

# Probity 2021 Report



**anusa**  
australian national university students' association  
**anusa.com.au**

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## Acknowledgments

This report was produced by the Probity Officers in accordance with the requirements listed under the Australian National University Students Association (ANUSA) Electoral Regulations. It is a summary of the financial disclosures from tickets, major issues and disputes that arose during the election period and the manner in which they were resolved.

The **2021 Probity Officers** were:

<i>Derrick Appel</i>	<i>April - August</i>
<i>Thomas Burnett</i>	<i>April - October</i>
<i>Bec Donald-Wilson</i>	<i>August - October</i>
<i>Chamika Fonseka</i>	<i>August - September</i>
<i>Felix Friedlander</i>	<i>August - October</i>
<i>Adeer Siddiqi</i>	<i>August - October</i>

The **2021 Returning Officer** was:

*Roxanne Missingham*

The **2021 ANUSA Executive member** responsible for liaising with Probity and the Returning Officer was:

*Meghan Malone (General-Secretary)*

The **2021 President** responsible for the setting up of MSL for polling was:

*Madhumitha Janagaraja*

The Probity Officers would like to thank all of the above, the ANUSA Executive and staff, the candidates, and all members of the Association for their conduct during the election period.

The Returning Officer would like to thank the Probity Team for their excellent work.

## Election Overview

This report covers significant issues that occurred during the course of the 2021 ANUSA elections. The Probity team would like to once more thank the ANUSA Executive and staff and the Returning Officer for their support in this election period. Probity would also like to congratulate all of the tickets and candidates for how they managed their campaigns in the difficult circumstances faced during this year's election

Unfortunately, this year's election period was during the 2021 COVID-19 outbreak in Canberra. Due to the outbreak, the Returning Officer declared this to be a force majeure and issued directions relating to the call for nominations and the ballot box for nominations. Those directions were as follows:

Given the prevailing lockdown in the ACT which falls clearly within the scope of a force majeure event under s 3.3.3, this notice amounts to a waiver by the Returning Officer of the below provisions:

- Any provisions which provide for in person voting, either in the case of the Referendum or Annual Elections;
- Any provisions which suggest being able to 'witness' or 'scrutineer' in-person;
- Any provisions concerning the production of hard-copy ballots;
- Any provisions relating to the display of information on the Association front door or on noticeboards;
- Any provisions referring to the opening of the in-person ballot box; and
- Any provision referring to in-person campaigning and exclusion zones

The above provisions will remain subject to the waiver under s 3.3 so long as ACT Health and local ANU restrictions preventing access to campus remain in place.

The following alternative mechanisms will be imposed which seek to effect the intention of the provisions subject to this direction:

- Continuing to provide for accessible online voting;
- Allowing for witnessing and scrutineering of all relevant events via Zoom; and
- Displaying all relevant information on the website, Facebook and via email newsletter.

## Significant Issues and Disputes

### GRASSROOTS ANUSA EARLY RELEASE

On the 15th of July, Probity received a complaint that a ticket may have launched before the regulations permit, in breach of Regulation 3.1.12 which states that:

It is an offence to campaign outside of the Campaign Period.

Which is defined by Regulation 3.2.12A as:

For the purposes of 3.1.12, the Campaign Period means the period starting when the Returning Officer issues the notice of the call for nominations under Regulation 2.2.1A and ending at the close of voting.

Regulation 2.2.1A reads:

The Returning Officer must issue notice of when the call for nominations will occur at least 2 weeks before the call for nominations.

Confirming with the Returning Officer that this had not yet occurred, a warning and order to remove the offending posts was authorised. The ticket swiftly removed the posts in compliance with the order from the Returning Officer, and appealed the decision stating that they believed an error had occurred. The ticket believed that a post to the ANUSA Facebook page on the 2nd of June outlining the election timeline, including “Call for nominations - 2 August, 9am”, constituted notice from the Returning Officer of when the call for nominations will occur. This post was not from the Returning Officer. The Probity Team had no role in the writing or publication of the post.

