

MODEL RULES FOR A BALLOT TO ESTABLISH A POLITICAL FUND (WHERE THE ROLES OF THE SCRUTINEER AND THE INDEPENDENT PERSON ARE TO BE CARRIED OUT BY DIFFERENT PERSONS)

Square brackets "[]" indicate where material appropriate to the individual trade union should be inserted.

[Insert Name of Union]

General

1. The union shall be responsible for securing that the ballot which is held to establish a political fund is conducted in accordance with these rules, even where the responsibility for carrying out a particular duty falls upon a person not subject to the rules of the union.

Interpretation

2. In these ballot rules, unless the context otherwise requires:

"the Act" means the Trade Union and Labour Relations (Consolidation) Act 1992 (as amended);

"the Certification Officer" means the Certification Officer for Trade Unions and Employers' Associations whose address is 8th Floor, Windsor House, 50 Victoria Street, London, SW1H 0TL.

"dispatch envelope" means the envelope (in the form required by these rules) in which the voting paper and return envelope are dispatched to the member;

"executive" means the principal committee of the union exercising executive functions, by whatever name it is called;

"independent person" means the person or persons appointed to act as the independent person or persons in respect of the ballot under the provisions of section 77A of the Act and these rules;

"person" in relation to the position of an independent person or a scrutineer, includes an unincorporated or incorporated body of persons;

"proper address" in relation to any member means his/her home address or other address which s/he has requested the union in writing to treat as his/her postal address under section 24(5) of the Act;

"return envelope" means an envelope in the form required by these rules;

"scrutineer" means the independent person appointed by the union to that position in relation to the ballot under section 75 of the Act and these rules;

"the period specified before disposal" means the end of the period of one year beginning with the day of the announcement by the union of the result of the ballot or, if within that period an application is made under section 80 or 81 (complaint of failure to comply with the ballot rules) of the Act, until the Certification Officer or the court authorises him/her to dispose of the papers or, as the case may be, records;

"voting paper" or "ballot paper" means a voting paper in the form required by these rules.

Purpose of these rules

3. These rules are adopted for the purposes of a ballot under section 73 of the Act and apply only to such a ballot.

Copies of these rules to be available to members

4. The Union shall ensure that a copy of these rules is supplied either free of charge or on payment of a reasonable charge to any member of the union who requests a copy.

Appointment of a scrutineer

5. Before the ballot is held, a qualified independent person ("the scrutineer") shall be appointed to carry out the functions in relation to the ballot as are required under the Act and any such additional functions as are specified in the appointment.
6. A person is eligible for appointment as scrutineer if:
 - (a) the person satisfies the conditions which are for the time being specified by the Secretary of State pursuant to [section 75\(2\)](#) of the Act or is a person specified in an order made under that section (the conditions and the persons specified by the Secretary of State were, at the time of the adoption of these rules, contained in The Trade Union Ballots and Elections (Independent Scrutineer Qualifications) (Amendment) Order 2017 ([SI 2017/877](#)) – available at www.legislation.gov.uk; and
 - (b) there are no grounds for believing that the person in question will carry out any function conferred on him/her in relation to the ballot otherwise than competently; or that his/her independence in relation to the union or in relation to the ballot might reasonably be called into question.

Terms of the scrutineer's appointment

7. The terms of the scrutineer's appointment shall require the scrutineer:
 - (a) to supervise the production of the voting papers and (unless appointed to undertake the distribution of voting papers) their distribution and the counting of votes cast;

