



DISCUSSION OF GUILD VACANCIES

Tony said that given we have three vacancies this year, two of which are more problematic than the OGC position, we've received an unclear zone of how to fill up a casual vacancy. The electoral commission has said that in their view, the straight recount isn't the right way to do it as there is a small pool of representation, unlike the OGC positions. They said to either look at co-opting someone, doing a bi-election or leaving the positions unfilled. Tony took this advice back to our lawyers who essentially did the regulations, and they agreed with some parts of the WAEC but also disagreed with them in terms of the regulations being unfair. They said whilst they think it would be fair to go to a recount, there is also the question on whether the person is 'willing and able' to fulfil that role which comes into play in particular with one of the candidates on the ballot. Both WAEC and the lawyers have come back with the advice to co-opt an eligible person on.

Michael noted that the regulations strictly state that a recount is the next course of action, even though the WAEC have said that it is not democratic to do so, and we don't always have to follow the same direction that our lawyers always point out. He also noted how the regulations state that if the person elected from the recount is 'not willing or able' to fulfil the role, fresh counts will continue until the position is filled. He addressed the concerns about Kate Fletcher not being 'able' to fulfil the role of PAC President as she is on exchange, and said he wanted to make it very clear that while someone is still overseas and has the means and willingness to do the role and also applied for the position, there is no reason to declare her ineligible. He asked why we, as Guild Council, would not follow our own regulations.

Tony said we realistically are following our regulations, in the way that Jackson McDonald has suggested to do it. The problem is that the WAEC won't conduct the recount as they have a duty under the 1907 Electoral Act to run fair and transparent elections and do not believe a recount would allow them to follow this duty. He said that Council needs to come up with a solution and to determine what defines 'able', which involves actively being able to do the job. He said to note that we are not a virtual Council, so that needs to be weighed into it.

Owen asked if the WAEC would agree to us getting the ballot papers back.

Tony said he would have to ask, but wasn't sure whether we would be allowed to receive them back as it is uncharted territory.



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22nd February 2017**

Owen asked what kind of timeline we would be looking at with a recount if we were allowed to get the ballot papers back, given that there is a state election on March 11th.

Tony said that it clearly isn't a good time for a recount for the WAEC and so we would need to come up with some sort of fair mechanism to do a recount ourselves. He said that he thinks Jackson McDonald doesn't believe a recount is the best option at the end of the day. It would also be very costly.

Owen said his understanding is that when the electoral regulations were passed through the Senate they were done on the assumption that we would be using the WAEC. He asked whether Tony thinks there is a risk that the Senate would find doing our own recount unacceptable.

Tony said that there's nothing that binds us to the WAEC- it is just what the Senate prefers on the basis that we run elections in a face where it is highly contentious. It is one of the biggest elections in Australia. He said that in good housekeeping, we should stay with the WAEC.

Michael asked if Kate was deemed 'not able', that would mean the Socialist Alternative candidate would be chosen.

Tony said that it would be possible, given the candidate is willing and able to take the position.

Michael asked if they weren't able or willing, we would then just co-opt as per our regulations.

Tony said if you ran out of solutions, Guild Council would co-opt.

Michael asked if it would be logical to say that co-opting right now would be against our regulations as we would be avoiding a large part of them.

Tony said that this is why we're in such a difficult situation and in fact, the WAEC reviewed our regulations before it went to Senate so even they were a part of this oversight. He said Council needs to look at the most practical solution and note that Council has been elected to a board which means there needs to be functional board representation and practice.





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Lewis asked if any legal action would be taken against the WAEC for not following through with a 'fair and transparent' election.

Tony said that his reading is that the WAEC has performed the fair and transparent election. He said they've done the election but the problem is the resignation, to which they need to take action based on the Electoral Act. The only option they are against is the recount because they believe it is not the right practice.

Michael asked whether it was more reasonable to follow the advice of Jackson McDonald who have said to follow regulations, as opposed to an independent body.

Tony said the lawyers are saying to follow our regulations but it's difficult to decide whose advice trumps the other. He said that if the governing body of the election is saying to not do a recount, that is where the problem lies.

Lewis asked if our lawyers have looked into the legislation that is stopping us from doing a recount.

Tony said that we haven't instructed that as it would cost a lot of money, in fact, we'd be better off going down the path of a bi-election.

Lewis asked if Tony believed a bi-election would be the most fair and transparent course of action.

Tony said he does but it would cost an extremely large amount of money as every single position would need to be nominated, campaigned for and re-elected.

Lewis asked if Tony had a view on who would win such a recount.

Jack said the discussion is about the process we would be choosing to take and it's unfair to ask a director who they think would win.

Lewis said that we could do a bi-election for which, in his opinion, we all know what the result is going to be. He asked why, in this case, are we using cost as an argument.

