

Monash Student Council

Confirmed Confidential Minutes

Meeting 17a/08 of the Monash Student Council held at 5pm on Tuesday the 30th of September 2008 in Wholefoods.

Meeting opened at 5:38pm.

1. Attendance:

President:	Mat Hilakari	
Secretary:	Julian Campbell	(minutes)
Treasurer:	Yuliya Mik	
Education (Public):	Mark Baker	Proxy to Alex Phelan, Chris Holmes
Education (Academic):	Dash Jayasuriya	
Activities:	Sarah Cousins	
Welfare:	Adam Taranto	Proxy to Chris Holmes
Environment:	Lana Kagan	Proxy to Imogen Jackson
Women's:	Caroline Shipley	Proxy to Jane Armstrong
Female Queer:	Allegra Lofgren	
Male Queer:	Owen Smith	Apology
C&S:	Maida Kopic/Ryan Alexander	
MUISS:	Ronny Tsee Woon Yuen	Absent
MAPS:	Jessica Michaelides	Absent
General Representative:	Tegan Dobbie	
General Representative:	Simon Singer	(chair)
General Representative:	Maeva Veerapen	
General Representative:	Jeremy Healsmith	Proxy to Lisa Dalla Torre
General Representative:	Dara Conduit	
Indigenous:	Billy Gray	Absent
Observers:	Michael Keane Lisa Ritchie James Mentor	

2. Acknowledgment of traditional owners of land

This MSC acknowledges and pays respect to the people of the Kulin nations as the original and ongoing owners and custodians of this land. The MSA commits itself to actively fight alongside Indigenous peoples for reconciliation and justice for all Indigenous Australians.

3. MSA Policy Breaches

Mr Hilakari asks for details of Ms Shipley's proxy, in particular whether Ms Shipley wrote her own proxy. Mr Singer confirms that she did.

Mr Hilakari states that he spoke to Ms Shipley on the phone, and she was unsure if she wrote out a proxy, and what she wrote if she did.

Mr Singer states that she was in a well state of mind, and she did write the entire proxy.

Motion #1:

"That this MSC suspend Mat Hilakari and Julian Campbell for the remainder of 2008 without pay, effective immediately, for breaches of:

- MSA Constitution, in particular s.38(1)-(4)
- MSA Office-Bearer Regulations, in particular part 3(9)-(15)

- MSA Community Principles Policy
 - MSA Equity and Diversity Policy
 - MSA Equal Opportunity and Anti-Discrimination Policy
 - MSA Prevention of Bullying and Occupational Violence Policy
 - MSA Privacy Policy”
- Moved: Dash Jayasuriya
Seconded: Yuliya Mik

Ms Jayasuriya is asked whether she contacted Mr Baker, when she called around council members to work out what time she could get the most numbers, to attend. Ms Jayasuriya notes she did not. Mr Baker is sanctioned in 8 draft motions.

Ms Jayasuriya brought this meeting on as while this matter was dealt with by the electoral tribunal, this should be handled by student council as well. If MSA policies are not upheld, something should be done about it.

Mr Hilakari asks if legal advice has been sought by those bringing the special MSC. It has not been sought. Some of the accused are unable to attend the meeting. The meeting also needs to be an unbiased meeting – where only one side of the political divide in the MSA have been consulted to try to negotiate a best possible time for all of them to attend, this is clearly not an unbiased meeting. It needs to be an unbiased meeting, or else procedural fairness is not possible.

Ms Jayasuriya argues that council has been convened as per the minimum requirements of the standing orders, and who has 3 months to wait for legal advice? Why not make the decisions ourselves.

Ms Dalla Torre asks how can this not be the most appropriate body? MSC is the peak decision making body of the MSA.

Ms Dobbie notes the timing of the meeting is a matter of concern, given further this meeting was held during mid-semester break when many people cannot easily attend.

Ms Cousins asks whether the actions took place on MSA time. Ms Jayasuriya replies that Mr Baker's actions took place on MSA time, and Mr Campbell and Mr Hilakari are representatives of the MSA, and in the election whilst campaigning mentioned their titles as MSA officebearers, so she believes they are still representing the organisation.

Ms Jayasuriya asks what body can answer this apart from MSC? Mr Hilakari replies that all members have a conflict of interest in this decision, as all members, or almost all, are political players.

Ms Ritchie leaves at 5:52.

Mr Keane argues that legal advice was sought when the policies were drafted, so when they are breached there should be a standard penalty.

Ms Dobbie asks whether there are grievance procedures attached to the relevant policies. Mr Hilakari replies that yes, these do exist, and they are relatively clear on how breaches should be dealt with. Ms Dobbie asks whether these procedures have been followed.

