

General Decision of the YouX Election Tribunal

15 October 2024

The Declaration of Provisional Results and Returning Officer's Report to the Tribunal

1. Under the *YouX Rules Concerning the Conduct of Annual Elections, By-Elections and Referenda* ('the Rules'), immediately after generating the election results (meaning, the counting of votes in accordance with the Rules) the Returning Officer ('the RO') must provisionally declare the results (Rule 38.1), by placing or causing a Declaration of Provision Results to be placed at various necessary locations, and by causing the same notice to be published in the next practicable edition of *On Dit* (Rule 38.2).
2. At or around the same time, the RO must prepare a written report on the conduct of the elections and the result, and present that report to the Election Tribunal ('the Tribunal') under Rule 45.1. The RO's report to the Tribunal must contain, inter alia, details of the conduct of the elections. After receipt of the written report, the Tribunal must convene within seven days to consider the RO's report within the Rules and consider any reports of Prohibited Conduct or any appeals against the results of the elections (Rule 45.2).
3. Once the provisional results have been declared, the Tribunal has the exclusive jurisdiction to interpret the Rules (Rule 7.2.2), and, in relation to complaints about the conduct of the election, or allegations of prohibited conduct, made pursuant to Rules 42, 43, and 44 (Rule 7.2.6.6).
4. After the Declaration of Provisional Results any person directly affected by Prohibited Conduct in relation to the election may make a report of that conduct to the Tribunal; and before declaring the poll the Tribunal must investigate all reported incidents of Prohibited Conduct and conduct such hearings as the Tribunal deems necessary (Rule 43.2).
5. The Tribunal must deal with any reports of Prohibited Conduct according to the procedure specified in Rule 43 (Rule 45.3) and any appeals against the results according to the procedure specified in Rule 44 (Rule 45.4).
6. Rule 39.5 expressly includes that the RO may report any acts of alleged Prohibited Conduct under these Rules to the Tribunal, 'following the procedure specified in clause 43'. The effect of Rule 45.2, following or combined with Rule 39.5, is that the RO themselves may (also) bring to the Tribunal details of Prohibited Conduct that were found, or were alleged, to have occurred during the elections, and that the Tribunal must investigate any such reports under Rule 43. The Tribunal is also obliged to consider the RO's recommendations more generally.

2024 Declaration of Provisional Results

7. The polling for the YouX Board and SRC elections in 2024 was conducted between 26 August 2024 and 30 August 2024. The RO provided her Report to the Tribunal on 4 September 2024.
8. The Tribunal directly received two separate but related complaints from candidates, involving an allegation of a threat of harm and other related prohibited conduct. A separate decision has been issued in respect of that complaint due to its discrete subject matter
9. For similar reasons (namely discrete subject matter) the Tribunal has delivered a second separate decision relating to allegations of prohibited conduct by those campaigning for On Dit Magazine Editor(s). That complaint is addressed (to the extent it is relevant to this decision) later in these findings.
10. This decision concerns other matters that were brought to the Tribunal's attention in the RO's report.

The RO's Report

11. Within the RO's Report were details of various allegations or instances of Prohibited Conduct. In her report, the RO wrote inter alia: 'I have received a number of complaints which, in my view, constitutes [sic] a serious breach of the Election Rules and ultimately may have an impact on the outcome of the election. I have provided the details of this complaint in Appendix 1 of this document as it requires significant explanation.' (p 4, Complaints).
12. Although the second sentence is expressed in the singular ('this complaint'; 'it'), Appendix 1 of the RO's Report contained not one report, but as written in the first line of the above quote 'a number of complaints'. Those complaints may be summarised as follows (the full text of each complaint is contained in Appendix 1 of the Report).
13. Complaint 1:
 - a. On 27 August 2024 (so, during the course of the elections), a student reported to the RO that he had the night before attended at an event organised and held by the Adelaide University Chinese Students' Association which had been advertised as a games night / roast lamb feast.

However, the student reported that *‘upon arriving at the event, all participants were informed that in order to join the activities, we were required to vote for YouX committee members. To make matters worse, our phones were taken, and the votes were cast on our behalf, leaving us unable to vote for the candidates of our choice.’* This student provided a copy of the ‘roast lamb king feast’ advertisement, which the RO had translated into English (and the copy provided to the Tribunal was marked with those translations). The student described *‘feeling both disrespected and deprived of my fundamental right to vote freely’*, described the behaviour as *‘coercive’*.

- b. The RO followed this complaint up on 27 August 2024 with a request for further information, following which the student said that he had first learned of the event *‘through the Chinese Association’s WeChat channel’* and that there was a group chat *‘with around 200 participants’*. The student wrote that *‘the primary organizer as the Chinese Association’*.
- c. The RO asked the student to *‘confirm that these committee members [for whom the student was ‘required’ to vote] were candidates in the current student elections’* and sent the student the full candidate list. The student responded: *‘During the event, I was asked to vote for candidates, and I recall voting for Merlin. Unfortunately, due to the number of candidates, I cannot remember all the names.’* The student describes ‘Merlin’ as *‘the current president on the YouX website’*.
- d. The student declined to provide the RO with further information, saying: *‘I am concerned about using my real identity, as Merlin is listed as the current president on the YouX website, and I am unsure if this information will be disclosed to him or others involved.’* The student did not provide a surname, other contact details or a student number and had emailed from a gmail account (not, a university email account which would have shown a student number).
- e. [The Tribunal has used ‘the student’ throughout this section but does note that the student is unidentified. The Tribunal uses ‘the student’ for convenience but does not presume that the complainant is in fact a student. This will be addressed further below.]
- f. [The Tribunal notes that the current YouX President is Mr Aiden Wang. However, Mr Merlin Wang was a SRC Board Director candidate. Mr Aiden Wang was also a renominating candidate for SRC President; and both campaigned as part of the same ‘Progress’ party.]

14. Complaint 2:

- a. On Thursday 29 August, a student (name and ID supplied) emailed the RO to report that *'earlier, at 2:47pm in Ligertwood. There were a Chinese guy and a Chinese woman walking around in the classroom and trying to make people to vote for their friends. They basically walked around and asked us to scan the QR code, then log in and they will do the rest, by clicking who they want to vote for. There was absolutely no way of rejecting as I didn't even know what they were doing.'* The student reported that *'the Chinese girl who walked around the classroom had also made 4 of my other friends to vote for whoever they wanted to vote for.'* The student provided to the RO a photo of the female the subject of the complaint (but not the male). The RO asked the student to encourage her friends to reply with more information to assist the RO in her investigations.

15. Complaints 2a and 2b:

- a. The RO presented in the Report a pro-forma complaint sheet in which two further reports are contained, dated 29 August with one just over an hour after complaint 2 and the other another approximately 40 minutes after that, which the Tribunal infers are reports from complainant 2's friends. Both have names and ID supplied.
- b. The first report states verbatim: *'When I am having tutorial, one Chinese woman and guy they surrounded me and my friends and told us to vote. In the same culture course, a asia woman ask us to login in the you a and take my phone to vote without asking or inform me and my friend about their information.'*
- c. The second says: *'I was having a class in Ligertwood 231 on a Thursday at 2.00pm. There were a Chinese guy and Chinese woman sneaking around in the classroom, and been asking me and my friends to scan the QR code. After scanning the code the girl just grabbed the phone and selected all the votes for me and even vote for me. Therefore I have no idea who I have vote for.'*
- d. Neither report provided further identification of the persons involved.