After considerable appeal in written form, and a meeting between representatives of the ticket and the Returning Officer, the Returning Officer maintained that a breach did occur, but that this was made due to genuine error. The Probity Team understands the final view of the ticket was that a breach had not occurred, as one could reasonably interpret the ANUSA Facebook post as notice from the Returning Officer. The Returning Officer maintained the decision to find that a violation had occurred, and that the issuing of a warning was in order. It was noted that the ticket acted in good faith.

This is the first election where the new Regulations regarding when the campaigning period commences have been in place, and it is recommendable that for future elections, the time and nature of the notice from the Returning Officer of when the call for nomination will occur be more explicit.

## REUSING FACEBOOK PAGES AND INSTAGRAM ACCOUNTS

Upon enquiry by a ticket, a question was put to the Returning Officer and Probity Team about whether the reuse of Facebook Pages and similar from previous years was in contravention of the Regulations. It was recommended that it would be a breach of Regulation 3.1.11 which reads:

If, in the opinion of the Returning Officer, a candidate or a member of their campaign team behaves in a way that violates the spirit of the Constitution or these Regulations, the Returning Officer may deem that behaviour to constitute an Electoral Offence.

There were a few breaches of this, with tickets requested to cease the use of previous years' Facebook Pages and Instagram Accounts.

It may be recommendable for members of the Association to affirm this decision, or provide exemption, through an amendment to the Election Regulations which explicitly deals with this practice.

## DIVORCED DADS FOR ANUSA

A complaint was received by Probitry and the Returning Officer on the 25th of August regarding the conduct of the Divorced Dads for ANUSA ticket. The complaint was predicated on a breach of Regulation 2.8.2C which reads that Election Publications:

must not, in the opinion of the Returning Officer, contain material which is defamatory, sexist, racist, homophobic or otherwise discriminatory.

And Regulation 3.1.2 which reads:

It is an offence to publish any material that contains untrue statements or misrepresentations likely to mislead a voter in the casting of their vote.

The first for perceived misogyny and classism, and the second for that the candidates were not divorced and not dads.

The ticket recalled itself from the election prior to a request for comment from Probitry and the opportunity for a recommendation to be given to the Returning Officer. Upon this it was decided not to proceed in the investigation of a potential breach of the Election Regulations.

If the ticket had continued there would have needed to be very careful consideration of the wording used in their election materials that would have needed to take into consideration the nature of the potential offenses under the Election Regulations, public interest and satire.

Probitry affirms that Regulation 2.8.2C is crucial to public interest and the conduct of safe elections, and also cautions in general against potential heavy-handed application of Regulation 3.1.2 to preclude transparent expression of satire.

## DEPARTMENT PLACEHOLDERS

Some Departments have adopted the approach of having a placeholder run in the election unopposed, and then resign to create a casual vacancy. This functionally permits the election to be held independently by the Department. These placeholder candidates are still required to run for the position, make a statement of intent for campaigning and expenditure, and issue a first daily signed statement confirming their expenditure. The Probity Team is also required to include the placeholder in the Probity Report, and give a campaign ban if the forms are submitted late.

The process should be amended to decrease this inefficiency.