Tony said that a bi-election means any party or any person could go for the position.





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Lewis said that since our regulations state that we need to have a recount, wouldn't the best alternative be to predict who the winner of the recount would be and put that person into the position as a Council.

Tony said that he can't predict who is going to win- it's not democratic.

Nevin said that under the Electoral Act it has been stated that they must operate in a fair and equitable manner and the WAEC believes that doing a recount would be against this. He also said that given that the WAEC is also conducting a state election, it would result in a recount taking a few months to conduct. He asked Michael if he was prepared to ask for a recount for someone who isn't going to be in the country for a portion of their term, given the fact this recount process would therefore be untimely, unfair and use student money to conduct.

Michael said he was willing to explore all the options. He said that given what Tony has said about co-opting, we have a clear opportunity to create an overlap between what the WAEC and our regulations are saying by co-opting the two people who were next on the ballot. He said that Jacob Colangelo has shown he is ready for the job- he has even had people contact him from the sports department and asking what is going on. Regarding the question of Kate being 'able', he noted that she is able as she has the capacity, motivation, a light study load and a willingness to work with Megan in handover.

Nevin said that he wasn't asking if Kate was able, but rather if Michael was willing to face the consequences of conducting the recount process.

Michael said he is always for democracy and the path that suits it.

Justin asked whether it was correct that we make a new contract with the WAEC each year.

Tony said that we don't have a contract per se but rather a set of services that they say they will fulfil. However, because it's the WAEC, we fall under their regulations.

Justin asked whether, considering there isn't a contract per se, does that mean we are bound to their regulations?





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Tony said you're running the election under the Electoral Act.

Jack reminded Council that the question isn't about whether the person elected is able, but rather on what we should do about these vacancies given that the WAEC has said that the current procedure we have in our regulations is unfair.

All Councillors were given time to say what they thought on the matter.

Vinuri said that given the advice of the WAEC and the fact that our lawyers have said that a way to stick to our regulations as much as possible and have a fair and equitable solution to this issue is to co-opt, she believes that co-opting is the best course of action. She noted that co-opting would involve a process of compromise where the whole Council would elect someone they are all happy with.

Justin said that he believes the best decision is to co-opt. He said it's fair to not waste student funds on everything as it doesn't look good to anyone. He said it's fair to co-opt the second people on the ballot because they're obviously willing and able and great candidates and if that isn't going to happen then we should go to a recount. If that is stated in our regulations then we should follow those regulations because you can't have a rule book and throw it out after whatever's happened has happened.

Lewis said he had no objections to a co-opt but unfortunately with the current guild regulations we either give it to the launch candidate or the left action candidate. He said that the question was raised whether it was democratic to predict that someone with 37% of the vote was going to beat someone with 10% of the vote when we recount the vote. While that question can be asked, the same question can be asked whether it's democratic to co-opt someone who wasn't on the ballot paper at all. He said he is of the position that if we have to co-opt, the most democratic way to do so would be to follow the spirit of the original guidelines which state that a recount would take place and appoint either the launch candidate or the left action candidate. He said he is happy to come to an agreement with one of those candidates, but if all fails he would be happy to go to a recount. If after that, it is stated that the launch candidate is not able, then it should go to the next candidate who is willing and able.

Joseph acknowledged that the situation is very complicated because the advice from the WAEC and our lawyers is slightly contradicting. He said he would like to co-opt. He explained that it would involve the establishment of a partnership and that we don't want to co-opt someone who's specifically run with STAR. He said it would involve working with a range of different people to come to a decision for a person whom all parties mutually agree on to take up the positions. He said he doesn't believe co-opting the two remaining candidates is fair considering they don't represent so much of the votes.



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Reece said that given the advice of the WAEC, the best and most practical choice would be co-opting however, if we were to co-opt, it should be a decision made collectively between all members of Council.

Owen emphasised the difference between the outcome and the process and noted that the outcome is completely irrelevant in this discussion. He said you can't agree with co-opting as long as it goes to your choice of candidate, and then suggest a recount if your candidate isn't chosen. He said he is in favour of a co-opt because he doesn't believe we could run a recount or bi-election in the time that we need for it to work. He said that who we co-opt is a completely different discussion to this one. It's either a co-opt, a recount or a re-election and in this case, he is for a co-opt because he believes it is the only practical solution.

Tyson said he would choose to co-opt as it the most fair, equitable and practical solution.

Luke said he would choose to co-opt as he agrees with what Owen said in terms of the fact that time needs to be considered.

Pheobe and Sean M said they agreed with what was said before and agreed with the co-option.

Sean O said he believed a recount or bi-election would cost too much money and take too much time so a co-opt would be the best option.

Michael said that we need to get someone in the position as soon as possible so co-opting would be the most time efficient and practical solution. He said that PAC needs someone to direct them as they have a lot of things they need to be doing for students this semester.