16. Complaint 3:

- a. Also on Thursday 29 August, a student (name and ID supplied) emailed the RO to say: 'I want to recall my vote for my account :(, because the candidate I voted on my account took my phone and vote for herself without asking my idea.'
- b. Upon the RO seeking further information, the student said: '*The girl's name is Xinxin Ke [...] She came at our workshop which she didn't choose yesterday afternoon, and starting to chat with almost everyone during class while tutor was talking, it's very disturbing. As well as my friends were also being forced to vote after rejected.*' The student elaborated: '*She took my phone after sitting next to me during the workshop and urging me to log in to the YouX website, and she wouldn't show me the voting page when I asked her to show it to me. And deleted the web access record directly after she finished voting, I don't know what she did with my phone.*'
- c. It was noted that the situation was drawn to the tutor's attention but they did not intervene.
- d. [The Tribunal notes the similarity between Complaint 2 and 2a, and Complaint 3, including the time; however also notes that Complaint 3 does not mention the second (male) person at all. The Tribunal is not certain whether Complaint 2 and Complaint 3 are the same event (although for reasons set out below, finds this makes little material difference in its findings either way)].
- e. [The Tribunal also notes that the identified person Ms Xinxin Ke was a candidate and campaigned as part of the 'Progress' party. Her specific role is discussed further below].

17. Complaint 4:

- a. Also on 29 August, a student (name given, no student ID given) wrote to the RO to say: '*I want to write a complaint letter as I was having a lesson at 2pm and there were a Chinese guy and girl who asked me and my friends to scan a QR code from his phone and he took my phone to vote. I didn't realise what happened until I saw webpage that show I submitted a vote.*' The student attached a screenshot of his phone taken at 5.49pm (just before the email was sent) showing that votes had been cast on his phone at 2.51pm for various SRC positions (noting the screenshot only shows a partial list due to screen size). The complaint does not identify the people said to have engaged in the conduct nor does the screenshot give any indication of who received the votes.

18. Complaint 5:

- a. On Friday 30 August 2024, a candidate in the election sent to the RO an email saying: *‘I’ve met a student who wants to submit this complaint against Progress.’* The email gave the student’s name and ID, and contact details, and reproduced the complaint, which included *‘I have voted on Progress side without knowing the other side of the party [...] the thing is they voted by taking my mobile phone, as i was unable to find the where to vote.’*
19. None of the complaints as made to the RO refer to, or are couched in terms of, breaches of particular Rules (except complaint 5 in so far as the candidate who forwarded the complaint said she thought the complaint amounted to a breach of the rule that votes ‘must be cast by the voter personally’). As set out above, the RO wrote in her report that she considered the complaints constituted ‘serious breaches of Election Rules’, but did not specify which Rules (although clarifying that Ms Ke was disqualified from her candidacy on the basis of breaches of Rules 39.4, 39.4.4, 39.4.14, 39.6 and 39.4.19).
20. Under the Rules, in any complaint or appeal brought before the Tribunal:

7.13.1 The YouX Election Tribunal’s primary focus shall be a consideration of the factual basis or substance of the complaint or appeal;

7.13.2 The YouX Election Tribunal may have regard to, but is not constrained by, particular invocations of particular Rules contained in the complaint or appeal;

7.13.3 In performing its functions or exercising one or more powers provided for in these rules, the YouX Election Tribunal will primarily be guided by:

7.13.3.1 the objectives in the Rules; and

7.13.3.2 the principles of equity, good conscience and the merits of the matter;

21. To the Tribunal, the complaints as presented raise potential breaches of:

- a. Rule 32 which says that ‘Votes must be cast by the voter personally by affirming their voting intentions and clicking to confirm they wish to cast their vote’;
- b. As Prohibited Conduct, completing or interfering with a ballot issued to another voter with the intention to defraud (Rule 39.4.4);

- c. As Prohibited Conduct, using for campaign purposes any facilities or asset of YouX or its Affiliates or YouX registered clubs not generally available to students, including, but not limited to, bank funds, cash on hand, office space, computers, photocopiers, stationery, cars, telephones and mobile phones, social media, and facsimile machines (Rule 39.4.17);
- d. As Prohibited Conduct, any dishonest conduct in an election is prohibited (Rule 39.1).

22. As such, the Report brought to the Tribunal's attention a series of reported incidents of Prohibited Conduct which the Tribunal must now investigate and deal with.

Investigation

23. On 9 September 2024, the Tribunal met pursuant to the *YouX Rules Concerning the Conduct of Annual Elections, By-Elections and Referenda* ('the Rules') in person to consider the written report of the Returning Officer dated 4 September 2024 (in accordance with Rule 45.2). The Tribunal noted that serious and significant issues were raised by the Report and it resolved to investigate the reports of conduct that may amount to any form of Prohibited Conduct within the Rules contained within the written report.
24. Based on complaints 1 to 5, the Tribunal considered that there were reasonable grounds to consider, and investigate, the following matters:
- a. That an event was organised and/or held by the Adelaide University Chinese Students' Association on 26 August 2024 at which attendees were coerced to vote for certain candidates, were coerced or misled into providing access to their phones, and at which votes were cast on attendee's phones without their consent;
 - b. That during the elections there were instances at other times and locations in which students were coerced or misled into providing access to their phones, and votes were cast on the students' phones without their consent. Several of these instances were reported to have occurred in classrooms and workshops;
 - c. That even if consent were obtained from one or more students, that the student's devices may have been handled by a campaigner/candidate and/or a campaigner/candidate voted on behalf of one or more voters.

25. The Tribunal also considered that Complaints 1, 3, and 5 all implicated candidates from the 'Progress' party. That was a common feature across those complaints.
26. On 12 September 2024, the Convenor of the Tribunal on behalf of the Tribunal contacted the office holders of the Adelaide University Chinese Students' Association by email in the following terms as agreed between the Tribunal members:

***Subject:** Correspondence to all Office Holders Adelaide University Chinese Students' Association From Election Tribunal*

Dear Sir/Madam

I am writing to you in your role as an Office holder with the Adelaide University Chinese Students' Association as the Convenor of the Election Tribunal of YouX, in relation to the recent 2024 YouX Annual Elections. I am writing on behalf of the Tribunal.

On 9 September 2024, the Election Tribunal met to consider the Returning Officer's Report on the conduct of those elections ('the Report'). The Report contains multiple reports of conduct during the 2024 Annual Elections which, if true and accurate, would likely amount to serious breaches of the Rules Concerning the Conduct of Annual Elections, By-Elections and Referenda (the Rules). The Tribunal is investigating those reports.

I am writing to the Adelaide University Chinese Students' Association as the Report includes an allegation that an event was organised or held by the Adelaide University Chinese Students' Association on 26 August 2024 at which attendees were coerced to vote for certain candidates, were coerced or misled into providing access to their phones, and at which votes were cast on attendee's phones without their consent. The inference that arises from the allegation is that the Adelaide University Chinese Students' Association organised this event, or otherwise allowed the event to occur, for the purpose of coercing students into voting for certain candidates, and that attendees were deceived as to this being the purpose of the event.