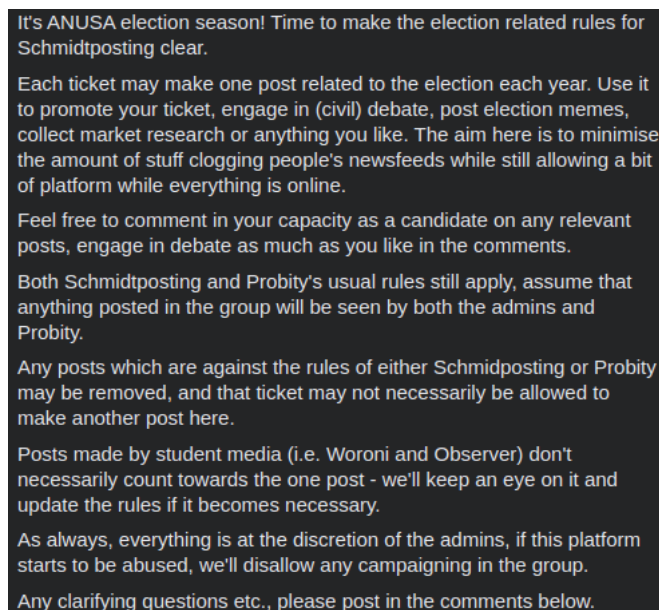
On the 19th of October, Probity and the Returning Officer received a complaint from Left Action that one of their election promotional posts had been deleted from the online Education Committee Facebook group, as a potential breach of Regulation 3.1.2A which reads:

It is an offence to remove from any place any Electoral Publication. No offence is committed by:

- (a) a person removing a reasonable quantity of the publication for their own or another's information;
- (b) a member of the group in whose name or on whose behalf the publication is posted;
- (c) a person authorised by a member of the group in whose name or on whose behalf the publication is posted; or
- (d) a person who has the right to control the entrance to the place where the publication lies or that person's agent.

It was determined by the Probity Team, and communicated to the complainant that this was not a violation of the regulation as the Administrators of the Facebook group are publishers as they are provided the ability to moderate the posts. Thus caveat (b) is applicable. This notion that administrators of a Facebook group are publishers of content therein is supported in *Fairfax Media Publications; Nationwide News Pty Ltd; Australian News Channel Pty Ltd v Voller* [2020] NSWCA 102, which was affirmed a week after the conclusion of the election by the High Court of Australia in *Fairfax Media Publications Pty Ltd v Voller* [2021] HCA 27.

It may be desirable for Facebook groups to outline their expectations regarding ANUSA Election Publications, as is done by ANU Schmidtposting. Additionally, Probity recommends considering the inclusion of guidelines into the Terms of Reference of ANUSA Committees which have official Facebook groups.



It's ANUSA election season! Time to make the election related rules for Schmidtposting clear.

Each ticket may make one post related to the election each year. Use it to promote your ticket, engage in (civil) debate, post election memes, collect market research or anything you like. The aim here is to minimise the amount of stuff clogging people's newsfeeds while still allowing a bit of platform while everything is online.

Feel free to comment in your capacity as a candidate on any relevant posts, engage in debate as much as you like in the comments.

Both Schmidtposting and Probity's usual rules still apply, assume that anything posted in the group will be seen by both the admins and Probity.

Any posts which are against the rules of either Schmidtposting or Probity may be removed, and that ticket may not necessarily be allowed to make another post here.

Posts made by student media (i.e. Woroni and Observer) don't necessarily count towards the one post - we'll keep an eye on it and update the rules if it becomes necessary.

As always, everything is at the discretion of the admins, if this platform starts to be abused, we'll disallow any campaigning in the group.

Any clarifying questions etc., please post in the comments below.

Figure 1: Post by an ANU Schmidtposting Moderator on the 25th of August

## Financial Disclosures

*All information in this section was obtained from the statement of intention and daily signed statements submitted by each ticket/candidate.*

### BACK ON TRACK

#### **Statement of intention**

Anticipated sources of financial contributions: Nil

Anticipated sources of non-financial contributions: Social media (non-paid)

Campaign's estimated budget: \$0

#### **Daily signed statements**

Actual expenditure: \$0

### DO BETTER! WITH BLAKE IAFETA

#### **Statement of intention**

Anticipated sources of financial contributions: Personal savings account

Anticipated sources of non-financial contributions: Online advertising

Campaign's estimated budget: \$450-500

#### **Daily signed statements**

Actual expenditure: \$330

Usage of campaign funds: Facebook paid ads (\$330)

