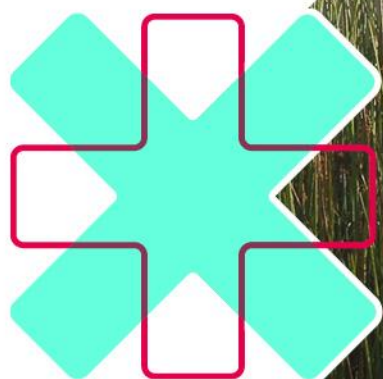


# CANCELLATION OF VENUE FOR DR BRASH SPEAKING EVENT

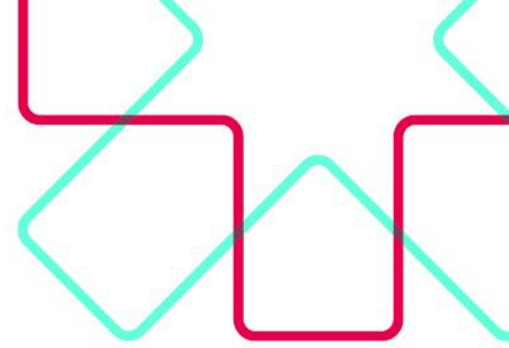
## Final Report

Independent report for the Massey University Council on  
lessons from this episode

14 December 2018







# CONTENTS

<b>Introduction</b>	<b>1</b>
Background to the review	1
Terms of Reference	1
Review approach	2
<b>Context</b>	<b>3</b>
The role of universities – critic and conscience of society	3
Freedom of speech and hate speech	4
The local context	5
<b>Part 1: Decision to cancel campus venue</b>	<b>7</b>
Summary of events leading up to the cancellation	7
Discussion	10
Conclusions and recommendations	12
<b>Part 2: Management of post-decision events</b>	<b>15</b>
Summary of events	15
Discussion	18
Conclusions and recommendations	21

# APPENDICES

<b>Appendix 1 : Terms of Reference</b>	<b>25</b>
--	-----------

# TABLES

Table 1: Timeline of key events – decision to cancel use of campus venue	9
Table 2: Timeline of key events – management of post-decision events	17





# PREFACE

This report has been prepared for Massey University Council by Doug Martin and Robyn Ward from MartinJenkins (Martin, Jenkins & Associates Limited).

MartinJenkins advises clients in the public, private and not-for-profit sectors. Our work in the public sector spans a wide range of central and local government agencies. We provide advice and support to clients in the following areas:

- public policy
- evaluation and research
- strategy and investment
- performance improvement and monitoring
- business improvement
- organisational improvement
- employment relations
- economic development
- financial and economic analysis.

Our aim is to provide an integrated and comprehensive response to client needs – connecting our skill sets and applying fresh thinking to lift performance.

MartinJenkins is a privately owned New Zealand limited liability company. We have offices in Wellington and Auckland. The company was established in 1993 and is governed by a Board made up of executive directors Kevin Jenkins, Michael Mills, Nick Davis, Allana Coulon and Richard Tait, plus independent director Sophia Gunn and chair Hilary Poole.





# INTRODUCTION

## Background to the review

- 1 On 6 August 2018 Massey University cancelled a venue booking on the Turitea campus made by the Massey Manawatū Politics Society, a University student club. The booking was for an event the Politics Society were hosting where Dr Don Brash would be speaking.
- 2 The cancellation caused a controversy within the University and with wider public. There were calls from politicians, the media and the public for the Vice Chancellor to be dismissed. Statements of no-confidence in her were given by a number of academics. The University's stance on free speech and its duty to uphold the position of critic and conscience of society was questioned. Criticisms of the University were expressed by the student body and by some of its alumni.
- 3 After the release of a large volume of communications under the Official Information Act 1982, allegations were made that the Vice Chancellor had made misleading public statements about the cancellation of the speaking event. It was alleged that the underlying reason for cancelling the booking of the facilities was a desire not to have Dr Brash speak on campus, rather than any security concern.
- 4 The University Council initiated this review to understand what the University can learn from these events, and how the University can ensure it performs to a high standard if faced with similar circumstances in the future.

## Terms of Reference

- 5 The review focused on the University's performance in arriving at the decision to cancel the use of campus facilities for the planned speaking event by Dr Brash, and also its performance in managing the consequences of that decision. The scope of the review therefore encompasses all aspects of organisational performance.
- 6 Specifically, the review considered:
  - a The decision to cancel the speaking event, with a particular focus on the objectives that underpinned the decision having regard to the strategic direction of the University
  - b Whether the roles performed by those involved in the decision were clearly defined and appropriate, including the respective roles of management and Council
  - c Whether there were any gaps in the capability and capacity of the University to make the decision and manage its consequences
  - d Whether the systems and processes that supported the decision and the management of its consequences were robust



- e Whether appropriate measures were in place to manage the risk to the reputation of the University
  - f Any issues associated with University culture and reputation.
- 7 The full Terms of Reference for the review are included in Appendix 1.

## Review approach

### Inputs to the review

- 8 We spoke with a range of University staff, Council members, student representatives and other relevant stakeholders.
- 9 A range of University documents, publicly available documents, and documented communications were reviewed, including:
- a key strategic and accountability documents for the University
  - b University policies
  - c position descriptions
  - d minutes of Council and Academic Board meetings
  - e information released on 18 September in response to a request under the Official Information Act.

### Analysis and reporting

- 10 The inputs to the review were analysed in relation to each of the specific points in the Terms of Reference, set out above. Wherever possible we have sought to verify verbal accounts with documented information, but this has not always been possible.
- 11 Findings and recommendations are reported in two parts:
- Part 1: the events leading up to the decision to cancel the use of campus facilities
  - Part 2: the management of the events that unfolded because of that decision.
- 12 Each part begins with a summary of events followed by a discussion of key points, using a narrative style. Conclusions and recommendations are structured using the points from the Terms of Reference that are relevant to those events.<sup>1</sup>
- 13 The Chancellor and the Vice Chancellor were provided with a draft of this report to check for factual accuracy.

<sup>1</sup> Some of the points in the Terms of Reference relate only to the decision-making process, while others relate to the decision as well as the management of the events following the decision.





# CONTEXT

- 14 The purpose of this section of the report is to summarise important concepts and topical issues that were raised in relation to the events described in this report, and to help explain why this decision attracted so much attention.
- 15 These are provided as context for the rest of the report. The descriptions in this section are not intended to be definitive, and the section does not express any opinions about the relevant concepts, issues or events.

