CCTV will act as a deterrent.

If the university will not make the footage available to the Returning Officer, or takes too long to do so, the regulations could become unenforceable. Elections at the University of Melbourne at one time included terrible behavior, including serious physical assaults, theft of student identification and bribery. Above Quota Elections has always been on the lookout for the possibility of such things returning. The danger of a reoccurrence is now much higher than it has been for almost twenty years.

There are four actions we can think of that can be taken to prevent this, or at least limit the damage:

- 1) Change the regulations so that the Tribunal can, in circumstances such as this, hear appeals after the 4-week deadline has expired.
- 2) Discuss the problem with relevant university figures prior to the election and make them aware that the university faces a severe reputational risk as well. Hopefully we can establish guidelines as to when footage will be provided that will prevent a reoccurrence.

- 3) Restrict polling to limited locations, at least on campus. There are at least two ways this could be done. 3a) would involve a return to paper voting. 3b) would see the establishment of voting kiosks instead of polling places. Students could vote electronically, but, at least within the campus boundaries, only from these kiosks. The cost of 3a would be considerable, but as we noted in our report, not as high as a union whose leadership is determined by bad elections where the most ruthless team wins. 3b) while still more expensive than the current system, would require only a modest extra budget. In either case, opportunities would need to be provided for students who are not on campus during election week to vote. For example, it might be technically feasible to prevent online voting while on campus, other than at kiosks, but allow it from off-campus devices. Such an approach might be expensive in the first year, while the technological hurdles are addressed, but relatively cheap thereafter. We think this definitely deserves exploration.
- 4) Employ numerous undercover elections staff who will be on the lookout for events such as the one at the center of this appeal, and can provide accounts even if the footage is not available. The cost of this is likely to be so substantial it will need to be written into the tenders for the job, rather than added on later.

These proposals are not mutually inconsistent, and we recommend the first two, and at least one of 3) and 4) be carried out. Although 2) is in large part the responsibility of those appointed Returning Officer in 2024, it is an area where early high-level engagement between UMSU and the University would be helpful; while 1) and 3) require action by the Students' Council, and 4) would require discussion and approval from UMSU and the tribunal.