- (b) to be the person to whom the voting papers are returned by those voting;
- (c) to inspect the register of names and addresses of members of the union or to examine the copy of the register as at the relevant date which is supplied to him/her in accordance with [section 75\(5A\)\(a\)](#) of the Act whenever it appears to him/her appropriate to do so and in particular where the conditions specified in [section 75\(3A\)](#) of the Act are satisfied;
- (d) take such steps as appear to be appropriate to the scrutineer for the purpose of enabling him/her to make a report as specified in [section 78](#) of the Act;
- (e) to make that report to the union as soon as is reasonably practicable after the last date for the return of voting papers;
- (f) to retain custody of, and keep secure in a safe place, all voting papers returned for the purposes of the ballot together with the relevant copy of the register of names and addresses of members entitled to vote and supplied to him/her by the union for the period specified before disposal, as defined in rule 2;
- (g) to carry out such other functions in relation to the ballot as are required of him/her under these rules or otherwise, as the union considers appropriate;
- (h) to store in a secure place any unused voting papers or voting papers which are returned undelivered until disposal; and
- (i) to respect the duty of confidentiality in respect of the register.

Notice of appointment of scrutineer

8. Before the scrutineer begins to carry out any of these functions either:

- (a) a notice stating the name of the scrutineer shall be sent by the union to every member of the union to whom it is reasonably practicable to send such a notice; or
- (b) all such other steps shall be taken for notifying members of the union of the name of the scrutineer as it is the practice of the union to take when matters of general interest to all its members need to be brought to their attention.

Such notice or notification may invite members to inform the union of any change of address and advise members of the dates between which the ballot will be held.

Union's duty towards the scrutineer

- 9. Nothing in the terms of the scrutineer's appointment (including any additional functions specified in the appointment) shall be such as to make it reasonable for any person to call into question the scrutineer's independence in relation to the union.
- 10. The union shall ensure that there is no interference with the scrutineer in carrying out the functions imposed on him/her by the terms of the appointment which would make

it reasonable for any person to call into question the scrutineer's independence in relation to the union.

11. All reasonable requests made to the union by the scrutineer for the purpose of, or in connection with, the carrying out of the functions of the scrutineer shall be complied with.

Appointment of independent person to distribute voting papers and count the votes cast

12. The union shall appoint an independent person to undertake the storage and distribution of the voting papers and the counting of votes cast. This person can be either:

(a) the scrutineer; or

(b) another person who is not the scrutineer. As with the scrutineer the union must have no grounds for believing either that:

(i) S/he will carry out any functions conferred on him/her in relation to the ballot otherwise than competently; or

(ii) that his/her independence in relation to the union or in relation to the ballot might reasonably be called into question.

13. The terms of appointment of an independent person to carry out his/her functions shall:

(a) require him/her to carry out the functions of the independent person so as to minimise the risk of any contravention of requirements imposed by or under any enactment or these rules or the occurrence of any unfairness or malpractice; and

(b) impose the duty of confidentiality in respect of the register into the terms of appointment.

14. Where the person appointed to undertake the counting of the votes is not the scrutineer, his/her appointment shall require him/her to send the voting papers back to the scrutineer as soon as is reasonably practicable once the counting has been completed.

15. The independent person shall be responsible for the safe custody of:

(a) voting papers and envelopes prior to their sending out to members and for any voting papers and envelopes until their handing over to the scrutineer (if appropriate); and

(b) voting papers at all other times when in his/her possession, and shall ensure that voting papers and return envelopes in his/her possession are kept in a secure place.

Union's duty towards the independent person

16. Nothing in the terms of the appointment of the independent person shall be such as to make it reasonable for any person to call into question the independence of the person appointed in relation to the union.

17. The union shall ensure that there is no interference with the independent person in carrying out the functions imposed on him/her by the terms of the appointment which would make it reasonable for any person to call into question the independence of the person appointed in relation to the union.

18. All reasonable requests made to the union by the independent person for the purposes of, or in connection with, the carrying out of his/her functions shall be complied with.

Dispatch envelopes

19. The dispatch envelope:

(a) shall be addressed to the member entitled to vote;

(b) shall state that if the envelope is undelivered to the member it should be returned to the scrutineer and give his/ her name and address;

(c) shall bear a postage stamp or other stamp or mark allowing it to be delivered at no cost to the member; and

(d) in the event of the envelope containing material other than the material relating to the ballot, the envelope shall have printed on it prominently the words "ballot paper" or "voting paper".