Council members consider following some of the policy procedures. Mr Holmes points out that there are plenty of lower levels to move through first before sanctions of MSC need to be considered.

Ms Dobbie argues that since these procedures exist, what is the point of having them if council does not consider following them? These procedures have been created to bring the MSA into line with best practice in other workplaces.

Ms Jayasuriya argues that this has been through lower levels of conflict resolution before. Mr Campbell asks whether this comment applies to himself. Ms Jayasuriya acknowledges that this is not true.

In regards to conciliation, Mr Hilakari notes that he has always been in favour of this, and indeed the main driver of this. While MSA Policies consist of broad statements, procedures are how to implement them and the MSA should follow these procedures when upholding policy.

Mr Holmes points out that the most basic precept of natural justice – ensuring the accused can be present to defend themselves – has been entirely disregarded by those seeking action against Mark Baker. On a further level, these incidents were already dealt with through the election process. MSC deliberately delegates its authority over all actions which take place in an election context to the Returning Officer – this is because MSC is always politically conflicted on these matters. By MSC enforcing penalties, this undermines the entire process and authority of the Returning Officer. What MSC can deal with is failings of the grievance policy, the procedures, the overall problem of conflict in the MSA, and the most appropriate way to find a resolution on an issue. Punishment is the absolute last point in dealing with an issue, a multitude of other steps should take place first, which clearly haven't been followed.

Mr Keane points out that the Returning Officer doesn't have the power to suspend pay.

Mr Holmes outlines that lots of separate bodies have lots of different sanctions that they can apply, which are appropriate to the area they have jurisdiction over. While MSC can only impose punishments against officebearers, the Returning Officer can enforce penalties against all participants in the election, which is where election incidents should be taken and have been taken.

Mr Keane argues that this example could be so extreme that this goes beyond the Returning Officer's powers.

Ms Jayasuriya argues that it is time for people to take responsibility for their own actions and that there is no need to get legal advice on bullying, as the council is made up of adults. Conciliation has been tried, and this situation has been going on all year. Because there have been 7 policy breaches, she argues that this has gone beyond conciliation. She alleges that this has been a campaign by Mr Hilakari and Mr Campbell of systematic removal of self-esteem. People need to be punished, and taught that they cannot do this. Nobody has learnt their lesson, while people have needed medical treatment from their mental harms. This is the culture of the organisation. So the wrong process has been followed – who gives a shit? These were actions which brought the organisation into disrepute.

In relation to Mr Baker, Ms Jayasuriya is now happy to postpone her allegations against him.

Mr Campbell asks whether comments about some sort of systematic campaign by himself of bullying and intimidation apply to himself. Ms Jayasuriya replies that they do.

Ms Lofgren argues that we need to move on beyond these bitter fights.

Ms Dalla Torre outlines that the MSA and the Returning Officer's domains overlap, like a Venn Diagram. The election regulations are pretty shit anyway, the MSA has policies and then MSC deals with those policies. Ms Holmes argues that the Returning Officer was directed to view breaches of the laws and policies.

Mr Hilakari outlines that he has tried to apologise for his actions, thinks it was wrong, and is very sorry for it. He agrees with Ms Lofgren's sentiments. This was a particularly dirty election – by vainly attempting to “solve things” in MSC, this won't solve any underlying issues whatsoever.

Ms Dobbie outlines her amazement that, if some sort of systematic campaign had been waged by Mr Campbell in the past, that no action whatsoever had been taken or attempted against him before.

Mr Campbell outlines how the poster came to being produced.

Mr Holmes outlines the problem of allowing MSC to preside over election conduct – this is putting a higher level of accountability on those running in the election. A whole range of conduct perfectly acceptable in an election context, is not in an organisational context. This will make the election extraordinarily unfair, hence election conduct must be the domain of the Returning Officer alone.

Mr Alexander and Mr Campbell outline the conflict resolution process within the executive between Mr Hilakari and Ms Mik, noting Mr Hilakari's insistence throughout that some sort of conflict resolution, be it mediation or conciliation, be required.

On why the conflict has existed, Mr Alexander argues that it was more to do with personalities than politics. It's kind of difficult to summarise the whole year, but now nobody's talking, and bad blood exists everywhere.

Mr Holmes states that while bad behaviour is never tolerated, it has not been able to be stamped out ever through MSC. Nobody's views change in this forum, just everybody feels justified, but no actual effect takes place.