## The role of universities – critic and conscience of society

- 16 The Education Act 1989 establishes a role for universities as ‘critic and conscience of society’,<sup>2</sup> and sets out Parliament’s expectations for academic freedom for staff and students of tertiary institutions.<sup>3</sup>
- 17 These key concepts were raised many times in the course of this review in relation to the debate about whether Dr Brash should have had the opportunity to speak on campus, at the time scheduled by the Massey University Politics Society, or at all.
- 18 Reflecting this legislated role, Massey University’s own strategy talks about the importance of civic leadership – promoting informed evidence-based and inclusive public debate that respects diversity of opinion and is grounded in research and scholarship.
- 19 Academic freedom, as provided for under the Education Act 1989, provides for the freedom of staff and students, within the law, to question and test received wisdom, to put forward new ideas, and to state controversial or unpopular opinions. Further, the Act protects the freedom of academic staff and students to engage in research, and the freedom of universities and their staff to independently regulate both subject-matter and approaches to teaching.
- 20 There is debate about exactly how far academic freedom extends, particularly in the context of putting forward opinions. While academic freedom is usually seen as relating to someone’s area of expertise, others have contended that the legislation puts no constraints on the subjects about which any academic or student can comment.

<sup>2</sup> Education Act 1989, s 162(4)(a)(v).

<sup>3</sup> Education Act 1989, s 161.



21 Academic freedom underpins the ability of a university's staff and students to act as critics of society.

*"...academic freedom can only exist within an environment that encourages creativity, radical ideas and criticism of the status quo; and conversely, freedom is needed to express criticism."*<sup>4</sup>

22 We note that academic freedom is not the same thing as freedom of speech. Freedom of expression is a right for everyone in New Zealand, established under section 13 of the New Zealand Bill of Rights Act 1990. Academic freedom, however, applies only to academic staff and students of tertiary institutions.

## Freedom of speech and hate speech

23 The cancellation of the venue for the Dr Brash speaking event came at a time when the debate around freedom of speech and hate speech was receiving a lot of attention nationally.

24 In early July, organisers planning to host a speaking engagement with Canadians Lauren Southern and Stefan Molyneux were declined access to Auckland Council venues for the event. The two hold far-right views on a range of topics and have previously been accused of hate speech. While a private venue was later secured for the speaking event, access to that second venue was also cancelled by the owner after receiving complaints, and the speaking event did not go ahead.

25 There was a high level of public interest in Auckland Council's decision. While some expressed support, people on both the right and the left criticised the decision on the basis that the ban on the use of Council venues went against rights to freedom of speech.

26 There was also debate and initial confusion about who had made the decision and why. The Mayor of Auckland suggested the event was cancelled because of the divisive views of the speakers, while Auckland Council stated that it was because of health and safety concerns.

27 Some of the critics of the decision joined together as the Free Speech Coalition and filed proceedings in the High Court against the decision-makers under the New Zealand Bill of Rights Act, though this was subsequently withdrawn.

28 The Vice Chancellor of Massey University contributed publicly to the debate with the publication of an opinion piece, in mid-July, expressing support for the decision to ban the use of Auckland Council venues for the proposed speaking engagement. The piece discussed free speech and hate speech, and stated that hate speech has no place at a university.

<sup>4</sup> Johns, DG, Galvin, K, Woodhouse, D. (2000). *Universities as Critic and Conscious of Society: The role of Academic Freedom*. New Zealand Universities Academic Audit Unit. AAU Series on Quality: Number 6



## The local context

29 Another issue raised in the course of the review was the status of the University as Te Tiriti-led, and how that affected, or was seen to have affected, the decision to cancel the Dr Brash event. A separate but related contextual issue was the local relationship between the mana whenua, Rangitāne, and members of Hobson's Pledge.

30 Massey University has committed to being a Tiriti-led University. It launched its Strategy 2018–2022 in September 2017, and this direction is reflected in each of the University's strategic objectives.

*As a Tiriti-led University we are committed to demonstrating authentic leadership in contemporary Aotearoa New Zealand as we uphold Te Tiriti o Waitangi, the founding document of our nation, and its principles through our practice.*

31 The strategy signals that being Tiriti-led means demonstrating informed practices consistent with tikanga Māori. It signals that the University will embrace kaupapa Māori across all its activities.

32 In the months before the invitation to Dr Brash, and as the University began to embed the Tiriti commitment into the way it works, two events involving members of Rangitāne and Hobson's Pledge were held. The controversy created by those events meant that the context for any future campus event hosting a member of Hobson's Pledge would be particularly sensitive.

33 In April 2018, Professor Sir Mason Durie was invited to deliver the Royal Society of New Zealand's Manawatū lecture at Palmerston North Girls High School. Sir Mason discussed two bodies of knowledge – science and mātauranga Māori – and the different perspectives that each brings to bio-ethics and other contemporary fields.

34 At the end of Sir Mason's presentation, the Chair of Proceedings opened up to the floor for questions, three of which came from Hobson's Pledge members. Their questions were perceived as aimed at discrediting the information presented, and questioning both Sir Mason's work and the place of Māori knowledge with the Royal Society.

35 On 10 May 2018, a forum on the proposed Māori wards in Palmerston North was held on Massey University's Turitea campus. The event was organised by students studying in the Bachelor of Arts programme, as a way of students becoming better informed about views on both sides of the debate. Two senior Rangitāne leaders spoke in favour of establishing Māori wards, while two members of Hobson's Pledge spoke against.

36 During the opening mihi, one of the Hobson's Pledge speakers left the room and returned only once the mihi was finished. He had earlier told a staff member that he would not listen to anything in te reo Māori, and confirmed during the debate that this was an intentional act. One of the Rangitāne speakers challenged the action as racist.

37 Communications within the University and reporting in the media show that a number of staff felt culturally unsafe and felt there was a significant diminishing of mana as a result of the event. Questions were raised about how University policies and processes could reflect the University's position as a Tiriti-led university in managing similar issues in the future.