The Tribunal is therefore contacting the Adelaide University Chinese Students' Association to ask for a response about the substance and nature of this allegation.

Specifically, the Tribunal invites the Association to confirm or comment upon:

- *Whether the Association held an event on 26 August 2024;*
- *Whether any candidates for any position in the 2024 YouX elections were present at the event, and if so who;*
- *Whether any activity of any kind that might relate to the 2024 YouX elections occurred at the event, whether with or without the permission of the Association;*
- *Any other matter relevant to the allegation.*

At this stage, the Tribunal is investigating these reports only, and has not formed any view of the matter.

It is entirely a matter for the Association whether it wishes to respond to this request for information. However, any assistance that it provides to the Tribunal may be a relevant matter in any further actions the Tribunal may take under the Rules (for example, under Rule 7.2.8) should the allegation be found to be substantially true.

The Tribunal asks you to provide a response, if you so wish, by close of business on Monday 16 September 2024.

27. On 12 September 2024 the Convenor of the Tribunal on behalf of the Tribunal also contacted each member of the Progress party (including Xinxin Ke who was also written to separately) by email in the following terms:

Subject: *Correspondence to all Progress Party candidates Election Tribunal*

Dear Sir/Madam,

I am writing to you as one of the recent Progress Party candidates as the Convenor of the Election Tribunal of YouX on behalf of the Tribunal.

On 9 September 2024, the Election Tribunal met to consider the Returning Officer's Report on the conduct of the 2024 YouX Annual Elections ('the Report'). The Report contains multiple reports of conduct during the 2024 Annual Elections which, if true and accurate, would likely amount to serious breaches of the Rules Concerning the Conduct of Annual

Elections, By-Elections and Referenda (the Rules). The Tribunal is investigating those reports.

In summary, the reported conduct is that:

- An event was organised or held by the Adelaide University Chinese Students' Association on 26 August 2024 at which attendees were coerced to vote for certain candidates, were coerced or misled into providing access to their phones, and at which votes were cast on attendee's phones without their consent;*
- Instances occurred at other times and locations in which students were coerced or misled into providing access to their phones, and votes were cast on the students' phones without their consent. Several of these instances were reported to have occurred in classrooms and workshops.*
- (Even if consent were obtained) that student's devices may have been handled by a campaigner/candidate and/or a campaigner/candidate voted on behalf of one or more voters.*

At least one report concerning the Adelaide University Chinese Students' Association event indicated that the votes allegedly cast without consent were for members of the 'Progress' student election group. Likewise, the reports of other votes allegedly cast without consent specifically mention the 'Progress' student election group as the recipient of those votes. Finally a person involved in the classroom / workshop conduct was identified as a candidate within the 'Progress' student election group.

The Tribunal is therefore contacting you as a candidate within the 'Progress' student election group, to ask for a response from you about the substance and nature of these reports. Specifically, the Tribunal invites you to provide a response as to whether you know of this reported conduct or other instances of similar conduct, whether you were or other people were involved in this reported conduct or other instances of similar conduct, and if so how you or other people were involved.

At this stage, the Tribunal is investigating these reports only, and has not formed any view of the matter.

It is entirely a matter for you whether you wish to respond to this request for information. However, any assistance that you provide to the Tribunal may be a relevant matter in any further actions the Tribunal may take under the Rules (for example, under Rule 43.2.5) should the reports be found to be substantially true. The Tribunal asks you to provide a response, if you so wish, by close of business on Monday 16 September 2024.

28. Xinxin Ke had already been identified as the person involved in complaint 3. The RO had already responded to that complaint during the course of the elections by disqualifying Ms Ke at 4.00pm on Friday 30 August (Report, p 3). Nonetheless, the Convenor of the Tribunal on behalf of the Tribunal also separately contacted Ms Ke in the following terms:

***Subject:** Correspondence text to Xinxin Ke from Election Tribunal*

Hello Ms Ke,

I am writing to you as the Convenor of the Election Tribunal of YouX on behalf of the Tribunal.

On 9 September 2024, the Election Tribunal met to consider the Returning Officer's Report on the conduct of the 2024 YouX Annual Elections ('the Report'). The Report includes details of Prohibited Conduct in which you were involved, and in consequence of which the Returning Officer disqualified you from candidacy.

In summary, the reported Prohibited Conduct is that you were involved in incidents in which students were coerced or misled into providing access to their phones, and votes were cast on their phones without their consent. Several of these instances were reported to have occurred in classrooms and workshops.

The Tribunal is currently conducting an investigation into a number of different allegations of Prohibited Conduct including yours. Furthermore, the Tribunal considers that it may impose further penalties on you if warranted, including issuing a reprimand or disqualifying you from standing in any subsequent election.

The Tribunal is therefore contacting you to give you opportunity to:

- 1. Provide any comment you may wish to make in respect of the Reported Conduct for which you were disqualified, including any submissions you wish to make about whether the*

Tribunal can and should impose any further penalty; 2. Provide any other information you may have to assist the Tribunal in its further investigation; for example, the identity of other people involved in your conduct, or whether you know of other instances of similar conduct and if so by whom, whether you were asked or directed to engage in the conduct and if so by whom, or any other relevant matter.

It is entirely a matter for you whether you wish to respond to this request for information. However, any assistance that you provide to the Tribunal may be a relevant matter in any further actions the Tribunal may decide to take, or not take, against you under the Rules (for example, under Rule 43.2.5).

The Tribunal asks you to provide a response, if you so wish, by close of business on Monday 16 September 2024.

29. On 12 September 2024 and after the convenor of the Tribunal had sent these emails Ms Ke sent the convenor a Linked In invitation. The convenor ignored this invitation and the Tribunal makes no finding in relation to it. However, the Tribunal wishes to have that contact on record, and also wishes to convey to all candidates both present and future that contact with any member of the Tribunal in and around the time of elections and outside the formal processes provided for in the Rules is inappropriate and unwelcome.

30. The Tribunal did not receive a formal response from Ms Ke.

31. On 12 September 2024, the convenor received an email response from the candidate Mr Frank Wu. Mr Wu was a candidate for SRC Roseworthy Campus Officer and SRC Waite Campus Officer. Mr Wu wrote (and the Tribunal sets out the response in full, as it is relevant to other responses received):

Dear Dr. Plater,

I confirm that I have no connection with the Adelaide University Chinese Students' Association and was not involved in any of the voting activities mentioned.

I had no knowledge of or participation in the conduct described in the report.

Please let me know if you need any further information.

Best regards,

Frank Wu

32. In order to communicate with the Adelaide University Chinese Students' Association, the Tribunal asked the RO to provide it with the contact details of the executive of the Adelaide University Chinese Students' Association. That information was provided and the Tribunal relied upon it. In that information, Ms Xinxin Ke (the disqualified Progress Candidate) was named as the Director of Public Relations of the Association, and another Progress candidate Mr Zhe Li was named as the Director of Social Media. The Tribunal was later informed on 13 September 2024 that there had apparently been an SGM of the Association on 27 July 2024 at which new Office Bearers were elected, for President, Treasurer, and Secretary but the minutes provided said nothing about Director of Public Relations or Director of Social Media. The minutes do record both Xinxin Le and Zhe Li as in attendance, so they were at least members.
33. These matters are relevant as on 16 September 2024 the convenor received an email from Mr Li, in response to the convenor's email to the Adelaide University Chinese Students' Association; however the email appears to have copied most (if not all) candidates of the Progress party, and said, on behalf of those candidates who he defined as 'the Progress team':

***Subject:** Re: Correspondence to all Office Holders Adelaide University Chinese Students' Association From Election Tribunal*

Dear David,

We, the Progress team make the following confirmation to the Election Tribunal:

"I declare that I have not engaged in behaviours of 'coercion' towards any students to vote during the 2024 YouX and SRC Elections."