Mr Hilakari argues the election tribunal made its rulings, the Returning Officer put forward the highest possible punishment, and the tribunal haven't accepted this level of punishment.

Mr Campbell adds that the tribunal also put in place equal opportunity training to ensure that problems such as these do not arise in the future.

Mr Keane argues that this is a documented case of bullying, so is MSC going to allow it?

Ms Jayasuriya argues that while these actions have been taken as candidates in the election, a punishment should still apply.

Motion #2 (tabled):

"That this MSC suspend the pay of Mat Hilakari for 4 weeks, effective immediately, for breaches of:

- MSA Constitution, in particular s.38(1)-(4)
- MSA Office-Bearer Regulations, in particular part 3(9)-(15)
- MSA Community Principles Policy
- MSA Equity and Diversity Policy
- MSA Equal Opportunity and Anti-Discrimination Policy
- MSA Prevention of Bullying and Occupational Violence Policy
- MSA Privacy Policy"

Moved: Adam Taranto

Seconded: Dash Jayasuriya

Mr Hilakari argues that this is a particularly harsh motion. Mr Hilakari outlines that not challenging the tribunal decision was part of a recognition that he was wrong. People may feel by passing this that retribution has been achieved, but retribution is not what will solve things here. We need to get a professional person in, and he has said this for months.

Ms Mik argues that the Returning Officer has no jurisdiction to enforce MSA policy. His decision has no impact on MSA as a workplace. She outlines that these claims haven't come from nowhere – the Returning Officer has conducted an investigation, investigated the facts, and come to a judgement.

Ms Dobbie questions whether an acceptable amendment to motion #2 would be to reduce it to 2 weeks and include Ms Mik for her queerphobic comments, determined as such by the Returning Officer, which breach the constitution and attracted the highest possible penalty which could be imposed upon her, which she did not challenge. A fair way to conduct business on this front would be to seek to do this at a future MSC. One-sided responses don't solve things, they're simply a contest of who can get their numbers out to an MSC.

While Ms Dobbie's proposed amendment including Ms Mik cannot be moved, an amendment reducing the penalty to two weeks can and has been moved. Ms Dobbie does not support any one-sided motion.

Motion #2 (amended):

"That this MSC suspend the pay of Mat Hilakari for **2** weeks, effective immediately, for breaches of:

- MSA Constitution, in particular s.38(1)-(4)
- MSA Office-Bearer Regulations, in particular part 3(9)-(15)
- MSA Community Principles Policy
- MSA Equity and Diversity Policy
- MSA Equal Opportunity and Anti-Discrimination Policy
- MSA Prevention of Bullying and Occupational Violence Policy
- MSA Privacy Policy"

Moved: Adam Taranto

Seconded: Alex Phelan

Mr Hilakari argues that MSC needs to look at all election breaches if it will look at one.

Ms Phelan leaves at 7:32, Mr Baker's proxy passes to Mr Holmes.

Procedural Motion:

"That this MSC move in camera, with all observers allowed to remain."

Moved: Adam Taranto

For: 15

Against: 0

Procedural Carried.

This section of the minutes is confidential and can only be viewed by members of MSC

Ms Lofgren agrees that queerphobia should be stamped out, and perhaps this should be brought at another meeting. And acknowledging that offhand queerphobic comments are bad, but these are a common problem and we are working to stop them. Accusing somebody of faking an illness is higher up on the scale.

Mr Holmes argues that the actual number of weeks is quite arbitrary. To assess a penalty, MSC needs to look at the impact of the conduct, the culpability of the guilty party, and any relevant surrounding conduct. Other conduct is certainly relevant in sentencing, and is relevant to the matrix of circumstances surrounding the appropriate level of suspension.

Ms Lofgren argues that it is important to take punitive action, as everyone acts as a representative, however urges MSC not to be draconian and revenge seeking.

Ms Mik outlines that the punishments don't have anything to do with the workplace conduct, this is a separate but important issue, the punishments are to do with the transgression which took place in the election.

Ms Mik asks what she feels is the appropriate, or most preferred punishment. She refuses to state one in particular. She wishes to see whether the MSA will uphold its own policies, and what the workplace was prepared to do about the conduct.

Ms Mik argues that the MSA enforcing its own policies would make the MSA a better workplace. In regards to MSC addressing all election breaches, she is happy to cop that, and not afraid to take responsibility for her own actions. The Returning Officer made a distinction about this being more severe than other conduct in the election.

Ms Jayasuriya outlines that this is evidence of a broader problem in the organisation. Ms Mik organised Health and Wellbeing seminars to try to improve things earlier on, and Ms Jayasuriya alleges Mr Campbell and Mr Hilakari couldn't be bothered showing up.

