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**Students' Representative Council,
University of Sydney**

Level 1, Wentworth Building (G01)
University of Sydney NSW 2006
PO Box 794 Broadway NSW 2007
t: (02) 9660 5222 f: (02) 9660 4260
int: 12871 www.src.usyd.edu.au
ABN: 597 391 306 68

RULING OF THE CHAIR OF STANDING LEGAL

Cameron Caccamo, Chair of Standing Legal

Monday, 14 March 2016

Question:

If in the case of a split position, when one of the two individuals resigns, does that mean that automatically the other individual is forced to resign as well or do they become the sole holder of the position?

Regulations used:

C6: OFFICERS OF THE COUNCIL:

(a) The Council shall include the following Officers:

- i. a Vice-President;
- ii. a General Secretary;
- iii. deleted 22 August 2006;

and such other Officers as Council shall establish by Regulation.

(b) Deleted (date unknown)

(c) No officer of the Council shall be removed from office without the consent of the Representatives present and voting at a meeting of the Council convened in accordance with this Constitution and the Regulations.

(d) An Officer of the Council shall be removed from office by the following procedure only:

- i. ten days notice of motion to dismiss the Officer shall be given in writing;
- ii. such a motion shall state clearly the reason for which the mover considers that the officer should be removed; and
- iii. the motion shall be included in the Motions on Notice section of the Agenda for the next meeting of the Council.

(e) The Council may elect two or more qualified persons to any office. Persons so elected shall be designated Co-Officers as appropriate; and provisions of Section 6 (c) and (d) shall apply to them.

Discussion:

This question balances on whether a joint candidacy necessitates a shared Officer title, and thus whether both are subject to resignation or removal from the position if one of them are. Constitution Section C6(e) is the most relevant for this point, as it outlines that the two people in this case are Co-Officers. It was the opinion of the Committee that the language of the clause indicates that the individuals are not bound to each other in such a case; it would clearer if C6(e) stated that "Section 6 (c) and (d) shall apply to them together" or similar. Without such clarity, however, the Committee ruled that Co-Officers are distinct for the purposes of dismissal or resignation; and given that the reasons for dismissal or resignation usually centre around a single individual, this is also fair to Co-Officers that wish to continue their roles regardless of the actions of their Co-Officers.

The Committee also noted, however, that this leads to a question of potentially replacing a Co-Officer in the case of a resignation or dismissal. As the original Co-Officers were elected jointly, the Committee ruled that any Co-Officers elected throughout the rest of that term should also be elected jointly; this means that an Officer must resign and then seek re-election with another individual as a new joint candidate.

Resolutions and Recommendations:

1. That the Committee holds that, in the case of a Co-Officer resigning or being dismissed from an Office, the other Co-Officer is to not be subject to the same and is to continue in their role;
2. That the Committee holds that no individual may be elected to a jointly-held office in the case of a dismissal or resignation, with a fresh election required for two candidates to jointly hold the Office.