Please find the attached statutory declarations. We apologise that some of the team members were unable to do so physically as they are on holiday (not in SA).

Yours Sincerely,

Progress

34. Just over 15 minutes later, the convenor received a follow-up email from Mr Li:

***Subject:** Re: Correspondence to all Office Holders Adelaide University Chinese Students' Association From Election Tribunal*

Dear David,

My previous email was intended as a response to your correspondence to the Progress team. I inadvertently replied to the incorrect email and apologise for any confusion.

Yours Sincerely

Zhe Li

35. It relevant and significant that the Tribunal's email to the Adelaide University Chinese Students' Association generated a response sent on behalf of Progress. This matter will be discussed further below.

36. Mr Li's email was copied to 22 other people¹ and attached a single PDF document comprised of 13 statutory declarations² which were *identically* formatted (a pro forma allowing insertion of details such as name, address, location of declaration, date, signature, and signature of witness) and *identical* in content, each saying

*I, [name] of [address] make the following declaration under the **Oaths Act 1936 (SA)**:*

- 1. I declare that I have not engaged in behaviours of 'coercion' towards any students to vote during the 2024 YouX and SRC Elections.*
- 2. I make this solemn declaration conscientiously believing the above to be true and by virtue of the provisions of the **Oaths Act 1936 (SA)**.*

37. Another Progress candidate³ sent a separate statutory declaration, identical in the same manner, also on 16 September 2024.

¹ Baoguang Cong; Jixuan Xia; Merlin Wang; Tom Zhai; Jennifer Tran; He Zhang; Jiayi Chen; Dongyang Li; Junzhe Xu; Zhijun Wang; Jiexun Yu; Aiden Wang; Kunting Li; Yiming Ji; Prasanth Ramesh; Akshitha Ramadoss; Le Phuoc An Nguyen; Adrian Nicolescu; Altaf Ahmed; Nowmicca Matheswaran; Jayden Rose Thyer; Hok Him Chou

² Baoguang Cong; Jixuan Xia; Merlin Wang; Shuhui Zhai; Zhe Li; Bao Tien Tran; He Zhang; Yiming Ji; Jiexun Yu; Kunting Li; Dongyang Li; Zhijun Wang; Jiayi Chen

³ Adrian Nicolescu

38. The statutory declarations appear to be genuine, in that they have each been filled out and witnessed by an apparently genuine authorised witnesses. That is to say, the Tribunal does not suggest the statutory declarations are facsimiles, in so far as they have been separately filled in and then sworn before a witness. However, it remains that each is an identical pro forma, and each has identical limited content which only posits a legal or conceptual conclusion (namely that “coercion” did not occur) rather than addressing the underlying factual circumstances.
39. The Tribunal did not otherwise receive a response from or on behalf of the Adelaide University Chinese Students’ Association.

Consideration and Findings

40. As set out above, it is incumbent upon the Tribunal to investigate all reported incidents of Prohibited Conduct. Ordinarily in any complaint brought before the Tribunal the onus of proof shall lie with the complainant or appellant (Rule 7.13.4).
41. In the present matter, the complaints were raised by various students to the RO, who in turn has brought the complaints to the attention of the Tribunal. The Tribunal considers that so far as required the RO is the ‘complainant’ for the relevant purposes (and so far as necessary, the Tribunal may decide all matters within its jurisdiction not provided for in the Rules or the YouX constitution (Rule 7.2.4) and may regulate its own proceedings (Rule 7.2.5)).
42. Importantly, it is for the Tribunal to consider the complaints as presented by the RO (separately and, if appropriate, cumulatively) to determine what factual matters are established on the balance of probabilities (Rule 7.2.7). In simple terms, this means that one version of events is more likely than the other. However, although not strictly bound to adhere to it, the Tribunal is guided by the principles set out in *Briginshaw*⁴ which require that when determining whether an allegation of prohibited misconduct is proven, this Tribunal ought to take into account the seriousness of the consequences of the finding, the seriousness of the allegation, the quality and/or compelling nature of the evidence, and any other relevant circumstances.
43. For the immediate purpose of investigating the complaints to determine relevant facts, the series of denials by these various Progress candidates, as well as there being no response from the Adelaide University Chinese Students’ Association, or from Ms Xinxin Ke, means that the complaints as reported stand uncontradicted. The Tribunal is left to assess the complaints as presented, without any

⁴ *Briginshaw v Briginshaw* (1938) 60 CLR 336.

additional facts from these other persons (or entities) which it could use towards establishing findings or making inferences. The Tribunal expressly says that it cannot, and did not, draw any factual inference or make any conclusion of fact from each of the denials themselves; or, from any non-response from any of the Progress candidates (including Ms Ke) or for that matter, from the Adelaide University Chinese Students' Association, in its consideration of complaints 1 – 5.

44. That being said, it is also the case that the statutory declarations were made on oath. Without deciding as such, the Tribunal considers there will of course be circumstances in which a denial made under oath may carry some weight. In this case however, whatever weight the denials made on oath may have had in the Tribunal's considerations is diminished to zero in circumstances where:

- a. First, there has been clear collusion between the witnesses as to those denials. That collusion in response does not provide a further basis for drawing negative factual inferences in determining whether the facts of the complaints are made out. The Tribunal is simply left with the allegations of fact as reported, with no contradicting facts, and no more than bare denials made under oath but which contain no weight whatsoever. The identical nature of the series of denials of '*in behaviours of "coercion" towards any students*' is a separate matter to be further considered below; and
- b. Secondly, the declarations contain nothing more than a legal or conceptual submission (namely that "coercion" did not occur) rather than addressing the (sufficiently particularised) factual circumstances put to each individual for a response.

45. The Tribunal has had to carefully consider each complaint. We thank those involved for their patience with being provided with our findings. For the reasons that follow, it was very important the Tribunal adopt a careful and considered approach within the Rules to these findings and the sanctions that follow (given the significant consequences of those sanctions).

46. In regards each, the Tribunal finds on the balance of probabilities that each of the events occurred as described. That is, that each of these complainants (seven in total) had their phones taken from them and votes cast without their input or permission.

- a. The student in complaint 1 presented a sufficiently detailed, and credible, account of what happened at the Adelaide University Chinese Students' Association event. The student provided a copy of the event advertisement. The student was able to provide further detail when asked by the RO.

- b. Each of the students behind complaints 2, 2a and 2b provide sufficiently detailed, and credible, accounts of what happened in their classroom. The accounts corroborate each other and there are no discernible relevant differences in the accounts.
- c. The exact same can be said in regard complaint 3. Furthermore, the student behind this complaint was able to identify a specific person involved.
- d. The student behind complaint 4 also provided a credible and sufficiently detailed account. This student also sent a screenshot showing his completed voting confirmation (which of itself proved nothing in terms of content, but that they supplied it when they did supported their credibility).
- e. The content of complaint 5 was less detailed than the others; however its content contained sufficient information to make out the complaint.

