

THE BRITISH DIETETIC ASSOCIATION POSTAL BALLOT BYLAWS

The British Dietetic Association, in exercise of its powers under articles 29b, 35-37, 46k and 56 of the Memorandum and Articles, hereby makes the following Rules –

1 Citation and commencement

- (1) These rules may be cited as The British Dietetic Association Ballot Postal Ballot Bylaws and shall come into force on 24 January 2007.

Postal Ballots (ballots) must be held whenever there is a proposal to amend the Memorandum and Articles of Association. They must also be held when the membership, in General Meeting, direct so in accordance with Article 29b. A ballot may also be called by Council on matters which it feels are sufficiently serious or important enough to require a postal ballot of the membership.

2 Interpretation

- (1) In these Rules -

“BDA” means The British Dietetic Association;

“member” means a person who, on the day determined in accordance with rule 5 (1), is a fully paid up member of The British Dietetic Association;

“electronic address” means any number or address used for the purpose of receiving communications which are sent electronically, the processing of which on receipt is intended to produce writing or images;

“home country” means England, Scotland, Wales or Northern Ireland;

“Independent Scrutineer” means the person appointed in accordance with rule 4;

“Returning Officer” shall be construed in accordance with rule 3;

References to the male gender shall be construed as applying equally to the female gender.

- (2) Any requirement in these rules for any material to be received by the Returning Officer by a fixed date means that it shall be valid only if delivered to or received by post at the offices of the BDA not later than 5p.m. on that date.

3 Returning Officer

- (1) When there is a need to Ballot the members in accordance with the Memorandum and Articles, the Council shall, as regards the management of the ballot, appoint a Returning Officer and may at the same time appoint a Deputy Returning Officer who shall be entitled to carry out the functions of the Returning Officer if he is absent or unable to act.
- (2) The person appointed as the Returning Officer or the Deputy Returning Officer may be an employee but may not be a member of the Council.
- (3) The Returning Officer shall be responsible for the conduct of the ballot, in accordance with these Rules, for which he is appointed.

- (4) The Returning Officer shall be responsible for the publication, printing and distribution of the ballot papers under rule 5(2).
- (5) The Returning Officer and any Deputy Returning Officer shall cease to hold office when the ballot for which he is appointed has been completed, but if the Returning Officer or Deputy Returning Officer resigns, dies or becomes unable to act before that ballot has concluded the Council may appoint another person in his place.
- (6) The Returning Officer may appoint such persons as he considers appropriate to assist in the conduct of the ballot.
- (7) The Returning Officer may delegate any administrative function in the conduct of the ballot to the Independent Scrutineer.

4 Independent Scrutineer

- (1) The Council shall, whenever a vacancy occurs which results in an ballot, appoint an Independent Scrutineer to supervise the conduct of the ballot.
- (2) The person appointed as Independent Scrutineer shall be a person who, in the reasonable belief of the Returning Officer, has the experience and capacity to carry out the functions set out in this rule in a fair and competent manner.
- (3) The Independent Scrutineer shall be responsible for arranging the printing and distribution of the ballot material, in so far as is required by these Rules, and for counting the votes cast in accordance with these Rules.
- (4) The Independent Scrutineer shall arrange for the printing and distribution of the ballot material by the most cost effective method deemed appropriate by the Returning Officer.
- (5) The Returning Officer shall provide the Independent Scrutineer with such financial resources as the Returning Officer thinks fit to carry out the functions described in paragraphs (3) and (4).

5 Procedure

- (1) Not later than twenty eight days before an Annual General Meeting all members entitled to vote shall be informed of any ballot which has been directed by the Council or the membership in General Meeting.
- (2) The membership shall be informed of the process and procedure to vote in a ballot. Details of the supporting information or documentation may be included with the mailing to the member or may be made available on a website, which the member shall be informed of. The deadline for the close of the ballot and the address to which the ballot form shall be returned will also be made clear to the membership.
- (3) A notice under 5(1) or 5(2) shall be considered properly issued to a member if all reasonable efforts were made to send the notice to their last known correspondence address.
- (4) The requirement to send any material to a member under paragraph (3) shall be treated as satisfied if –
 - (a) the material is sent to him electronically by the Independent Scrutineer to an electronic address notified to the Council by that elector as a contact address; or