# PART 1: DECISION TO CANCEL CAMPUS VENUE

## Summary of events leading up to the cancellation

- 38 The Massey University Manawatū Politics Society scheduled a series of events on Massey's Turitea campus during August 2018 where current and former National Party politicians were to speak. These were intended to be informal events where students could learn about the speakers' lives and experiences in politics. The first of these engagements was to be with Dr Don Brash on 8 August, followed by Simon Bridges and Chris Bishop on later dates.
- 39 The Secretary of the Politics Society sent an invitation to the Vice Chancellor on 9 July, inviting her to attend the events as an observer. The Vice Chancellor was unable to accept these invitations because of prior commitments.
- 40 The Vice Chancellor had concerns about having Dr Brash speaking on campus in light of what had happened on campus at the Māori wards debate in May, where senior leaders of Rangitāne and members of Hobson's Pledge were present (see page 5 for a description). The Vice Chancellor was concerned that holding the meeting on campus would be seen as the University endorsing what she perceived to be Dr Brash's racist views, particularly in light of the University's position as Tiriti-led.
- 41 The Vice Chancellor raised this with her colleagues and sought advice from her leadership team and others. The Vice Chancellor investigated a number of potential avenues for managing the event or refusing the use of campus facilities. These included criteria in relevant University policies, conditions of funding from the University to student clubs and societies, publicising warnings about the event, modifying facilities usage agreements to align them with the University's values, and making the Vice Chancellor's position on hate speech clear through an opinion piece in the media.
- 42 The advice she received from her leadership team immediately following the invitation was to let the event go ahead. There were no criteria in the Massey Events Policy to prevent the event, and the Vice Chancellor was advised that cancelling the event would be seen as suppressing free speech.
- 43 Some steps were taken to manage the event:
- a An opinion piece was released to provide a clear message about the Vice Chancellor's position on hate speech, ahead of the intended speaking event.
  - b The University's Venue and Space Use Terms of Use Agreement was modified to include the requirement that the venue use should not conflict with the Massey University Strategy 2018–2022, including recognising the values of a Tiriti o Waitangi-led organisation.



- 44 Email correspondence from the Vice Chancellor to the Chancellor on Friday 27 July demonstrates that the University intended that the speaking event should go ahead, using the campus venue.
- 45 One and a half weeks later, on Saturday 4 August, the Politics Society sent an email to the Operations Service Desk for the Manawatū campus, raising concerns that social media had indicated a potential security threat around the Dr Brash speaking event. The Politics Society were concerned they might not be able to fulfil their health and safety obligations under the terms of use for the campus venue.
- 46 This email was passed on to the Operations staff early on Monday morning. At approximately 9.00 am on Monday 6 August, Operations staff contacted Massey's Community Constable. The Community Constable was on leave, and no alternative officer was available to meet that day. A meeting was scheduled with Police for 8.30 am on Tuesday 7 August.
- 47 A meeting was held with students from the Politics Society at 12.00 pm on Monday 6 August to discuss the security concerns and potential security arrangements. The students were informed that the University reserved the right to cancel the venue booking if it was still concerned about the potential security threat. There was a brief discussion about the possibility of using an alternative venue.
- 48 At 12.36 pm, the Vice Chancellor received an email from a former student, informing her of the planned event and asking what steps were being taken to ensure those attending would be safe. The former student also released this letter publicly on social media. A response was drafted setting out the terms of use of the campus venue, and stating that the event was going ahead. This was redrafted after the decision was made to cancel the event, and a response was sent to the former student at 9.22 am on Tuesday 7 August.
- 49 Sometime between 12 noon and 3.30 pm, Operations staff met with the Vice Chancellor and briefed her on the nature of the potential security threat. The Vice Chancellor was told that the Police had been informed.
- 50 An email sent at 3.32 pm on Monday 6 August to the Vice Chancellor raised the possibility that there may be grounds to cancel the venue use, under a clause in the Terms of Use Agreement:
- Massey University may cancel this licence at any time prior to the commencement of the Venue or Space Term if the Client cannot satisfy Massey University that its use would not adversely affect its operations or the security or reputation of the Massey University, its staff or any member of members of the public.*
- 51 A subsequent email at 3.33 pm to the Vice Chancellor advised that it might be prudent to cancel the event.
- 52 Between 3.30 and 4.00 pm, the Vice Chancellor decided to cancel the booking of the campus venue. At around 4.00 pm, the Politics Society were informed of this verbally, by phone.



- 53 At a meeting at 8.30 am the following morning (Tuesday 7 August), the Politics Society were given written notification of the cancellation. The option to hold the event at another venue off campus was discussed.
- 54 A meeting was also held at the same time between campus Operations staff and the Police, as arranged the previous day. The Facebook posts were discussed among those present.
- 55 Before the decision to cancel the use of the venue, a meeting had been scheduled for midday on Tuesday 7 August to agree on final plans for the event. The Politics Society decided to cancel the event before this meeting, and the meeting did not go ahead.

**Table 1: Timeline of key events – decision to cancel use of campus venue**

Date	Time	Event	Record
Monday 9 July	10.37 am	Invitation to the Vice Chancellor from the Manawatū Politics Society to a series of talks by current and former National Party MPs. Included a talk by former National leader Dr Brash on 8 August 2018.	Email
From 9 to 16 July		Email discussions as to whether it was appropriate to use campus facilities for this event. This includes exploring options for managing the event or not allowing the use of campus venues.	Email
Tuesday 10 July	8.19 pm	Advice provided by SLT member to let the event proceed	Email
Wednesday 11 July	8.40 pm	Advice provided by SLT member that there are no criteria in the Events policy that would support not approving a request	Email
Tuesday 17 July		Op-ed on free speech and hate speech published by the Vice Chancellor	Email Public
Between 9 July and 27 July		Change made to Terms of Use Agreement to include a reference to a requirement to manage events in line with University strategy, including being Te Tiriti-led	Email
Friday 27 July		Confirmation from the Vice Chancellor that the event would go ahead, by email to the Chancellor	Email
Saturday 4 August	4.46 pm	Email sent to the Manawatū campus Operations Service Desk from the Politics Society, raising concerns about potential demonstrations and their ability to fulfil their requirements under the terms of the venue booking	Email
Monday 6 August	8.06 am	Email forwarded to Operations staff	Email
	~ 9.00 am	Police contacted Meeting scheduled for 8.30 am the following day	File note
	Morning	The Vice Chancellor notified the SLT of the Dr Brash speaking event due to be held on Wednesday 8 August, in a regular weekly meeting	Meeting notes
	12.00 pm	Campus Operations staff meeting with the Politics Society	File note
	12.37 pm	Email from a former student to the Vice Chancellor about the upcoming Dr Brash event	Email Public
	~ 1.30 pm	The security team met to plan for the visit	File note



