

RESPONSE TO EC RULING (16<sup>th</sup> March)  
Joe Cotton – 20<sup>th</sup> March 2018

*To be read in conjunction with the EC's "Statement of Response to Joe Cotton's Appeal" (16<sup>th</sup> March, henceforth "EC Response"), my original appeal (14<sup>th</sup> March), and the initial EC Ruling (12<sup>th</sup> March).*

Dear [REDACTED],

I am writing to you to appeal the decision of the Elections Committee (EC) to disqualify me as a candidate in the 2018 Graduate Union (GU) presidential election. I would like to reiterate that my motivation for this appeal is solely for a fair outcome that respects both the principles of a free and fair election and the decision of the electorate. I maintain that the decision to disqualify me is disproportionate, and weakens the democratic legitimacy of the Graduate Union by overturning the decision of the electorate.

In response to my appeal, the EC have stated that "this appeal fails to address the key part of our original judgment", and that "the main reason for our decision was to protect the principle that Joe's actions had breached" (EC Response). I wish to clearly state that democratic principles of fair and free elections are central to my whole involvement in running for President. At no point in the campaign did I do anything that I felt was in breach of any democratic principles, and as soon as I was made aware that there was a possibility that my actions were problematic, I immediately complied. In hindsight, I understand how the three-metre provision in Article G.10.viii is a guarantee that neither the secrecy of the ballot will be broken, nor undue influence will be exerted on voters, however I argue that even without this 'three-metre guarantee', democratic principles were at all times upheld by my campaign.

I feel the EC's case for me being in breach of these principles is highly questionable, and I believe that the pressure to administer punishment has clouded their ability to consider a proportionate response to this situation. Furthermore, I feel that by couching their argument in terms of principle, the EC are obscuring not only the facts of the case as I set them out in my appeal, but also their own shortcomings in terms of the significant gaps in the information they gave to candidates. They are also failing to consider the significant democratic impact of upholding their decision to disqualify me. Here I present a brief counter-case against their main points.

*Principle 1: Undue Influence*

A person is guilty of undue influence if they directly or indirectly make use of or threaten to make use of force, violence or restraint, or inflict or threaten to inflict injury, damage or harm in order to induce or compel that person to vote or refrain from voting. A person may also be guilty of undue influence if they impede or prevent any voter from freely exercising their right to vote – even where the attempt is unsuccessful (UK Electoral Commission 2012).

As far as I am aware, the accusation of undue influence is levelled at my use of taking iPads out into the colleges to give students access to information that would encourage them to vote. Students were also given the option to use the iPad to vote if they wanted

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to. It is hugely significant that not a single complaint was made by any voters about the use of iPads in this way in my campaign. In fact, I actually received praise from many voters for reaching out and making the electoral process more accessible. As one former MCR President put it, the iPad strategy “represented a proactivity in making the GU election procedure more accessible to students, an effort which should be applauded given the strikingly low numbers of graduate students who actually turn up to vote” (Appeal, Appendix B).

It was [REDACTED] who made the complaint, and the complaint was also on the grounds that I had not costed the iPad as a campaign expense (a challenge that was not upheld by the EC). I wish to state clearly that my aim in deploying the iPad was simply about enabling a wider access to the voting process. I informed potential voters of all three candidates taking part, using the iPad to look through the various manifestos and websites to help inform voters who otherwise would not have engaged with the election. Indeed, in their original ruling, the EC also “recognise[d] efforts by Joe to make voters aware of other candidates in the election”.

After enabling people to access this information, I would invite students to vote on the iPad if they wanted, which some chose to do. On several occasions, voters chose to inform me or my campaigners that they had voted for other candidates, information which we greeted cheerfully with our desire that whoever won would have a proper mandate. The EC themselves noted in their original ruling that: “The EC wishes to highlight that it does not believe Joe intentionally attempted to coerce or intimidate voters due to this method”. It seems that the EC’s decision here rests on the idea of potentiality;

We have made this decision based on the duty of the EC to apply the CUSU Standing Orders, which stand as they are based on the *potential* of this practice to influence voters, and the principle that voters must feel free to cast their ballots free from such influence (EC Ruling, emphasis added).

Since there was no intention to influence voters, and no allegations of undue influence put forward by voters, I find it deeply unfair that the harshest sanction has been awarded on the basis of an activity having the *potential* to breach a rule, rather than *actually* breaching a rule.

*Principle 2: Secret Ballot*

The EC have also accused me of breaking the privacy of the ballot, a challenge that I find entirely without grounds:

Joe consistently broke the sanctity of the private ballot, he must be held accountable for the extent of the breach of this principle, and thus as discussed below the EC found disqualification to be the only acceptable sanction (EC Response).

I would like to state for the record that at no time did I see how the students voted on the iPads, and that the secrecy of the ballot was at all times upheld. I appreciate in hindsight that the three-metre rule is a ‘guarantee’ that removes any risk of a candidate seeing how a vote is cast, and I re-iterate that had I been informed of this rule and its application to the use of iPads, I would have ensured that I was always three metres away if a student chose to use the iPad to vote.

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As it stood, I followed the advice of “looking away” that was given to me by [REDACTED] Vice President of the GU and former member of the EC, [REDACTED], who used a similar tactic with smartphones in [REDACTED] own election. In this way, I reject the EC’s argument that:

We would suggest that it is standard practice in any election that a candidate should not stand within three metres of a person who is voting on an iPad provided by the candidate, in an election the candidate is running in (EC Response).

The EC present their interpretation of “standard practice” as common knowledge expected of all candidates, but this is simply not the case. It is highly unreasonable to expect candidates to know how compliance is measured, since the EC are providing their own interpretations of these principles, which are not stated in the Standing Orders or the elections information, a shortcoming that I detail in my original appeal (Point 3.1). The EC’s response to my appeal unfortunately shows their continuing failure to accept any responsibility for the situation that we are now facing;

The failing of the Elections Committee to distribute the Standing Orders is irrelevant to this appeal and is instead something that the EC should address in its Election Report.

Rather the EC are deflecting responsibility by claiming that: “Joe did not take reasonable steps to inform himself of the rules” (EC Response). I contacted the EC on five separate occasions for clarification of the rules. In the case of my use of iPads, there was no indication that this was against any rules, and I had no reason to check beyond the confirmation from a previous GU vice-president that [REDACTED] had successfully used this strategy in [REDACTED] campaign. I argue that my failure to link the use of an iPad with a polling station (as a stationary physical location), is understandable, and wholly down to not having been given a full set of necessary guidelines.

*Conclusion*

In summary, I maintain that my disqualification is disproportionate, given that it is based solely on the “potential” of undue influence or of breaking the privacy of the ballot, when no allegations or evidence of this was raised by voters, and in fact the strategy was actively praised. If the ‘three-metre standard’ for protecting democratic principle had been set out as a rule at the beginning of the election then I would have fully complied (as I did from the moment I was eventually informed), however, I believe that democratic principles were still upheld throughout my campaign, with integrity, good intention and in good faith that I was abiding by the rules as I understood them.

Thank you for your time, and I hope that you will also consider the points made in my original appeal, which I have tried not to repeat here unnecessarily.

Yours sincerely,

Joe Cotton