47. The Tribunal turned its mind to whether there were any inconsistencies or improbabilities in the various accounts. In isolation, a complaint that a candidate or campaigner had somehow taken a person's phone and gained access would require some explanation to be accepted as a matter of fact. The Tribunal is also mindful that the 'student' behind complaint 1 remained anonymous (although giving valid reasons for requesting that), and that complaint 5 was less detailed than complaints 1 – 4, and had been sent to an opposing candidate rather than the RO, who then for the complaint to the RO. The Tribunal is nonetheless prepared to find each of complaints 1 – 4 (complaint 2, 2a and 2b taken together) occurred as described; with complaint 5, if presented in isolation, perhaps lacking in sufficient detail to be accepted without reservation.

48. However, there are substantial and cogent relevant similarities across all of the complaints such that any residual doubts or concerns that the Tribunal may have otherwise had in respect of any one of the complaints were removed:

- a. The students making complaints 1, 2 (including 2a and 2b) and 3, all describe similar actions in which phones are taken from them and votes cast on the students' behalf (and as is clearly stated or strongly implied in each complaint, without the permission or knowledge of the student). Complaints 2, 2a and 2b, and 4 refer to scanning the QR code after which the phone is taken from the student; and complaint 3 also refers to being asked to log in. The student behind complaint 5 also refers to his phone being taken from him and votes cast on his behalf.

- b. Complaints 2, 2a and 2b (which likely refer to the same event) and complaint 4 each refer to the people involved as a Chinese male and female. Complaint 3 identified Xinxin Ke who is Chinese or of Chinese descent (bearing in mind amongst other things, her membership in the Adelaide University Chinese Students' Association).
49. The cogent similarities across the complaints support each of the other complaints. There is no reasonable basis to consider that collusion may account for the similarities between the complaints. The complaints are all of a similar nature, from multiple sources that appear to be unconnected (other than the friends who reported complaints 2, 2a and 2b).
50. That there is a possibility that complaint 3 or (more possibly, because of two people being described) complaint 4 is the same class / incident as complaint 2 does not diminish the similarity between all of the complaints. Particularly, the events as described in complaint 1, and the brief complaint set out in complaint 5, are of sufficient similarity to each of complaints 2, 2a and 2b, and 3 and 4 in any event. Any concerns that the Tribunal may have had about certain aspects of the complaints were removed, in regards making findings of fact, by those similarities.
51. Relevantly, as far as the Tribunal is aware none of the complaints were made by candidates or campaigners in the election. That complaint 5 was presented to the RO in an email from an opposing candidate does not diminish this finding in respect of that particular complaint or the series of complaints as a whole.
52. Accordingly, the Tribunal finds that:
- a. An event was organised and/or held by the Adelaide University Chinese Students' Association on 26 August 2024 at which at least one attendee was coerced or misled into providing access to their phone, after which votes were cast on their phone to vote for certain candidates without consent;
- b. During the elections there were at least six other students who were coerced or misled into providing access to their phones, after which votes were cast on his phone to vote for certain candidates without consent.
53. Each instance of taking and using another student's phone to cast votes was Prohibited Conduct in breach of Rule 39.4.4. For the purposes of that Rule, the electronic voting system available on a person's phone is the ballot paper, and coercing or misleading (or indeed, inducing) another person to hand over their phone and then using it to cast votes 'as' that person and such that the person can

no longer vote, is interfering with that ballot. Casting votes in this way would be a breach of Rule 32 which, as a breach, is not specified as Prohibited Conduct but which, nonetheless could in other circumstances warrant the Tribunal taking action.

54. In this case however, the Tribunal finds that in most (if not all) instances of this conduct there was an intention to deceive the student in question and the election at large, and consequently, each of those instances amounted to dishonest conduct.
55. There is little doubt that the conduct of concern involved dishonesty. However, the Rule in question (Rule 39.4.4) requires this Tribunal to find an *intention to defraud*. This is not a finding to be made lightly. An allegation of fraud (or to defraud another) in any context, is a very serious allegation.
56. However, this Tribunal has found that the intention to deceive and behave dishonestly, combined with the personal or collective benefit(s) that flowed from the conduct of concern, mean that an *intention to defraud* has been made out in circumstances where: there was no consent or knowledge at least to the manner in which votes were in fact cast on each complainant's phone; and the persons involved were gaining votes for either themselves or other candidates not to the wishes of the complainants; and therefore those people were deceptively gaining votes for themselves or other candidates which had not truly been cast. There is no other reasonable explanation that fits the conduct other than it being a repeated pattern of behaviour intended to deceptively 'harvest' votes for certain candidates. That behaviour can have no honest basis in the conduct of an election and is dishonest. Further, the Tribunal reiterates that no alternative explanation has been provided that could lead the Tribunal to reasonably reach any another conclusion.
57. The Tribunal also finds the circumstances in complaint 1 amount to a breach of Rule 39.4.17. The Tribunal finds that at least one candidate (or campaigner) was present at an event organised and advertised by a YouX registered club and at that event engaged in election-related activity. That presence and activity amounted to 'using' the facilities or assets of a YouX registered club for campaign purposes. So far as necessary, the Tribunal finds that this was not an instance where, for example, candidates had been asked to address a club or association (which, without deciding as such, the Tribunal might be prepared to find as appropriate conduct in other circumstances). No evidence to that effect has been presented to the Tribunal in any event.
58. Before turning to the question of *who* has breached these Rules, it is necessary for the Tribunal to deal with a further aspect of its findings of breaches

- a. Complaint 1 refers to ‘all participants’ having their phones taken in the same manner. Even if the Tribunal is not able to find whether all means ‘each and every attendee’, the clear meaning in complaint 1 is that there were multiple, perhaps many, people who were subject to the same behaviour (with or without consent, and / or with or without complaint).
- b. Complaint 2 refers to the man and woman walking around the classroom trying to make people (ie plural) provide access to their phones for voting purposes. Each of complaints 2a and 2b refer to the people asking ‘our friends’ in the same manner.
- c. Similarly, complaint 3 says that Ms Ke started to chat with ‘almost everyone’ in the class, and also refers to the complainant’s *friends* being forced to vote.
- d. Complaint 4 similarly describes the people approaching the complainant *and his friends*.

59. It is also relevant that the event at the Adelaide University Chinese Students’ Association was held on the Monday night after the first day of polling, and that the other complaints were made on Thursday and Friday of that week. The email from the candidate constituting complaint 5 also said: ‘Our campaigners can also confirm that there have been other instances of people going to vote and being surprised to find they’ve already voted without really knowing it.’ The Tribunal would ordinarily place little to no weight on a report made in these terms (not the least for being second-hand hearsay from a rival candidate). However, the Tribunal does note that this general statement accords with those other direct reports in so far as they concern various reports of people saying their phones have been taken from them and votes cast on their behalf and without permission. As written above, the Tribunal finds that there were seven instances in which students were coerced or misled into providing access to their phones, after which votes were cast on their phones to vote for certain candidates without consent. The Tribunal also considers that there is a reasonable possibility that there were more instances of the same conduct, by the same people or group of people, that went undetected or unreported.

