

# **RULES FOR A BALLOT TO MAINTAIN A POLITICAL FUND**

## **UNIVERSITY AND COLLEGE UNION**

### **PARTIAL ALTERATION OF RULES**

#### **Schedule D**

Rules for a ballot under section 74 of the Trade Union and Labour Relations (Consolidation) Act 1992 (as amended)

#### **General**

1. The executive shall be responsible to the union for securing that the ballot which is held to maintain a political fund is conducted in accordance with these rules. This overall responsibility cannot be delegated, even where the responsibility for carrying out a particular duty falls upon a person not subject to the rules of the union. Administrative tasks for the conduct of such a ballot may be delegated in accordance with the rules or practice 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 Brandon House, 180 Borough High Street, London SE1 1LW.

"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 he/she 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;

"member" means those entitled to vote in this ballot having regard to the rules of the Union.

### **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 executive shall ensure that a copy of these rules is supplied, free of charge or on payment of a reasonable charge to any member of the union who requests a copy.

### **Appointment of a Scrutineer where the Scrutineer acts as the independent person**

5. Before the review ballot is held, a scrutineer shall be appointed to carry out the functions in relation to the ballot as are required under the Act, to act as the independent person both (under section 77A of the 1992 Act) in relation to the ballot and to carry out 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) Order 2002 (SI 2002/2267) – available at [www.hms0.gov.uk](http://www.hms0.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 Appointment**

- 7. The terms of the appointment shall require the scrutineer:
  - (a) to supervise the production of the voting papers and to undertake the storage and distribution of the voting papers 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 under these rules;
  - (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 executive considers appropriate;
  - (h) to store in a secure place any unused voting papers or voting papers which are returned undelivered until disposal;

- (i) to respect the duty of confidentiality in respect of the register; and
- (j) to carry out these tasks in a manner which minimises the risk of any contravention of requirements imposed by or under any enactment or these rules or the occurrence of any unfairness or malpractice.

### **Notice of Appointment**

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 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.

### **Dispatch envelopes**

12. 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**

13. Every voting paper shall be in or substantially in accordance with the form set out in appendix 1 to these 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, every one 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 enclosed with it an explanatory statement.

### **Return Envelopes**

14. 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**

15. The executive 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**

16. All members of UCU shall be entitled to vote in the ballot, subject to the rules of the Union.
17. The ballot shall be conducted so as to secure that, so far as is reasonably practicable, those voting do so in secret.
18. 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 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.
19. 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.
20. 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.
21. 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.

22. 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. This record shall be kept by the scrutineer for the period specified before disposal, as defined in rule 2.

### **Manner of Voting**

23. 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.
24. 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.
25. The scrutineer shall be responsible for opening the envelopes containing voting papers that are returned to the scrutineer's address, for the safe custody and security of all returned 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 their safe custody 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**

26. The ballot shall be conducted so as to secure that the votes are fairly and accurately counted by the scrutineer. 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.
27. 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 21.

28. No person may be present at the count other than:
  - (a) the scrutineer;
  - (b) those acting under the supervision of the scrutineer; and
  - (c) those present with the consent of the scrutineer.
29. At the date appointed for the commencement of the counting of the votes, the scrutineer shall undertake the counting of votes received.
30. The scrutineer 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".
31. Those voting papers which are not rejected shall be counted.
32. After the count the scrutineer shall 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**

33. 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 fact that the scrutineer was appointed as the independent person or persons;
  - (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 interference or malpractice might occur;
  - (iii) is satisfied that the he/she has been able to carry out his/her functions without any 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.
34. 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 he/she 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 he/she 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.

#### **Copy of the Scrutineer's Report to be sent to the Certification Officer**

35. 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**

36. The result of the ballot shall not be published until the union has received the scrutineer's report.
37. Within three months from the date on which the union receives the scrutineer's report the executive 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.

38. The union shall ensure that any notification given under rule 37(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.

**Schedule D, Appendix 1 – Text of voting paper**

[Security number]

**UNIVERSITY AND COLLEGE UNION**

**BALLOT ON THE RETENTION OF A POLITICAL FUND**

THE RESOLUTION is that the political objects set out in section 72 of the Trade Union and Labour Relations (Consolidation) Act 1992 (reproduced on the enclosed leaflet) be approved as an object of the Union.

Do you vote in favour of the Resolution?

YES                       NO

You must place a cross in one, and only one, of the boxes provided.

Place the voting paper in the addressed envelope (no stamp required) and return it to the Scrutineer to arrive before 5:00pm on Wednesday 30 April 2008. A voting paper received after this date will not be counted.

Please do not sign or make any other mark on the paper.

The Scrutineer for this election is Electoral Reform Services, The Election Centre, 33 Clarendon Road, London N8 0NW.

Your pre-paid envelope is addressed to reach the Scrutineer via an alternative postcode: Electoral Reform Services, London N81 1ER.