Mr Campbell points out he attended the seminars in question and requests Ms Jayasuriya withdraw the petty allegation against him. Mr Hilakari was coordinating a Culture Card BBQ at the time of the seminar in question.

Ms Jayasuriya argues Ms Mik's transgression against Mr Campbell is different to Mr Campbell's transgression against Ms Mik. Mr Hilakari's transgression deserves a greater penalty as it is worse than Mr Keane's.

Mr Taranto passes to the chair a draft motion to alter the standing orders so that those who sign petitions for special MSC's be forced to buy pizza for everybody who has to attend them.

Procedural Motion:

"That the chair suspend the meeting for at least 24 hours so that notice can be given to discuss all officebearers' transgressions."

Moved: Mathew Hilakari

For: 5

Against: 8

Procedural failed.

Mr Hilakari outlines the impact the motions will have on him financially.

Motion #2 (amended):

"That this MSC suspend the pay of Mat Hilakari for 2 weeks, to be taken in a block within the next 10 weeks, for breaches of:

- MSA Constitution, in particular s.38(1)-(4)
- MSA Office-Bearer Regulations, in particular part 3(9)-(15)
- MSA Community Principles Policy
- MSA Equity and Diversity Policy
- MSA Equal Opportunity and Anti-Discrimination Policy
- MSA Prevention of Bullying and Occupational Violence Policy
- MSA Privacy Policy"

Moved: Adam Taranto

Seconded: Chris Holmes

Mr Holmes seconds in Ms Phelan's absence.

Motion #3 (foreshadowed):

"That this MSC suspend the pay of Mat Hilakari for 4 weeks and Julian Campbell for 2 weeks, to be taken in a block within the next 10 weeks, for breaches of:

- MSA Constitution, in particular s.38(1)-(4)
- MSA Office-Bearer Regulations, in particular part 3(9)-(15)

- MSA Community Principles Policy
 - MSA Equity and Diversity Policy
 - MSA Equal Opportunity and Anti-Discrimination Policy
 - MSA Prevention of Bullying and Occupational Violence Policy
 - MSA Privacy Policy”
- Moved: Lisa Dalla Torre
Seconded: Dash Jayasuriya

The chair moves that all motions will be considered from highest penalty to lowest penalty.

Motion #1 is withdrawn.

Motion #3 is put.

For: 8
Against: 6 (Mathew Hilakari)
Abstentions: 0
Motion failed (required absolute majority)

Motion #2 is put.

For: 2
Against: 5 (Dash Jayasuriya, Mathew Hilakari)
Abstentions: 7
Motion failed

The chair calls for further motions, which are broken up into discrete penalties against Mr Campbell and Mr Hilakari.

Motion #4 (tabled):

“That this MSC suspend the pay of Mat Hilakari for 3 weeks, which may be taken on a proportional basis across the next 10 weeks, for breaches of:

- MSA Constitution, in particular s.38(1)-(4)
- MSA Office-Bearer Regulations, in particular part 3(9)-(15)
- MSA Community Principles Policy
- MSA Equity and Diversity Policy
- MSA Equal Opportunity and Anti-Discrimination Policy
- MSA Prevention of Bullying and Occupational Violence Policy
- MSA Privacy Policy”

Moved: Allegra Lofgren
Seconded: Dash Jayasuriya

Motion #5 (tabled):

“That this MSC suspend the pay of Julian Campbell for 2 weeks, which may be taken on a proportional basis across the next 10 weeks, for breaches of:

- MSA Constitution, in particular s.38(1)-(4)
- MSA Office-Bearer Regulations, in particular part 3(9)-(15)
- MSA Community Principles Policy
- MSA Equity and Diversity Policy
- MSA Equal Opportunity and Anti-Discrimination Policy
- MSA Prevention of Bullying and Occupational Violence Policy
- MSA Privacy Policy”

Moved: Allegra Lofgren
Seconded: Dash Jayasuriya

Motion #6 (tabled):

“That this MSC suspend Mat Hilakari from duties for 4 weeks, including from cheque signing and all constitutional obligations, for breaches of:

- MSA Constitution, in particular s.38(1)-(4)
- MSA Office-Bearer Regulations, in particular part 3(9)-(15)
- MSA Community Principles Policy
- MSA Equity and Diversity Policy
- MSA Equal Opportunity and Anti-Discrimination Policy
- MSA Prevention of Bullying and Occupational Violence Policy
- MSA Privacy Policy”

Moved: Dara Conduit

Seconded: Dash Jayasuriya

Motion #7 (tabled):

“That this MSC suspend Julian Campbell from duties for 2 weeks, including from cheque signing and all constitutional obligations, for breaches of:

- MSA Constitution, in particular s.38(1)-(4)
- MSA Office-Bearer Regulations, in particular part 3(9)-(15)
- MSA Community Principles Policy
- MSA Equity and Diversity Policy
- MSA Equal Opportunity and Anti-Discrimination Policy
- MSA Prevention of Bullying and Occupational Violence Policy
- MSA Privacy Policy

And appoints Ephiny Gale to stand in as Acting Secretary, with cheque signing ability.”