Date	Time	Event	Record
	Between 12 noon and 3.30 pm	Operations staff informed Vice Chancellor about a Facebook reference to bringing a gun to the Dr Brash speaking event. They informed her that Police had been notified.	Verbal
	3.32 pm	The Vice Chancellor was advised that there may be grounds to cancel the use of the venue on the basis that the Politics Society could not satisfy the University that the venue use would not adversely affect its operations or the security or reputation of the Massey University, its staff or any member of members of the public	Email
	Between 3.30 and 4.00 pm	Massey University decision to cancel Turitea campus venue for the Politics Society speaking event	Inferred from adjacent events
	~ 4.00 pm	The Politics Society is informed verbally of the decision to cancel the venue. Meeting scheduled for the following morning at 8.30 am	File note
Tuesday 7 August	~ 8.30 am	Campus Operations staff met with Politics Society representatives, who are given written notice of the cancellation	File note
	9.22 am	Email response from the Vice Chancellor to the former student	Email
	~ 11.00 am	The Politics Society decided to cancel the event (communicated through its Facebook page)	File note Public

## Discussion

### Initial invitation

- 56 It is clear from the information released as part of the OIA request on 18 September, and from interviews with key stakeholders as part of this review, that the Vice Chancellor was not comfortable with Dr Brash coming to speak on campus.
- 57 The Vice Chancellor felt that Dr Brash held racist views, reflected through his involvement in Hobson's Pledge, and that these views did not align with the University's Tiriti-led position. She was also concerned that the event may affect the wellbeing of some staff, given the events at the recent Māori wards debate on campus involving Hobson's Pledge, which had resulted in some staff, students and kaumātua feeling abused and culturally unsafe.
- 58 Immediately after she received her invitation from the Politics Society, the Vice Chancellor received sound advice from her leadership team members to let this event go ahead. There were no grounds in the events policy that would have justified refusing approval for this use of campus facilities. Refusing to let the event go ahead could mean the University would be seen as restricting free speech, and that would damage the University's reputation.
- 59 The Vice Chancellor continued to explore options for managing the event after she received that advice, reflecting the high level of discomfort she had with Dr Brash speaking on campus. This included seeking advice on whether the conditions of the University's funding of student clubs and societies could be a mechanism for managing the event. The Terms of Use Agreement for campus venues was also modified.





- 60 It was ill-judged for the Vice Chancellor to investigate using student funding conditions as a potential basis for managing the event. Together with the reactive changes to the Terms of Use, this invited criticism of the University and the Vice Chancellor.
- 61 The Vice Chancellor appropriately informed the Chancellor of the planned event, including confirming that the event would be going ahead.

### **Security threat**

- 62 Both the Politics Society and Massey Operations staff went through a sound process when the potential security threat surrounding the event came to light. Politics Society members raised their concerns with Operations staff and sought advice and support for ensuring the safety of attendees. Operations staff contacted the Police as soon as they became aware of the potential threat, and made plans for managing potential protests, including managing security.
- 63 The Police were notified through the Community Constable, with whom the University has an established relationship. However, the Constable was not available to meet that day, and an alternative could not be arranged for that same day. A meeting was secured for the next morning, but no threat assessment or any form of Police advice had been given by the time the decision was made to cancel the venue booking.
- 64 Operations staff made the Vice Chancellor aware of the concerns raised by the Politics Society sometime after midday on Monday 6 August, including that a Facebook post on the event had referred to bringing a gun. Operations staff indicated to the Vice Chancellor that this would be discussed with the Police the next day. Recollections of this discussion recounted to us during the review indicates there were different interpretations about the degree of Police involvement, with the Vice Chancellor assuming that the Police had already been more closely involved when she made her decision.
- 65 Our view is that it was right to take the potential threat seriously and that it needed to be addressed. The potential threat occurred very close to the scheduled time for the event, and so the timeframe for making a decision about the use of campus facilities was short.
- 66 We understand there was a felt obligation to make a decision quickly in order to give the Politics Society time to find an alternative venue, if they chose. However, the threat was not immediate, and the use of the campus venue should have been postponed until the University had been provided with a proper threat assessment.
- 67 After the decision to cancel the use of the campus venue, Operations staff discussed the possibility of using an alternative venue off campus with the Politics Society, but in the end the Politics Society decided to cancel the event.
- 68 The Vice Chancellor appropriately informed the Chancellor of the decision to cancel the use of the campus venue, and sent an email to the wider University Council, though this was sent after the official press release.



## Conclusions and recommendations

### The decision to cancel the speaking event

*The decision to cancel the speaking event, with a particular focus on the objectives that underpinned the decision having regard to the strategic direction of the University (Terms of Reference, clause 7(i))*

- 69 Despite the Vice Chancellor's clear discomfort, we are confident that before she became aware of the potential security threat she did not intend to prevent the event from taking place on campus. The email in late July informing the Chancellor that the event would go ahead was the last documented communication on this issue until the potential security threat was raised. Our conclusion that the Vice Chancellor intended that the event would go ahead is reinforced by her announcement of the planned event to the leadership team on the morning of Monday 6 August, two days before the scheduled date for the event of 8 August.<sup>5</sup>
- 70 The Vice Chancellor decided to cancel the use of the campus venue based on the information about a potential security risk that was available to her at the time. That information included the reference to bringing a gun on social media, and concerns raised by email to the Vice Chancellor.
- 71 The Vice Chancellor did not lie about the reasons for the cancellation of the venue booking by the Politics Society. However, by cancelling the venue before a threat assessment had been made, and by not fully exploring alternative options, the University was left open to criticism that the potential security threat was not the genuine reason for cancelling the campus venue.

### Recommendation

- 72 We recommend that if the University faces similar circumstances in the future, the University should ensure it has a thorough assessment of the threat, subject to available time for the assessment to be made, before it decides whether to cancel the use of a campus venue.
- 73 This process, the criteria for the assessment, and who should provide such an assessment should be part of a formal University policy and relates to our recommendation on page 13 regarding University systems and processes.

### Clarity and appropriateness of roles

*Whether the roles performed by those involved in the decision were clearly defined and appropriate, including the respective roles of management and Council (Terms of Reference, clause 7(ii))*

- 74 It was appropriate that the decision about whether to allow the use of a campus venue for the speaking event, and subsequently whether to cancel that use, was made at the management level.
- 75 It was clear who within the University should be involved in responding to the issues raised by the Politics Society, and the decision about whether or not to cancel the event was

<sup>5</sup> As part of the regular SLT 'What's Happening' meeting



escalated appropriately. While the Deputy Vice Chancellor Operations would usually have delegated responsibility for this kind of decision, the Deputy Vice Chancellor was absent that day. It was therefore appropriate that the decision was escalated to the Vice Chancellor, who is accountable under the Health and Safety at Work Act 2015 for eliminating or minimising risks to health and safety for staff.