Voting papers

20. Every voting paper shall be in or substantially in accordance with the form set out in Appendix D to the political fund ballot rules and:

(a) shall clearly specify the name of the scrutineer, the address to which, and the date by which, it is to be returned;

(b) shall be marked with one of a series of consecutive whole numbers, everyone of which is used in giving a different number (in that series) to each voting paper printed or otherwise produced for the purposes of the ballot;

(c) may have printed on it the logo or emblem of the union;

(d) may have printed on it or attached to it an explanatory statement.

Return envelopes

21. Every return envelope:

(a) shall be capable of being sealed;

(b) shall be addressed to the scrutineer;

(c) shall bear a postage stamp or other stamp or mark showing that the envelope may be returned to the scrutineer by post without direct cost to the voter; and

(d) may have printed on it;

(i) the name of the union;

(ii) the logo or emblem of the union; and

(iii) the words "voting paper" or "ballot paper".

Date of ballot

22. The union shall determine the date:

(a) by which the voting papers shall be sent to members, which shall be a date not less than three weeks before the last date on which voting papers may be returned to the scrutineer;

(b) of the last date for receipt of completed voting papers by the scrutineer; and

(c) on which the counting of votes is to commence.

Conduct of the ballot

23. Entitlement to vote in the ballot shall be accorded equally to all members.

24. The ballot shall be conducted so as to secure that, so far as is reasonably practicable, those voting do so in secret.

25. So far as is reasonably practicable, every member who is entitled to vote in the ballot shall, in accordance with these rules:

(a) be sent a voting paper by post to his/her home address or another address that the member has requested that the union treat as her/his postal address in such time as to be received on or before the opening day of the ballot; and

(b) be given a convenient opportunity to vote by post.

26. Every member who is entitled to vote in the ballot shall:

(a) be allowed to vote without interference from, or constraint imposed by, the union or any of its members, officials or employees; and

(b) so far as is reasonably practicable be able to do so without incurring any direct cost to the member.

27. Every member who is entitled to vote in the ballot shall have sent to him/her in a

sealed dispatch envelope, at his/her proper address, by post:

(a) a voting paper; and

(b) a return envelope addressed to the scrutineer.

28. When it is not practicable for a particular member to be sent a voting paper and return envelope by the date determined in accordance with these rules, a voting paper and return envelope may be sent to that member as soon as is reasonably practicable after that date, so as to give that member a convenient opportunity to vote by post.

29. The name of each member to whom a voting paper is sent shall be recorded in some form or record of members but not so as to make it reasonable for any person to call into question the secrecy of the ballot. If the independent person is not the scrutineer this record shall be sent to the scrutineer as soon as is reasonably practicable after the ballot, and shall be kept by the scrutineer for the period specified before disposal, as defined in rule 2.

Manner of voting

30. Every member who wishes to vote must return his/her voting paper to arrive at the address of the scrutineer on or before the date determined in accordance with these rules.

31. The scrutineer shall store in a secure place any voting papers returned to him/her undelivered and shall keep a record of any voting paper so returned.

32. The scrutineer shall be responsible for the safe custody and security of all returned envelopes and voting papers during the period of the ballot and for the period specified before disposal, as defined in rule 2. The scrutineer shall at all times take all reasonable steps to secure the safe custody of the returned envelopes and voting papers so as to minimise the risk of any contravention of the requirements imposed by or under any enactment or these rules or the occurrence of any unfairness or malpractice.

Counting of the ballot

33. The ballot shall be conducted so as to secure that the votes are fairly and accurately counted by the independent person. Any inaccuracy in counting is to be disregarded for the purpose of this rule if it is accidental or on a scale which could not affect the results of the ballot.

34. On the date appointed for the commencement of the counting of votes and before the counting begins the independent person shall hand over to the scrutineer any remaining stock of voting papers not distributed to members. The scrutineer shall before counting begins:

(a) place the unused voting papers in a secure place; and

(b) keep a record of the number of voting papers so stored and a record of any

voting papers issued under rule 28.