Consequences to Provisional Results

60. As set out above, in her Report, the RO concluded that the complaints ‘ultimately may have an impact on the outcome of the election’ (p 4); and in her final summary the RO raised again her concern with the integrity of the election. In Appendix 1 the RO wrote:

I have concerns about the integrity of this election due to the serious nature of the complaints listed above, where students are claiming that they were coerced into voting and / or having

their devices taken from them and having their costs cast by someone who was not them. This behaviour completely undermines the intent of holding a “secret ballot” where students have the right to vote for who they wish, if they so desire.

[...]

Unfortunately, there is no way of knowing just how many instances of the above behaviour has occurred and just how many votes were cast in the manner which is in direct breach of the Election Rules. I have concerns over the integrity of this election and the provisional results which have been submitted to the Tribunal for their consideration.

61. The Tribunal agrees with these observations and shares the concerns held by the RO. The conduct described to the RO by various sources and as found by the Tribunal to have occurred represents a serious and calculated breach of the Rules. The Tribunal considers there is sufficient reasonable possibility that a not insignificant number of students had votes cast on their behalf, without their consent or at least, without their own independent consideration. Like the RO, the Tribunal is concerned that this conduct, found in seven instances and reasonably considered by the Tribunal to have occurred more times than that, that relate to a party or candidates who ran in multiple positions across the election, has severely compromised the integrity of these election results.
62. Under Rule 43.2.4 the Tribunal may, whether it finds a person has engaged in Prohibited Conduct or not, give such directions as it sees fit.
63. Under Rule 43.2.5 if the Tribunal finds a person has engaged in Prohibited Conduct it may take various actions and make various declarations, including that the results of any part of the election be declared void and the election held again without the person being involved (Rule 43.2.5.5).
64. Under Rule 44.6, if the Tribunal is satisfied that there has been a defect in the conduct of the election which has materially affected the result, the Tribunal may take various actions including declaring the results of any part of, or the entire election, as void. Rule 44.6 falls under the section concerned with ‘Appeals Against Results of Elections’ and the Tribunal acknowledges that there has not been an appeal as such. In so far as the Tribunal finds instances of Prohibited Conduct as well as the reasonable possibility of other similar undetected or unreported conduct have compromised the integrity of the election results, the Tribunal considers that there has been a significant defect in the conduct of the elections. The actions the Tribunal may take if so satisfied in an appeal are set out in Rule 44.6 and also include the power to declare that the results of any part of, or the entire, election be declared void. As the Tribunal is so satisfied, and utilising Rules 5.1 (as to interpretation of the

Rules) and 7.13.3.1 (primary focus of consideration on the factual basis or substance) and 7.13.3 (primary guidance from the objectives of the Rules and equity, good conscience, and the merits of the matter) the Tribunal considers the powers under Rule 44.6 are also available to it; noting however that those powers overlap those available under 43.2.5.5 (and noting again, the wide power given under 43.2.4).

65. The Tribunal has also found that a person, Ms Ke, engaged in Prohibited Conduct and so Rule 43.2.5 is invoked. The Tribunal has found six other instances of Prohibited Conduct, but without finding ‘a person’ involved (through lack of identification) although noting that there was at least one other person other than Ms Ke. Rule 43.2.4 so far as necessary is also invoked. After careful consideration, on its own findings, but also placing due weight on the clear concern expressed by the RO in the Report, the Tribunal considers the only suitable remedy is to declare void the results of those parts of the election that the Tribunal considers were likely tainted by the Prohibited Conduct or the reasonable possibility of occurrences of the same or similar conduct.

What Provisional Results are Void

66. The Tribunal has always remained very conscious of the inconvenience and delay that can follow the voiding of one or more provisional results. Although it would not be appropriate for this consideration to influence its findings in any way, the Tribunal is concerned to ensure that the voidance of any results goes no further than is reasonable and necessary in the circumstances. To do so, the Tribunal returns to the question of *who* breached the Rules as found.

67. The only person identified in the complaints was Ms Xinxin Ke, who the RO disqualified in consequence. The Tribunal will separately address whether it will take any further action against Ms Ke. For present purposes, the identification of Ms Ke as the person involved in complaint 3 is part of the Tribunal’s observation, set out above, that there was a commonality across complaints 1, 3 and 5 in that the Progress party was implicated in each either through the identification of one of its candidates (Ms Ke) or through being the recipient of the solicited votes (in complaints 1 and 5).

68. The other relevant common feature is that complaints 2, 2a and 2b, and 4, refer to two people being involved, a female and a male. It is most likely that the female was Ms Ke. The male is unidentified. However, it is not a reasonable possibility that it was a candidate or campaigner from a party other than Progress. The Tribunal finds that the similarities (considered above) between all of the complaints are sufficient for it to find that at least two members of Progress (Ms Ke and an unknown male) engaged in a course of conduct for the benefit of some or all Progress party candidates.

69. Whether there are more than two Progress party members involved in the course of conduct through direct participation, direction / instruction to engage in the course of conduct, or knowledge and acquiescence (as examples) is on the current evidence unknown. Likewise whether and if so how far the conduct extended beyond the reported instances. The Tribunal recognises that the Progress party had many candidates and that it is as likely as not that not every candidate knew of let alone participated in any conduct of the kind considered herein.
70. The Tribunal is left, on the state of the evidence, in a position where it finds that there has been multiple instances of Prohibited Conduct engaged in by more than one Progress party candidate or campaigner as part of a course of conduct and with reasonable possibility that more occurred, but is unable to determine the individual(s) involved (other than Ms Ke) or the extent to which the conduct was either directed or sanctioned by other members of Progress, or was rogue and unauthorised activity of no more than two candidates or campaigners.
71. That this is so is, in part, due to the Progress party members choosing not to provide anything more than their (identical) bare conceptual denials that they *'have not engaged in behaviours of 'coercion' towards any students to vote during the 2024 YouX and SRC Elections'*. Again, the Tribunal accepts that it was each of these candidates' prerogative to provide a response in these terms. It means that the Tribunal must take action on the basis of the information it does have, but also taking into consideration that there are relevant unknown factors.
72. With these considerations in mind, the Tribunal finds that there is sufficient risk that the integrity of the election has been compromised in any election for any position in which Progress stood candidates. The Tribunal accordingly declares that the results of those parts of the election as void (Rules 43.2.4 and 43.2.5.5) and to be held again (and so far as required at least by that latter Rule, without Ms Ke's involvement).
73. The Tribunal excepts from this finding results for positions which went to Progress candidates when that person was the sole candidate and ran unopposed. This is not because the Tribunal is satisfied that there was no impropriety in relation to those results (the Tribunal makes no finding either way in that respect), but simply because as those positions were unopposed, whether or not those candidates received undue votes makes no material difference. Therefore, none of the results for the positions of SRC Mature Officer, SRC Post Graduate Officer (Coursework), SRB Aboriginal Torres Strait Islander Officer, SRC Waite Campus Officer, and SRC Rural Officer, are rendered void.
74. For the avoidance of doubt, the following parts of the election are declared void and to be held again:

YouX Board⁵
SRC President
SRC Disability Officer
SRC Postgraduate Officer (Higher Degree by Research)
SRC International Student Officer
SRC Social Justice Officer
SRC Ethno-Cultural Officer (noting that both candidates were Progress party members)
SRC Roseworthy Campus Officer
SRC General Councillor

Further Actions Against Individuals

75. The Tribunal has carefully considered whether further penalties are warranted against Ms Ke.

76. Ms Ke was disqualified by the RO following her identification in complaint 3. As Rule 43.2.5 has been invoked the Tribunal may take further action in regards Ms Ke if the Tribunal considers it appropriate and necessary to do so. The Tribunal finds Ms Ke was involved in complaint 3, and that the matter amounted to a serious instance of Prohibited Conduct involving dishonesty. The breach by Ms Ke was not trivial, indeed to the contrary. Its seriousness to the student affected is made clear by the immediacy, tone and content of the complaint. The impact of the conduct to the integrity of the election is obvious. The Tribunal:

- a. Disqualifies Ms Ke from standing in any YouX election until the end of calendar year 2025;
- b. Under Rule 7.2.8, the Tribunal may refer issues of a disciplinary nature regarding the behaviour of students of the University to the appropriate University bodies. The Tribunal has decided to refer Ms Ke to the relevant university authority within this Rule.