- 76 Established protocols for communication between the University's Council and management were followed.<sup>6</sup> The Chancellor was kept appropriately informed by the Vice Chancellor during the decision making process, and it was reasonable for the Vice Chancellor to assume that the Chancellor would have informed the Council members if he decided this was necessary. In retrospect it may have been beneficial to provide the Council with more context around the decision, to help them anticipate what questions they might be asked and what the likely ongoing reaction was going to be.

### **Capability and capacity**

*Whether there were any gaps in the capability and capacity of the University to make the decision and manage its consequences (Terms of Reference, clause 7(iii))*

- 77 There were no obvious gaps in the capability and capacity of the University to make the decision to cancel the use of the campus venue.

### **Systems and processes**

*Whether the systems and processes that supported the decision and the management of its consequences were robust (Terms of Reference, clause 7(iv))*

- 78 There do not appear to be any problems with the University's policies and processes as they relate to the decision to cancel the use of the campus venue. The exception to this is that there was no clear policy on when a threat assessment might be required in situations such as this, and on what the process around that should be. Such a policy would have provided a clear framework for the decision-making processes and supported the evaluation of different options.
- 79 The University's position as Tiriti-led featured as a consideration in this decision-making, but more broadly there are questions about how a Tiriti-led approach is integrated into policies and processes. These events and our conversations with University stakeholders have highlighted that the University still has considerable work to do in understanding what it means, in practice, to be Tiriti-led.

### **Recommendation**

- 80 The University needs a clear policy and process for evaluating and making decisions about potential security threats on campus. We are aware that the University management has already begun working on this, and that new guidelines have been drafted. These will go

<sup>6</sup> Massey University Council Code of Best Practice – 2017.



through the appropriate process for the approval of University policies and processes before being finalised.

- 81 Specific lessons from these events highlight that guidance needs to address:
- a the timeframes within which a decision needs to be made, taking into account the immediacy of the potential threat
  - b the circumstances in which a formal threat assessment is required, and who can make this type of assessment (for example, the Police, or private security consultants).

### **Recommendation**

- 82 We recommend that the University continue to develop its understanding of what being Tiriti-led means for the University in a day-to-day sense, and that it codify this where appropriate in University policies, procedures and guidance. The University should consider:
- a how to ensure there is a Māori voice in processes, process of consultation and guidance, so that decision makers are well informed
  - b developing a distinctive way of operating as a university that is committed to the principles of te Tiriti o Waitangi.



# PART 2: MANAGEMENT OF POST-DECISION EVENTS

## Summary of events

- 83 In the afternoon of Monday 6 August, the University cancelled the use of campus facilities for the Politics Society event where Dr Brash was due to speak. The Politics Society were informed verbally that afternoon, with written notice provided the next morning. Before midday on Tuesday 7 August, the Politics Society decided to cancel the speaking event.
- 84 Media interest in the story began before any formal announcement from the University about the decision, with a press release from the ACT Party on Monday 6 August implying that the event was likely to be cancelled. Mainstream media began contacting the University for comment that evening.
- 85 A press release from the University on Tuesday 7 August at around 10.00 am announced the decision to cancel the use of campus facilities. It stated that the use of the venue had been cancelled because of the risk of harm to students, staff and the public. It went on to raise the issue of hate speech, and it referred to Dr Brash's leadership of Hobson's Pledge and the views expressed by members of that organisation at the Māori wards debate. There was a high level of media interest, with interview requests to the Vice Chancellor from a range of media organisations. The Vice Chancellor gave a number of interviews with broadcast media over the course of the day.
- 86 Public reaction to the decision to cancel the venue began almost immediately, with a large number of email and telephone messages coming into the University. Among these were requests under the Official Information Act 1982 for a range of information relating to Dr Brash and hate speech.
- 87 The messages received by the University included a substantial volume of abusive, personal attacks that had a significant impact on the wellbeing of a number of staff.
- 88 Council members began to be approached for comments on Wednesday 8 August, and the high level of interest led to a University Council conference call being scheduled for 9.00 am the following day.
- 89 An all-staff email went out from the Vice Chancellor on Friday 10 August to explain the decision and acknowledge the impact the response had had on staff.
- 90 Interest in the Vice Chancellor's decision from Academic Board members led to a telephone meeting between the Chair of Academic Board and the Vice Chancellor to discuss the reasons for the cancellation, before a meeting of the Academic Board on 15 August. The Chair's account of this conversation was shared with the Academic Board at that meeting, and then in an all-staff email on 16 August. An addendum to this communication on 21 August indicated that the Academic Board would convene its own debate to consider the issues brought to light by this situation.



- 91 On Tuesday 18 September the University responded to a request under the Official Information Act 1982 that included for over 800 pages of communications. The information provided started to be released publicly that evening.
- 92 On Wednesday 19 September, the Federation of Massey University Students' Associations (MUSAF) released a statement expressing concern from Massey's students' associations that the Vice Chancellor appeared 'to have misled the students and staff of Massey University in regard to the decision-making process that prevented a speaking appearance by Dr Brash on the Manawatū Campus'.
- 93 On the next day, Massey's Māori students' associations provided their own release, expressing their disappointment that MUSAF had not consulted with them on the press release, and expressing their full confidence in the Vice Chancellor.
- 94 The President of the Tertiary Education Union (TEU) sent an email to Massey TEU members criticising the handling of the situation but supporting the notion of not allowing race-based views to be shared on campus.
- 95 Four of the students' associations (MUSA, EXMSS, ASA and MAWSA) wrote to the Vice Chancellor on 20 September, asking for clarity and assurances about the funding of student associations.
- 96 On the same day, in a live Q&A hosted by MAWSA, the Vice Chancellor was asked about the repeated discussions, in emails included in the OIA release, about whether funds provided to clubs societies and associations could be restricted as a means of control. The Vice Chancellor replied that she understood the questioner's concern, and that she saw the independence of student voice as critical. She said that while she had explored a range of options in her decision making, at no point was she going to cut funding.
- 97 The Academic Board met on 19 September, and two motions to censure the Vice Chancellor were tabled but not moved. This was reported in the media on the same day.
- 98 The Council expressed their support and full confidence in the Vice Chancellor in an all-staff email on Friday 21 September, following a teleconference that morning.
- 99 A reply to the 20 September letter from the students' associations was sent on 3 October, referencing the Vice Chancellor's messages from the MAWSA Q&A event.
- 100 On 5 October, the Chancellor sent an all-staff communication announcing the Council's decision to initiate an independent review of the decision to cancel the use of the campus venue, and of how the subsequent events had been handled.