Actual financial contributions: Facebook paid advertising

Actual non-financial contributions: None

### GET GOING FOR ANUSA

#### **Statement of intention**

Anticipated sources of financial contributions: ANU Liberal Club

Anticipated sources of non-financial contributions: ANU Liberal Club online advertising

Campaign's estimated budget: \$400

#### **Daily signed statements**

Actual expenditure: \$134.26

Usage of campaign funds: Campaign Material (\$134.26)

Actual financial contributions: \$134.26 from ANU Liberal Club

Actual non-financial contributions: No non-financial contributions as of yet

## GET SH!T DONE FOR ANUSA

### Statement of intention

Anticipated sources of financial contributions: Candidates and supporters

Anticipated sources of non-financial contributions: N/A

Campaign's estimated budget: \$950

### Daily signed statements

Actual expenditure: \$345.04

Usage of campaign funds: Wix Subscription (\$19.90), Domain (\$20.45), Facebook ads (\$140), Policy Facebook Boost Post (\$30), Meme Facebook Boost Post (\$35), Facebook ads (\$99.69)

Actual financial contributions: \$950 - all candidates/supporters have contributed financially which has amounted to our expenditure cap

Actual non-financial contributions: N/A

## GRASSROOTS ANUSA

### Statement of intention

Anticipated sources of financial contributions: Financial contributions will come entirely from the candidates running on Grassroots ANUSA, with gen reps and college reps being asked to make an optional contribution of \$15, and with those going for executive roles contributing more, with a \$65 contribution from junior exec, \$200 for vice-president, and \$300 for president. In addition there is a \$30 contribution from the enviro officer candidate, \$20 from our UMAC candidate, and \$15 each for our top three ranked NUS candidates. The difference between this amount from contributions and our ticket's cap will be made up with a personal contribution from Christian Flynn.

Anticipated sources of non-financial contributions: No anticipated non-financial contributions.

Campaign's estimated budget: \$1194

### Daily signed statements

Actual expenditure: \$1048.30

Usage of campaign funds: Campaign website (\$30.80), Facebook Ads 26/8 - 28/8 (\$33), Facebook Ads 27/8 - 28/8 (\$33), Facebook Ads 28/8 - 29/8 (\$33), Facebook Ads 29/8 - 29/8 (\$33), Facebook Ads 28/8 - 30/8 (\$44), Facebook Ads 29/8 - 30/8 (\$77), Facebook Ads 30/8 - 30/8 (\$77), Facebook Ads 30/8 - 30/8 (\$110), Facebook Ads 30/8 - 31/8 (\$165), Facebook Ads 30/8 - 1/9 (\$165), Facebook Ads 31/8 - 1/9 (\$247.50).

Actual financial contributions: Christian Flynn (\$335), Evan Meneses (\$15), Neha Kalele (\$15), Shriya Bellamkonda-Vaka (\$15), Oscar Pearce (\$15), Elizabeth Portolesi (\$15), Jaya Ryan (\$65), Phoebe Denham (\$15), Elisa Chua (\$30), Ben Yates (\$65), Chido Nyakuengama (\$200), Elodie de Rover (\$15), Beatrice Tucker (\$65), Luca Corby (\$15), Katie Byrnes (\$15), Paria Najafzadeh (\$15), Sai Campbell (\$15), Katrina Ha (\$15), Nathanael Kwon (\$15), Grace King (\$65), Luke Harrison (\$15), Phoenix O'Neill (\$65)

Actual non-financial contributions: n/a

## HAVE A JAB WITH JEFFERY

### **Statement of intention**

Anticipated sources of financial contributions: My own personal savings

Anticipated sources of non-financial contributions: My partner Caterina Fellows for emotional support. Some of my colleagues have agreed to write endorsements on Facebook. So far they are Josh Yeend, Jacob Ellis, Stella Rapson, Grace Lim, Benjamin Chesler  
Campaign's estimated budget: \$100

### **Daily signed statements**

Actual expenditure: \$64.50

Usage of campaign funds: \$60 Graphics (banner and profile pic) paid to Emma Johnston, \$4.50 Facebook Ads

Actual financial contributions: \$64.50 Jeffery Yang

Actual non-financial contributions: 1) Caterina Fellows: Emotional Support 2) Caterina Fellows: Making me some toast

## KAYLA (XINYI) LI (UNGROUPED)

### **Statement of intention**

Anticipated sources of financial contributions: None.