⁵ The Tribunal notes that as a result of separate, but related, decisions dated 14 October 2024 relating to a Mr Ramon O'Donnell, the Tribunal had declared that Mr O'Donnell not be elected to the position as a YouX Board Director, and that the person who came next in the initial count be appointed instead to this position in lieu of Mr O'Donnell. This should now be read subject to the present decision and given the Tribunal's present decision as to the conduct of the election as a whole, it will be necessary for all You X Board positions to be voided and an election for all the YouX Board Directors held again in due course.

77. The Tribunal has further turned its consideration to whether further action ought to be taken against any other Progress candidates or campaigners.
78. As written above, the Tribunal has found that there have been multiple instances of Prohibited Conduct engaged in by more than one Progress party candidate or campaigner as part of a course of conduct and with the reasonable possibility that more occurred, but it is unable to determine the individual(s) involved (other than Ms Ke) or the extent to which the conduct was either directed or sanctioned by other members of Progress, or was rogue and unauthorised activity of no more than two candidates or campaigners. There is no evidence upon which it could be properly determined that any specific or even all other Progress candidates and campaigners were somehow involved or complicit in the found Prohibited Conduct. Similarly, that many Progress candidates decided to submit identical statutory declarations making denials of involvement ‘*in behaviours of “coercion”*’ is not a proper basis to extend any finding of culpability for the Prohibited Conduct to the Progress party as a whole. The Tribunal expressly does not do so.
79. The responses from the Progress candidates who provided the identical statutory declarations did not assist the Tribunal in identifying its members who might also have been involved in the reported Prohibited Conduct. Rather, the Progress party apparently elected to ‘close ranks’ and not provide the Tribunal with that assistance. To be clear, that is the prerogative of all of those candidates.
80. However, that leaves the Tribunal in a position where it has been left with little option but to declare void many of the results from the election. Fresh elections for those positions will need to be held. This course of events has been directly caused by the conduct of at least two Progress candidates or campaigners, one of whom was Ms Ke. Given the collective and coordinated response from the Progress candidates to the Tribunal’s investigation, one or more candidates or campaigners who were involved in the Prohibited Conduct and who otherwise the Tribunal would reprimand and disqualify on the same terms as Ms Ke remains unidentified and so is, at present, able to nominate in those fresh elections.
81. The identical responses from the Progress party members to the Tribunal’s investigation can only have come about through coordination and a collective response from those party members. In order to provide those identical responses, at least one Progress member must have decided that this would be an appropriate response and must have drawn up – or directed someone else to draw up – the identical pro forma statutory declaration documents. Those forms must then have been provided to the balance of Progress members who then agreed, or acquiesced to a direction, to swear the contents as a response to the Tribunal.

82. In short, whilst the identical statutory declarations denying involvement *‘in behaviours of coercion’* cannot establish the reported conduct, nor can they be used to attribute the reported conduct to others within the Progress party, these documents do provide evidence of a coordinated response by members of that party to protect their own candidates from adverse findings and outcomes determined by the Tribunal. It appears to the Tribunal that for these candidates, party protection is paramount over the integrity of the election. This is concerning. The Tribunal finds that this demonstrates a wilful disregard, or at least indifference, by the people who swore the identical statutory declarations to the seriousness of the reported conduct, and more fundamentally to the basic principles of democratic participation in student elections as upheld in the Rules, including that voters ought not be coerced or misled, ought not have their votes interfered with or taken from them without consent, and ought to have the right to vote for who they wish, if they so desire, and in secret (to borrow the wording used by the RO in her Report).
83. To be clear, the Tribunal is not saying that candidates cannot deny allegations made against them in these or other circumstances, or are obliged to assist the Tribunal in any of its enquiries. In this case, the Tribunal considers that it is the coordination in providing identical bare denials under oath that demonstrates that disregard or indifference. The Tribunal has an obligation to ensure that elections are held fairly and equitably (Rule 2.2). In these circumstances, the Tribunal has little confidence in those candidates’ fair participation in future elections without an appropriate and proportionate response from the Tribunal.
84. In the time necessary to investigate, consider, and write this decision, the Tribunal has also investigated, considered and written its decision in respect of the separate media election.
85. In that decision the Tribunal found numerous breaches of the Rules by the successful On Dit Magazine Editor candidates. It has not escaped the Tribunal’s attention that those candidates were also Progress candidates (and indeed, all stood as candidates for other positions in these earlier general elections). The Tribunal refers to that other decision in respect of the media elections; for present purposes, the Tribunal includes in its consideration hereto that relevant breaches of the Rules were demonstrated across both the general elections and the media elections by Progress candidates, necessitating the Tribunal to take action. Considering this conduct as a whole has fortified the Tribunal’s decision that it is appropriate to take further action against the ‘Progress’ candidates as a group.
86. Accordingly, the Tribunal (using the powers given under: Rule 43.2.4 to give directions as it sees fit whether or not it finds a person has engaged in Prohibited Conduct; or (if required) under Rule 7.2.4

to decide all matters within its jurisdiction not provided for in these Rules or the YouX constitution) directs that (with the exception of Ms Ke, who has had more serious sanctions imposed):

- a. All candidates who campaigned as 'Progress' candidates in the 2024 election are prohibited from any form of campaigning, whether as a candidate or as a campaigner for others, for the first two days of the elections to be re-held; and
- b. No other person may campaign, whether in the capacity of separate candidate or as a campaigner, for any candidates who campaigned as 'Progress' candidates in the 2024 election, for the first two days of the elections to be re-held; and
- c. No other general campaigning conduct may be conducted on campus by or on behalf of candidates who campaigned as 'Progress' candidates in the 2024 election, for the first two days of the elections to be re-held. General campaigning includes such things as the display of banners or posters, or participation in any events connected to the election.

87. For the avoidance of doubt, any candidates affected by this decision may nominate for positions and may submit manifestos in the normal manner. However, there is to be no Progress presence on campus, whether in the form of candidates and campaigners, or other general forms of campaigning. This direction is to be understood as affecting the people, not the 'name': that is, the direction is not to be circumvented by the Progress candidates or a substantial portion of them re-branding to a different name.