**Table 2: Timeline of key events – management of post-decision events**

Date	Time	Event	Record
Monday 6 August	Between 3.30 and 4.00 pm	Decision to cancel Turitea campus venue for Manawatū Politics Society speaking event	Inferred from adjacent events
	~ 4.00 pm	The Politics Society is informed verbally of the decision to cancel the venue. A meeting is scheduled for the following morning at 8.30 am	File note
	6.58 pm	Press release from the ACT New Zealand Party, 'Thugs threaten violence at Dr Brash event' <ul style="list-style-type: none"> <li>The release implies the event may be cancelled and that a decision is due the next day</li> </ul>	Public
	9.36 pm	Contact from Newshub wanting comment on ACT's claims	Email
Tuesday 7 August	8.30 am	Meeting between Massey University Operations staff and Politics Society members <ul style="list-style-type: none"> <li>Written notice of the cancellation of the event is provided</li> </ul>	File note
	9.53 am	Request from Newshub for an interview with the Vice Chancellor about the 'decision not to allow Dr Brash to speak'	Email
	10.00 am	Media release about the cancellation of the venue is placed on the University website <ul style="list-style-type: none"> <li>Requests from other news media for interviews following this release</li> </ul>	Public
	10.47 am	Email from the Vice Chancellor to the University Council giving them a heads-up on the cancellation and media interest.	Email
		The Vice Chancellor gives a number of media interviews throughout the day	Public
Wednesday 8 August		An E-log (all-staff email) explaining the cancellation decision is drafted	Email
	12.14 pm	A staff member proposes to invite Dr Bash to Auckland campus to a discussion on freedom of speech	Email
		University Council members are approached by media	Email
	4.50 pm	A special Council meeting is scheduled for the following day	Email
Thursday 9 August	9.00 am	A special Council meeting is held via conference call	Email
		E-log revised (all-staff email)	Email
Friday 10 August	4.55 pm	E-log to staff is sent giving the background to the decision	Email
Between 10 and 15 August		Conversation between the Vice Chancellor and the Chair of the Academic Board about the reason for cancelling the event	Verbal
Wednesday 15 August		Academic Board meeting	Public
Thursday 16 August		All-staff email from the Chair of the Academic Board on the cancellation of the Dr Brash event	Email



Date	Time	Event	Record
Tuesday 21 August		Addendum to all-staff email from the Chair of the Academic Board indicating that the Board would convene its own debate to consider the issues brought to light by this situation	Email
Tuesday 18 September		Information released in response to an OIA request	OIA release
Wednesday 19 September		Massey All message from Vice Chancellor re OIA request information release	Email
		Statement released by MUSAF	Verbal
		The Academic Board seek censure motions against the Vice Chancellor (not moved)	Meeting minutes
Thursday 20 September		Statement released from Māori Students' Associations expressing their confidence in the Vice Chancellor	Public
		TEU President's email to Massey TEU members	Public
		Letter from four students' associations to the Vice Chancellor, seeking clarification around funding (MUSA, EXMSS, ASA and MAWSA)	Letter
		Live-feed Q&A with the Vice Chancellor, hosted by MAWSA	Public
Friday 21 September		Special meeting of the Council via conference call	
		Massey All email from Chancellor expressing the Council's support and full confidence in the Vice Chancellor	Email
Wednesday 3 October		Reply to the 20 September letter from students' associations	Letter
Friday 5 October		Massey All message from the Chancellor announcing that a review had been initiated	Email

## Discussion

### Communication of decision

- 101 The University was aware that the decision to cancel the use of the campus venue for the Dr Brash talk would draw significant attention, particularly given the heightened focus on the issue of free speech at the time. The media had already shown interest before the decision was formally announced by the University, and before the Politics Society had finally cancelled the event.
- 102 The press release announcing the cancellation of the use of the campus venue was a proactive move by the University to explain the decision. However, no strategic communications plan was developed to inform the early response from the University, and communications were generally relatively reactive, responding to events as they unfolded.
- 103 While we heard concerns that the media had conflated the issue of security with the issue of free speech, unfortunately the issues were conflated by the University itself early in the process of communicating the cancellation. The original press release announcing the





- decision to cancel the venue mentioned the potential security threat, but also commented on the links between Dr Brash, Hobson's Pledge, and the potential for hate speech on campus.
- 104 The Vice Chancellor's opinion piece on hate speech published three weeks earlier was used to support the claim that she simply did not want Dr Brash on campus. The questions posed to the Vice Chancellor about the cancellation, hate speech and the security threat in the media interviews that immediately followed the announcement also firmly linked the issues in the minds of the public.
- 105 The timing of internal communications meant that most staff and students learnt about the decision to cancel the use of the campus venue from the media. There was a feeling among some staff of being left in the dark, and being unprepared when questions were asked of them. The initial press release was made on Tuesday 7 August, and a full day of media interviews followed. A communication to all staff by email was not sent until Friday 10 August. There was no proactive communication with the employee union, TEU, nor the students' associations.
- 106 The Chancellor was kept abreast of events in the course of the decision making process. The first formal communication from the University management to the Council members occurred after the public press release. Although this had been soon after the release, some Council members had already heard about the decision in the media. Some also felt they did not have a good understanding of the circumstances surrounding the decision, and felt unprepared for questions that were directed at them.
- 107 There was some confusion between the Council and University management around what communications advice was being sought and provided immediately after the decision to cancel.
- 108 Some Council members were under the impression that University management were engaging external support with communications. We heard conflicting accounts of whether University management had provided a brief to any person or organisation to provide this kind of support.
- 109 We understand there was a comment to the University management from the Council during the teleconference of 9 August not to respond to the media interest in the decision, to maintain silence rather than generate more coverage by engaging in further debate.
- 110 The Vice Chancellor felt hamstrung by this, and did not engage further communications advice on the basis that the University response was simply to be silent. However, Council members felt that when this initial approach did nothing to stem media interest, the University management should have reconsidered this communications approach.