Moved: Dara Conduit

Seconded: Dash Jayasuriya

Motion #8 (tabled):

“That this MSC suspend Mat Hilakari from duties for 2 weeks, including from cheque signing and all constitutional obligations, for breaches of:

- MSA Constitution, in particular s.38(1)-(4)
- MSA Office-Bearer Regulations, in particular part 3(9)-(15)
- MSA Community Principles Policy
- MSA Equity and Diversity Policy
- MSA Equal Opportunity and Anti-Discrimination Policy
- MSA Prevention of Bullying and Occupational Violence Policy
- MSA Privacy Policy”

Moved: Mat Hilakari

Seconded: Sarah Cousins

Motion #9 (tabled):

“That this MSC suspend Julian Campbell from duties for 1 week, including from cheque signing and all constitutional obligations, for breaches of:

- MSA Constitution, in particular s.38(1)-(4)
- MSA Office-Bearer Regulations, in particular part 3(9)-(15)
- MSA Community Principles Policy
- MSA Equity and Diversity Policy
- MSA Equal Opportunity and Anti-Discrimination Policy
- MSA Prevention of Bullying and Occupational Violence Policy
- MSA Privacy Policy

And appoints Ephiny Gale to stand in as Acting Secretary, with cheque signing ability.”

Moved: Mat Hilakari

Seconded: Sarah Cousins

Motion #10 (tabled):

“That this MSC suspend the pay of Mat Hilakari for 2 weeks, to be taken in blocks of at least one week at a time within the next 10 weeks, for breaches of:

- MSA Constitution, in particular s.38(1)-(4)
- MSA Office-Bearer Regulations, in particular part 3(9)-(15)
- MSA Community Principles Policy
- MSA Equity and Diversity Policy
- MSA Equal Opportunity and Anti-Discrimination Policy
- MSA Prevention of Bullying and Occupational Violence Policy
- MSA Privacy Policy”

Moved: Allegra Lofgren

Seconded: Jane Armstrong

Motion #11 (tabled):

“That this MSC suspend the pay of Julian Campbell for 2 weeks, to be taken in blocks of at least one week at a time within the next 10 weeks, for breaches of:

- MSA Constitution, in particular s.38(1)-(4)
- MSA Office-Bearer Regulations, in particular part 3(9)-(15)
- MSA Community Principles Policy
- MSA Equity and Diversity Policy
- MSA Equal Opportunity and Anti-Discrimination Policy
- MSA Prevention of Bullying and Occupational Violence Policy
- MSA Privacy Policy”

Moved: Allegra Lofgren

Seconded: Jane Armstrong

Procedural Motion:

“That all motions relating to pay be moved before motions relating to suspension from duties.”

Moved: Lisa Dalla Torre

For: 13

Against: 0

Procedural Carried.

Motion #4 is put.

For: 9

Against: 5 (Mat Hilakari)

Abstentions: 0

Motion failed (required absolute majority).

Motion #10 is put.

For: 8

Against: 6 (Mat Hilakari)

Abstentions: 1

Motion failed (required absolute majority).

Motion #11 is put.

For: 8

Against: 7 (Mat Hilakari)

Abstentions: 0
Motion failed (required absolute majority).

Motion #5 is put.

For: 9
Against: 6 (Mat Hilakari)
Abstentions: 0
Motion failed (required absolute majority).

Motion #6 is put.

For: 6
Against: 7 (Mat Hilakari, Julian Campbell)
Abstentions: 2
Motion failed.

Motion #7 is put.

For: 8
Against: 7 (Mat Hilakari, Julian Campbell)
Abstentions: 0
MOTION CARRIED.

Motion #9 lapses.

Motion #8 is put.

For: 9
Against: 6 (Mat Hilakari, Julian Campbell)
Abstentions: 0
MOTION CARRIED.

4. Next Meeting

The next meeting will be held at 9am on Wednesday the 20th of October, 2008 in Short Courses.

Meeting closed at 8:38pm.