35. On the date appointed for the commencement of the count the scrutineer shall hand over to the independent person the unopened return envelopes received in respect of the ballot. The independent person shall undertake the opening of the return envelopes and the counting of the votes.

36. No person may be present at the count other than:

- (a) the scrutineer;
- (b) the independent person;
- (c) those acting under the supervision of the independent person, and
- (d) those present with the consent of the scrutineer.

37. The independent person or if more than one of them the majority of them shall decide whether any voting paper shall be rejected as being invalid and shall mark each such voting paper "rejected".

38. Those voting papers which are not rejected shall be counted.

39. After the count the scrutineer shall take and retain custody of all of the voting papers returned for the purpose of the ballot for the period specified before disposal, as defined in rule 2.

Scrutineer's report

40. As soon as is reasonably practicable after the last date for the return of voting papers the scrutineer shall make a report ("the scrutineer's report") to the union in accordance with these rules. The scrutineer's report shall state:

- (a) the number of voting papers distributed for the purposes of the ballot;
- (b) the number of voting papers returned to the scrutineer by the members;
- (c) the number of valid votes cast in the ballot for and the number of valid votes cast against the resolution;
- (d) the number of spoiled or otherwise invalid voting papers returned;
- (e) the name of the person (or each of the persons) appointed as the independent person or persons; and
- (f) whether the scrutineer:
 - (i) is satisfied that there are no reasonable grounds for believing that there was any contravention of a requirement imposed by or under any enactment or these rules in relation to the ballot;

(ii) is satisfied that the arrangements made (whether by him/her or another person) with respect to the production, storage, distribution, return or other handling of the voting papers used in the ballot, and the arrangements for counting the votes, included all such security arrangements as were reasonably practicable for the purpose of minimising the risk that any unfairness or malpractice might occur;

(iii) is satisfied that s/he has been able to carry out his/her functions without such interference as would make it reasonable for any person to call his/her independence in relation to the union into question; and

(iv) has inspected the register of names and addresses of members of the union or has examined a copy of the register supplied to him/her under these rules.

41. If the scrutineer has inspected the register in accordance with these rules or has been requested to do so by a member, the report shall state:

(a) whether the register has been inspected; in the case of each inspection whether it was at the request of a member of the union or at his/her own instance, and say, if appropriate, whether s/he declined to act on such a request; and

(b) whether any inspection of the register or any examination or copy of the register reveals any matters which s/he considers should be drawn to the attention of the union in order to assist in securing that the register is accurate and up-to-date, but shall not state the name of any member who has requested this inspection or examination.

42. The scrutineer's report shall also state:

(a) whether s/he is satisfied with the performance of the independent person or persons so appointed;

(b) if s/he was not satisfied with the performance of the person or persons or any of them, particulars of his/her reasons for not being satisfied; and

(c) if s/he is not satisfied as to any of the above matters, the report shall give particulars of her/his reasons for not being satisfied as to that matter.

Copy of the scrutineer's report to be sent to the Certification Officer

43. A copy of the scrutineer's report shall be sent by the union to the Certification Officer as soon as is reasonably practicable.

Publicising the result of the ballot

44. The result of the ballot shall not be published until the union has received the scrutineer's report.

45. Within three months from the date on which the union receives the scrutineer's report the union shall:

(a) send a copy of the report to every member to whom it is reasonably practicable to send such a copy; or

(b) take all such other steps for notifying the contents of the report to the members whether by publishing the report or otherwise as it is the practice of the union to take when matters of general interest to all its members need to be brought to their attention.

46. The union shall ensure that any notification given in accordance with rule 45(b) is accompanied by a statement that the union will on request supply the member with a copy of the report either:

(a) free of charge; or

(b) on payment of such reasonable fee as may be specified in the notification,

and ensure that a member who makes such a request to the union is supplied with a copy on payment of such a fee (if any) as has been notified to him/her.