### **Processing information requested under the Official Information Act 1982**

- 111 The University ran a robust process to produce a response to the requests for information under the Official Information Act 1982. University staff carried out a thorough assessment of the information against the grounds in the Act for withholding information, and this internal assessment was supplemented by advice from two different lawyers. While the University thought there may be grounds to withhold some of information, on balance the decision was



made to release all the information requested rather than test this through a likely complaint process. The request was broad and the response generated over 800 pages of information.

### **Communication after the release of OIA information**

- 112 While the assessment process was sound, the University did not have a strategic communications plan around the release of the information. There were a number of issues arising from the released information that damaged the University's reputation and its relationships. Had those issues been identified and proactively managed, that damage could have been mitigated.
- 113 After the release, social and mainstream media shaped all of the stories in the public arena in relation to the information. The University did not publicly release any alternative messaging to challenge the story that the venue was cancelled because the Vice Chancellor did not want Dr Brash speaking on campus rather than because of a security threat.
- 114 The University did communicate with staff through an all-staff email on the day after the release, acknowledging that the Vice Chancellor had had concerns about the speaking event, but stating that the event had been going ahead until the security threat was raised. However, many staff felt misled by the Vice Chancellor. That feeling had undoubtedly been contributed to by the message from the Chair of the Academic Board on 16 August stating that the Vice Chancellor had not considered cancelling the event at any point before the security threat had been raised.
- 115 Staff comment in the media and our conversations with staff show that many felt the reason for the cancellation of the venue was in fact because of concerns about hate speech, rather than a security threat. The reaction from the Academic Board, with a motion to censure the Vice Chancellor, emphasises the strength of feelings among some staff.
- 116 However, it is clear that this is not universal, with staff opinion and support for the Vice Chancellor very divided. Some staff have publicly expressed their support for the Vice Chancellor, and we are aware that opinion among union members is also divided.
- 117 The University did not proactively communicate with the student associations about the OIA release. As with staff, reactions from student associations were divided.
- 118 Some of Massey's student associations reacted strongly to some of the information contained in the OIA release. Specifically, there was a high level of concern about what was perceived as a suggestion that funding of student associations might be used as a way of restricting their activities and those of their affiliated clubs and societies, though the Vice Chancellor is clear that was never her intent. These groups also felt that the Vice Chancellor had been misleading about the decision-making process leading to the cancellation of the campus venue, and there was some concern that due process hadn't been followed (on the issue of waiting for advice from Police). The associations raised the fact that the Vice Chancellor took two weeks to respond to their letter asking for clarification and assurance around the University's position on association funding, and that delay added to their frustration.
- 119 While not within the University's control, the press release by MUSAF on behalf of all of Massey's student associations created tension among the individual associations. Massey's



Māori student associations had not been consulted on the press release, and did not hold the same views as the other four associations. An apology was made on behalf of MUSAF, and the Māori students' association provided their own press release expressing their support for the Vice Chancellor.

- 120 Council members were informed of the release shortly before it happened, but not about what the information the release contained. The content of the communications in the release came as a surprise to members.
- 121 Council members are concerned about the extent to which University communications have, for a sustained period, been reactive rather than proactive. The Council engaged an independent media advisor after the OIA information was released. This was appropriate, as they needed to provide their own response to the questions directed at them as the Vice Chancellor's employer (calls were being made in a number of forums for the Vice Chancellor to step down or be removed). However, this was also driven by the Council's perception of a lack of strategic media or communications advice coming from University management.

## Conclusions and recommendations

### Capability and capacity

*Whether there were any gaps in the capability and capacity of the University to make the decision and manage its consequences (Terms of Reference, clause 7(iii))*

#### **Specialist PR / media management capability**

- 122 The decision to cancel the use of the campus venue for the Dr Brash event became a major political issue. There was a gap in the PR / media management capability you would expect to see in the management of these kinds of events. We have been told that the University does have PR capability in-house, but these staff were not involved in providing advice or managing communications.
- 123 This event was high profile, and the University should have drawn on a combination of its own communications and PR capability, and, if it could not source the appropriate advice internally, it should have sought advice from an external provider. This event was out of the ordinary, and the University would not necessarily be expected to have the specific skill sets required on staff. The University does have a relationship with a specialist firm in relation to other University business, but the confusion around whether or not the Council wanted the University management to respond to any of the media interest meant that no advice was provided by the firm on this matter.
- 124 We note that the current structure of the senior leadership team means that none of the leadership team has specific expertise in this area. Relatively recent changes have reduced the number of Deputy Vice Chancellors (previously Assistant Vice Chancellors) from six to five, with the disestablishment of the Assistant Vice Chancellor External Relations position. In the course of this review, a number of people told us that the University's capability in this



area is not as strong as it has been previously. We understand that, other than the change at SLT level, University capacity in these functions is unchanged from the previous structure.

### **Recommendation**

- 125 We recommend that clear guidance is developed about who within the University should be involved in providing advice on communications, PR and media management in events like these, to ensure the right capabilities are applied in similar situations in the future.
- 126 This guidance should include when the use of external advice might be necessary. As we note above, we do not suggest that the University needs to have very specialist expertise in-house.

## **Systems and processes**

*Whether the systems and processes that supported the decision and the management of its consequences were robust (Terms of Reference, clause 7(iv))*

### **Response to the Official Information Act request**

- 127 The University's process for responding to the Official Information Act requests was robust. There was a thorough assessment of whether there were any grounds for withholding information, and legal advice was sought. The University's Official Information Procedures provide good guidance, though we note that it is now five years since these were last reviewed (the guidance was due to be reviewed in 2016).
- 128 More generally, there appears to be widely varying awareness among University staff of how the Act applies to the University and what it means for them. While some have a good understanding of how the Act applies, others are not aware that their communications are subject to the Act.

### **Recommendation**

- 129 We recommend that the University review its guidance on Official Information Procedures to ensure it remains fit-for-purpose, in line with the University's general approach to regularly reviewing and refreshing policies and procedures.
- 130 We recommend that the University take steps to raise institutional awareness of the Official Information Act, and how the Act applies to the University and its staff. While this is a high-profile, exceptional case, we understand that the number of requests to the University for information under the Act has been steadily increasing in recent years.

## **Communications**

- 131 We address the University's processes around communications in the next section – 'Culture, reputation, and managing risk'.