Lina said that she doesn't think anyone would contest Jacob getting the position in this instance. She said most people's issue is with someone who isn't in the country not being able to fulfil the role. She said the role of Councillors is to represent students, and when that's what the issue is, it's important to think what the best outcome is for students. This involves getting someone in the role as soon as possible and having someone who can fulfil the duties in the best way possible. She said she refuses to accept that someone in the opposite timezone to us can run a portfolio that is very events based and requires a lot of meetings, purely through Skype and Facebook. She said that when we agree that a recount is not going to be possible, it is not the most democratic thing to co-opt the next





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person on the ballot. As a board of directors, the most democratic thing is to come to a fair decision as student representatives.

Michael asked Lina to clarify whether that means she is happy to have Jacob in the Sports Representative role.

Lina said she was.

Hannah said the WAEC'S entire point as an organisation is to conduct fair and democratic elections and acknowledged that they probably have the most knowledgeable opinion of what is fair and democratic is, so a co-opt should be conducted.

Megan said that PAC is a fantastic and important portfolio that tackles a lot of things like Social Justice Week. She believes that co-opting is the best process.

Joseph asked Megan whether she thinks it is possible for someone to take on the role of PAC President from overseas, considering her past on PAC.

Megan said she did it whilst she was in Washington for two months in January and February and it was the most difficult thing she had done in her life. It put a lot on Hannah, her acting PAC President.

Michael said it is easy to get the person who wants the job in the job. He said he is absolutely for a co-opt but it should be Kate. If its not Kate and we deem that she's not able to, it should be the next person on the ballot- the left action candidate Caleb Holmes. He said that Caleb would be more than welcome on this Council given our regulations and as a council we have an obligation to follow the rulebook.

Lina asked if Michael was stating that he would rather have anyone who ran for the position in the first place, rather than someone whom Council believes should be in the position.

Michael said that 50% of people who voted in the election did not vote for Macy- they voted for an alternative source. He said it's our role to follow through with that.

Lina asked Michael whether he believed that someone who got 10% of the vote should get the position.





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Michael said he believed in following the rule book. He said he wants a Council that works and a portfolio that can get the job done. He noted that there had been dialogue between himself and Nevin. He said it makes logical sense to have Kate in the role.

Nevin said that he agrees with Michael in that Guild Council should go with the process that is most democratic. As Nevin understood, Council would be breaching the State Electoral Act if a recount were to be conducted, and to some extent we'd be going against the regulations by doing a co-opt. He said that it is Council's responsibility to decide what is the most fair, equitable and democratic process to reappoint the positions. For this reason Nevin supports the WAEC's position that is to co-opt members on to Guild Council.

Jack said he agrees with what the WAEC have said and echoed what almost everyone said- that co-opting is the fairest option. We acknowledge that there is a flaw in our regulations and our lawyers have advised that co-opting would be a good choice.

Michael contested the notion that co-opting is the 'fairest' choice. He said that most people stated that they believed in co-opting because of financial reasons, not because it's the fairest.

Tony said that the WAEC have said that co-opting is the most fair option. He added that our lawyers have said that co-opting is only a technical breach of the regulations, which is different from a substantial breach.

Lewis asked if a bi-election has been completed before.

Tony said that he wasn't aware of a bi-election being done before.

Lewis asked if we could co-opt someone into the position until a bi-election.

Tony said that its not completely out of the realm of things but it would be quite difficult and close to Guild elections so there wouldn't be much of a point.

Lewis asked if this would be an opportunity to try out online voting.

Tony said that once you're elected onto Guild Council, you have to stay within the Guild Council election rules, so that wouldn't be a possibility.

Megan said that in terms of fairness, it's not fair to have that position up in the air for that period of time.





Owen said that he doesn't think a recount is practical. He doesn't think any of the options are fair- we are merely trying to find the option that is the least unfair.

A motion was written regarding this discussion.

1.0 MOTIONS WITHOUT NOTICE

1. That Guild Council accepts the most fair, equitable, democratic, and timely process deemed by the WAEC and as advised by Jackson McDonald, that is to co-opt a person to the position of:

- a. Sports Representative and,
- b. Public Affairs Council President.

Council will also note that nominees will be considered from but not limited to the original ballot.

Moved: *Nevin Jaywardena*; **Seconded:** *Lina El Rakhawy*

The motion was put. **PASSED.**

For: Vinuri Gajanyake, Nevin Jayawardena, Jack Looby, Joseph Chan, Reece Gherardi, Owen Myles, Luke Andrews, Sean Matjeraie (for Dionel Desuzer), Tyson McEwan, Pheobe Ho, Michael Kabondo, Lina El Rakhawy, Megan Lee, Hannah Matthews

Against: Michael McKenzie, Justin Workman, Lewis Hutton

Abstentions: None.