- (b) a notice is sent to him electronically by the Independent Scrutineer to an electronic address notified to the Council by that elector as a contact address informing him of –
 - (i) the availability of that material on a website;
 - (ii) the electronic location of that website; and
 - (iii) the place on that website where the material may be accessed, and how it may be accessed,and the material is available continuously on that website throughout the period beginning with the date on which the notice was sent and ending with the date on which the result of the ballot is declared.
- (5) Where any material is available on a website for a part but not all of the period mentioned in paragraph (4)(b) and the failure to make that material available throughout that period is wholly attributable to circumstances which it would not have been reasonable to have expected the Council to prevent or avoid, that failure shall not invalidate the ballot.
- (6) Subject to rule 10, a vote shall not be valid unless made on a ballot paper received from the Independent Scrutineer and returned to him by polling day.
- (7) No member may vote both electronically and by post in any ballot and, if a member does so, only the vote first received by the Independent Scrutineer shall be valid.

6 Postal Voting

- (1) The Independent Scrutineer shall ensure the Honorary Secretary distributes by post ballot papers, together with supporting information and, where appropriate, return envelopes.
- (2) The return envelopes shall be addressed to the Independent Scrutineer at the offices of the BDA or to such other address as the Returning Officer may determine.
- (3) The member shall record his vote on the ballot paper in accordance with the instructions on the ballot paper.
- (4) The member shall enclose the ballot paper in the return envelope and seal the envelope without making on it any distinguishing mark and return the envelope and its contents to the address given on the return envelope so that it is received there by the close of the ballot.
- (5) The Independent Scrutineer may replace a ballot paper or a return envelope which is inadvertently spoiled or destroyed if an application is made to the Returning Officer in writing which includes an undertaking by the member that he had not marked and will not mark more than one ballot paper nor vote electronically in the same ballot.

7 Electronic voting

- (1) Subject to paragraph (2), a vote shall not be valid unless it is made in accordance with rule 9.
- (2) A vote shall be valid if it is cast electronically on a website voting facility using the form or method approved by the Independent Scrutineer.
- (3) The Independent Scrutineer may require such evidence as he thinks fit to satisfy himself that a vote cast electronically on a website voting facility is valid.

8 Declaration of Ballot

- (1) Immediately after the close of the ballot the Independent Scrutineer shall cause the ballot papers to be withdrawn from the envelopes and for the votes validly cast to be counted.
- (2) A vote shall be deemed to have been validly cast if, but only if, it has been cast in accordance with these Rules.
- (3) The ballot option provided to the membership with the most votes shall win.
- (4) When the Returning Officer declares the result of an ballot, he shall certify in writing -
 - (a) the ballot options and the votes cast for each one;
 - (b) and shall present the certificate to the Council.

9 Validity of Ballot

- (1) The certificate of the Returning Officer under rule 8 shall be conclusive evidence of the facts stated in it unless in respect of the ballot a written notice of protest signed by not less than twenty-five members is received by the Returning Officer within twenty-eight days of that certificate being presented to the Council.
- (2) A protest may be made on one or more of the following grounds –
 - (a) that the ballot was not in accordance with the requirements of these Rules;
 - (b) that the ballot was furthered by conduct which, if the ballot was regulated by the Representation of the People Act 1983(b), would be corrupt practice by way of bribery, treating or undue influence under sections 113, 114 and 115 of that Act (bribery, treating and undue influence).

10 Protests or Reports

- (1) Any protest or report under rule 9 shall be considered by the Council at its next meeting.
- (2) The Council shall consider the protest, and may if it thinks fit hear oral statements from representatives of the persons signing the protest, from the Returning Officer or from anyone else concerned.
- (3) If the Council is satisfied --
 - (a) that the ballot concerned was furthered by conduct of the kind described in rule 14(2)(b); or
 - (b) that the ballot concerned was in some other respect not in accordance with the requirements of these Rules,

then (unless, in case (b), it appears to the Council that the ballot was conducted substantially in accordance with the requirements of these Rules and that any non-compliance with those requirements did not affect the result) the Council may declare the ballot invalid, and in that event the result shall be ignored and another ballot held.

- (4) If the Council declare the ballot invalid it shall consider whether in the circumstances of the case it should also refer the matter to the Investigatory Committee for further investigation into the conduct of any member concerned.
- (5) Any declaration made by the Council under this rule shall be published and shall be binding upon all persons.