Anticipated sources of non-financial contributions: My all sources used for campaign is merely my post on Facebook. Thus, as far as I can see, there is neither any anticipated sources of financial nor non-financial contributions in my campaign. Thank you.

Campaign's estimated budget: \$0

### **Daily signed statements**

Actual expenditure: \$0

## LEFT ACTION

### **Statement of intention**

Anticipated sources of financial contributions: The candidates and convenor

Anticipated sources of non-financial contributions: The candidates and convenors - in the form of graphic design.

Campaign's estimated budget: \$515

### **Daily signed statements**

Actual expenditure: \$35

Usage of campaign funds: On a Facebook ad

Actual financial contributions: Facebook ad - \$35 - from Grace Hill

Actual non-financial contributions: N/a so far

## MICHAEL MATHESON-DENG (UNGROUPED)

### Statement of intention

Anticipated sources of financial contributions: N/A

Anticipated sources of non-financial contributions: Online advertising on the Facebook group ANU Schmidtposting and on my personal Facebook Page.

Campaign's estimated budget: \$0

### Daily signed statements

Actual expenditure: \$0

Actual non-financial contributions: Social media

## OLIVER HERVIR (UNGROUPED)

### Statement of intention

Anticipated sources of financial contributions: No financial contributions expected

Anticipated sources of non-financial contributions: One (maybe two) endorsement posts on Facebook from friends

Campaign's estimated budget: \$0

### Daily signed statements

Actual expenditure: \$0

Actual non-financial contributions: one FB post of support from a friend

## SEB FOR WELFARE

### Statement of intention

Anticipated sources of financial contributions: All financial contributions would come from my own money.

Anticipated sources of non-financial contributions: A number of friends are assisting me with policy creation and advice. This includes, Jade Lin, Hayley Hands and Isabella Keith. They are all doing so for free without any compensation. A number of other people have offered to endorse me publically with facebook/instagram posts. This includes (in addition to the above three), Alice Tilleard, Isaac Martin, Sahibjeet Bains, Koh Kawaguchi and Stella Johnson.

Campaign's estimated budget: \$50

### Daily signed statements

Actual expenditure: \$0

Actual non-financial contributions: Campaign creation assistance (policy advice and editing) from Jade Lin, Hayley Hands and Isabella Keith. Online advertisement in the form of free facebook/instagram posts from (in addition to the three above), Su-En Hia, Koh Kawaguchi, Sahibjeet Bains, Stella Johnson, Alice Tilleard, Isaac Martin. I cannot estimate the value of these.

THOMAS O'DONNELL (UNGROUPED)

**Statement of intention**

Anticipated sources of financial contributions: N/A - No finances needed

Anticipated sources of non-financial contributions: N/A - No non-financial contributions needed

Campaign's estimated budget: \$0

**Daily signed statements**

Actual expenditure: \$0

SU-EN HIA (UNGROUPED)

**Statement of intention**

Anticipated sources of financial contributions: Personal finances to pay for Facebook ads

Anticipated sources of non-financial contributions: Regular Facebook posts

Campaign's estimated budget: \$40

**Daily signed statements**

Actual expenditure: \$33

Usage of campaign funds: Facebook Ads (\$33)

Actual financial contributions: Personal contribution

Actual non-financial contributions: N/A

VINCENT LI (UNGROUPED)

**Statement of intention**

Anticipated sources of financial contributions: N/A (placeholder for department election)

Anticipated sources of non-financial contributions: N/A (placeholder for department election)

Campaign's estimated budget: \$0

**Daily signed statements**

Actual expenditure: \$0