The Breach of Rule 39.4.17 (Use of YouX Assets or Facilities)

88. A remaining issue arises out of complaint 1. As set out above, the Tribunal has found a breach of Rule 39.4.17 occurred. The Tribunal faces the same issue of not having any identification of the Progress candidate(s) or campaigner(s) who were in attendance at the event the subject of that finding. The student behind complaint 1 refers to 'Merlin', but as an identification of who his vote was cast for; not as an identification of who was present.

89. The extent of the Adelaide University Chinese Students' Association's involvement in the conduct the subject of complaint 1 is unknown. The Association did not provide a response and for the reasons set out above, this cannot be used by the Tribunal to infer that the Association through its executive or any of its members were involved, or knew of and condoned, the conduct.

90. The Tribunal has already found that Ms Ke (the disqualified Progress Candidate) is named as the Director of Public Relations of the Adelaide University Chinese Students' Association, and another Progress candidate Mr Zhe Li is named as the Director of Social Media. The Tribunal has also already referred to the email received from Mr Li, in response to the convenor's email to the Adelaide University Chinese Students' Association; which was copied to most, if not all, candidates of the Progress party, and was in its own words a response on behalf of 'the Progress team'. This inadvertent – and careless – error by Mr Li supports the contention that there is substantial overlap between members of the Progress party, and the executive of the Adelaide University Chinese Students' Association.⁶ That in turn supports a reasonable supposition that the Adelaide University Chinese Students' Association, through its executive, may have had some involvement in the conduct the subject of complaint 1.
91. Under Rule 7.2.8, the Tribunal may refer issues of a disciplinary nature regarding the behaviour of students of the University to the appropriate University bodies.
92. At one level, the Tribunal considers there is sufficient cause for concern of improper conflation between members of the Progress party, and the executive and / or members of the Adelaide University Chinese Students' Association, such that the Association is being used as a means to promote the electoral interests of the Progress party. At a deeper level, the incident as described in complaint 1 amounted to not just a serious breach of the Election Rules, but also an infringement on self-evident principles underpinning free and fair elections (at any level, for any body or entity). The conduct as described in complaint 1 would have been sufficiently obvious, and obviously problematic, to any reasonable observer. The apparent overlap between members of the Progress party and the Association's executive elevates both matters of concern.
93. The Tribunal considers that the possible inappropriate use of facilities or assets of YouX or its Affiliates or YouX registered clubs for YouX election electoral purposes may be matters of disciplinary concern for YouX, particularly when the use is of the nature as found in this decision. Under Rule 7.2.8 the Tribunal refers the issue of the conduct of the executive and other members of the Adelaide University Chinese Students' Association as discussed in this decision to YouX for further investigation as that body sees fit.

⁶ Not to mention, that Mr Li's use of that Association's email to contact the Tribunal for election purposes itself would be a breach of Rule 39.4.17.

Overall Comments

94. The Tribunal wishes to express some further comments about the conduct of candidates and campaigners in this, and the related media election.

95. The Tribunal notes with significant concern the matters raised by the RO in her report for the general election. The Tribunal recognises that the RO's report was not just in relation to the matters considered above (which are serious enough in their own right) but also included an overarching concern:

It is also noted that this year saw an increase in complaints to the University Integrity Unit, as well as the Returning Officer regarding candidate and campaigner behaviour directed at not only each other but towards students in general. Many complaints were about forceful or aggressive behaviour and the spreading of misinformation or potentially slanderous remarks by fellow candidates.

96. Although the above decision is directed at the behaviour of certain 'Progress' candidates, the Tribunal recognises that the RO's report summarises a range of breaches of the Rules by other candidates, including one from a Left Action candidate that resulted in a two-day campaign ban followed by another one-day campaign ban for a breach of the first issued ban; and then a further related campaign ban issued against another candidate.

97. The RO has had many years' experience as RO of the student elections. The current Tribunal has one member with eight years' sitting experience, and another member with over a decade of sitting experience, on the Tribunal. The Tribunal collectively cannot recall a level of concern and alarm about the conduct of the student elections generally that has caused this or previous ROs to make such comments in their reports. The Tribunal considers it extraordinary that the RO has considered the behaviour so serious as requiring comment in her report. It is likewise extraordinary that the Tribunal has considered it necessary and appropriate to issue candidacy bans against individuals, a campaign ban against a candidate group, and the voidance of a significant portion of the election results.

98. The Tribunal expresses its support for the RO who this year has had to conduct the elections in these circumstances. Her valuable time has been spent in responding to allegations and counter-allegations, and having to deal with multiple instances of clearly inappropriate behaviour. She has done a commendable job in doing so and nothing in this or the related decisions should be read as suggesting

otherwise. Not for the first time, this Tribunal expresses its fullest support in the current RO and her diligent efforts.

99. It should be considered a great privilege that there is the opportunity to be involved in the governance of the student union and to represent one's colleague students in matters that may be of significance to the current and future state of tertiary education. It is also commendable and valuable that this privilege is available to any and all students who wish to stand as candidates and be elected to these representative roles by their colleague students.

100. It should be expressly added that for there to be properly functioning elections at all, the RO must volunteer a significant amount of her time and energy; the resources of the union must likewise be provided; and the members of the Tribunal all volunteer their time as well. The Tribunal notes that its members act on a pro bono basis as members of the Tribunal and the consideration and resolution of the many issues arising from the 2024 elections have proved time consuming and involved.

101. In that context, the general behaviour of candidates in this election, as reported by the RO and in cases as found by the Tribunal cannot be described as anything other than entirely inappropriate, unacceptable and with little to no regard to the privilege that is participating in these elections and the time and effort that is expended by others to provide this privilege.

102. All present and future candidates ought to reflect on these matters and conduct themselves accordingly. As the decisions made by the Tribunal in this election year ought to make clear, the Tribunal will not hesitate to support the RO in making, and will itself not hesitate to make, the necessary decisions to protect the integrity of the student elections for the benefit and privilege of all.

These 30 pages are the agreed reasons of the YouX Election Tribunal.

Dr David Plater

Convenor

Minor Correction to General Decision of the YouX Election Tribunal

15 October 2024

Declaration of Provisional Results and Returning Officer's Report to the Tribunal

1. In its decision dated 15 October 2024, the Election Tribunal released its considered reasons and findings in response to certain matters raised within the RO's Report to the Tribunal dated 4 September 2024 detailing various allegations or instances of Prohibited Conduct under the *YouX Rules Concerning the Conduct of Annual Elections, By-Elections and Referenda* ('the Rules').
2. In its decision the Tribunal in page 3 said: 'The Tribunal notes that the current YouX President is Mr Aiden Wang. However, Mr Merlin Wang was a SRC Board Director candidate. Mr Aiden Wang was also a renominating candidate for SRC President; and both campaigned as part of the same "Progress" party.'
3. This is factually incorrect. The Tribunal in fact notes that the current YouX President is Mr Merlin Wang who is renominating for YouX Board Director. The current SRC President Mr Aiden Wang is also renominating for SRC President.
4. However, the Tribunal notes that this does not affect or alter its reasoning and/or findings in respect of the matters raised within the RO's Report to the Tribunal dated 4 September 2024 detailing various allegations or instances of Prohibited Conduct under the Rules. The Tribunal's reasons and findings dated 15 October 2024 remain other than to the minor factual correction noted above.

Dr David Plater

Convenor

Election Tribunal

17 October 2024