## Culture, reputation, and managing risk

*Any issues associated with University culture and reputation (Terms of Reference, clause 7(vi))*

*Whether appropriate measures were in place to manage the risk to the reputation of the University (Terms of Reference, clause 7(v))*

- 132 These events have unfortunately harmed the University's reputation, and have strained relationships among staff, students and the Council.
- 133 Concerns were raised with us that the University's prestige and brand have been undermined. There have been tangible impacts for the University: some donors have withdrawn funding for the Massey Foundation because they disagree with the University's decision and position, and some alumni have asked to be removed from mailing lists. It has been implied, and in some cases stated, that academics and students have chosen not to come to Massey because it is perceived to be restricting free speech.
- 134 The University needed effective advice and planning around strategic communications and media management to help it manage the risk to the University's reputation and internal relationships, but this did not happen. While there was some confusion about the mandate the University management had after the suggestion from the Council to maintain silence, the clear negative impact of the sustained media coverage should have prompted a reassessment of this decision.
- 135 Where Council members had concerns about the approach to communications and media management, or the level of advice being provided to them, this should have been communicated to the Vice Chancellor so University management could respond to these concerns.
- 136 With both the original announcement of the cancellation of the venue, and then the release of the information under the OIA, there were a number of areas where more proactive and active management of communications could have mitigated the risk to reputation and relationships.
- 137 Overall, the communication approach with staff, students and the Council left many taken unaware and surprised, as they were hearing about events in the media for the first time. This has negatively affected trust and confidence in the University.
- 138 The University waited too long to communicate with staff about the original decision. Most staff learnt about what had happened in the media, and felt left in the dark. After the release of the OIA information, the general staff communication was quicker, but it was clear many staff felt misled by the Vice Chancellor.
- 139 The University should have proactively communicated with the staff union in both instances to provide context that would have enabled the union to respond to queries and support their members.
- 140 Students' associations should also have been engaged with by the University. The University could have anticipated a high level of student interest in the cancellation of a student-led event, and queries about what implications this decision might have for future events.



- 141 As with staff, many students felt left in the dark, and the content of the information released under the OIA concerned large parts of the student body. Some students also expressed frustration about the speed of the University's response when some of the associations contacted the University with their concerns.
- 142 The University's formal processes for communication between Council and University staff were followed. The Vice Chancellor did not mislead the Council or withhold information from them. In hindsight, more fulsome communication to Council members, such as providing an overview of the content of the OIA release, could have been beneficial in these circumstances. These events have left some confusion about the right level of detail in ongoing communications between the Vice Chancellor and the Council.

### **Recommendation**

- 143 We recommend that the University ensures it has specialist public relations or media management advice early on in any situation where there is a risk to the University's reputation. This should become part of the University's established processes for dealing with similar events to avoid the confusion that resulted from the Council's initial advice to remain silent.
- 144 This initial advice would inform whether the University needs to engage external specialist PR/media support, or whether this should be managed in-house.

### **Recommendation**

- 145 We recommend that the University develop a standard internal communications plan for similar events, identifying key stakeholders, the point at which they should be communicated with, and who should communicate with them.
- 146 While every situation will be different, having an agreed approach to the sequencing of communication with staff, students and other key stakeholders would have prevented some of the ill-will that was caused by people hearing about these events from the media, rather than from the University.

### **Recommendation**

- 147 We recommend that the Council and the Vice Chancellor develop and agree a set of principles that clarify and guide the level of communication between them that is desirable under different circumstances.



# APPENDIX 1: TERMS OF REFERENCE

- 1 On 6 August 2018 the University cancelled a booking of facilities at the Palmerston North campus to host Dr Brash, a former politician, at a speaking event.
- 2 The booking was made by the Massey Manawatū Politics Society, a University club.
- 3 The cancellation caused a controversy within the University and with wider public. There were public, political and media calls for the dismissal of the Vice Chancellor. Statements of non-confidence in her were given by members of the academy. The University's stance on free speech and its duty to uphold the position of critic and conscience of society was questioned. Adverse views of the University were expressed by the student body and by some elements of its alumni.
- 4 From 18 September 2018, after the University had complied with an Official Information Act (OIA) demand from a news agency, a different but related controversy arose. An analysis of the OIA papers by news media led to an allegation the Vice Chancellor had been misleading in public statements made about the cancellation of the speaking event.
- 5 On behalf of Council the Chancellor made a public statement of full confidence in the Vice Chancellor on 21 September 2018. The Council has taken independent legal advice and retained independent media consultancy.
- 6 The Vice Chancellor has been advised Council will initiate an independent review of the circumstances surrounding the decision to cancel the speaking event. The review will focus on the performance of the University in arriving at and managing the consequences of the decision. As such, it will encompass all aspects of organisational performance.
- 7 The Council has appointed Douglas Martin to conduct the review. Mr Martin is requested to review:
  - i The decision to cancel the speaking event, with a particular focus on the objectives that underpinned the decision having regard to the strategic direction of the University;
  - ii Whether the roles performed by those involved in the decision were clearly defined and appropriate, including the respective roles of management and Council;
  - iii Whether there were any gaps in the capability and capacity of the University to make the decision and manage its consequences;
  - iv Whether the systems and processes that supported the decision and the management of its consequences were robust;
  - v Whether appropriate measures were in place to manage the risk to the reputation of the University; and
  - vi Any issues associated with University culture and reputation.



- 8 Mr Martin is requested to report to Council his findings and make recommendations which enables Council to ensure the University management and governance learns from the controversy and performs to a high standard in the future.
- 9 Without limiting the scope of the findings and the recommendations, Council seeks from Mr Martin guidance on best governance practice and best management if any deficiency emerges in the course of the review.
- 10 The period under review is from 9 July 2018 to 21 September 2018.
- 11 Mr Martin is requested to report his provisional findings to the Performance and Review Committee of Council initially and then to full Council on or before 30 November 2018 or to such extended time as maybe necessary.
- 12 Mr Martin is authorised to request and obtain any documentation from management as he considers necessary for the purposes of this review.
- 13 The review and report is intended to be confidential to Council. All lawful measures shall be taken to protect the review and any report of the review including communications with Mr Martin from disclosure to the public. Mr Martin will take such steps as are necessary to protect the identification of any submitters to the review and uphold the privacy of individuals identified in the course of the review. The report will focus on the organisation and not name individuals.
- 14 Mr Martin shall have access to all members of Council, the senior leadership team, students, staff and alumni.
- 15 The person of contact for Mr Martin at Council, is Ben Vanderkolk. For the senior leadership team, the person of contact is Stuart Morris.
- 16 Mr Martin will be remunerated as agreed with Council.

