

Bye-Law 3: Elections (& Referenda) Regulations

Owned by: President

Date passed by Board of Trustees: 19/01/2019

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1. Overview

- 1.1. Winchester Students' Union is required to host elections throughout the year in order to fulfil requirements under its Articles of Association and Bye-laws.
- 1.2. Any Union election should be run in a way which is fair and provides all members with the opportunity to take part in the Union's democracy.
- 1.3. Union elections should be promoted and accessible by all members.
- 1.4. Rules and regulations concerning Referenda are outlined in Article 15 of the Union's Articles of Association and in *Section 14: Referenda Regulations* and *Appendix: Referenda Guidance* of this Bye-law.

2. Returning Officer, Election Officials & Impartiality

- 2.1. Responsibility for the overall administration, enforcement and interpretation of these regulations will be divested to the Returning Officer or their nominee.
- 2.2. The Board of Trustees will appoint a Returning Officer on an annual basis. This individual will not be an ordinary member of the Union and will be selected on the basis of being appropriately qualified for that role. The Returning Officer is at liberty to appoint Deputy Returning Officer/s as is practicable in the fulfilment of the role and day to day running of an election; these may be an ordinary member or staff member, where no conflict of interest exists.
- 2.3. If affiliated; the NUS may be called upon to act in the capacity of Returning Officer; in this instance the Board will additionally ratify the appointment of a Deputy Returning Officer, who will not be an ordinary member of the Union and will be selected on the basis of being appropriately qualified for that role.
- 2.4. Union staff and officials (including trustees) shall remain impartial throughout any elections process and may not promote or endorse individual candidates. Union officials who are also student members may express a preference for individual candidates, whilst not referencing their role within the Union, providing they are not 'on duty' (e.g. student staff) or acting within the capacity of their role.

3. Powers & Responsibilities of the Returning Officer

- 3.1. The powers in this bye-law are given to the Returning Officer or their nominee.
- 3.2. The Returning Officer shall have the final decision in issues relating to the running of the Students' Union elections, and any decisions made by the Returning Officer shall be final.
- 3.3. The Returning Officer may rule as they consider appropriate in respect of any matter in which this bye-law is silent.
- 3.4. The Deputy Returning Officer (DRO), or their second in their absence, is responsible for the day-to-day running of the elections and is the person who formally answers questions on the rules, and makes rulings on common queries, to ensure the election runs as smoothly as possible.

4. Union Elections

- 4.1. As outlined by the Union's Articles of Association, and supporting Bye-laws,

Winchester Students' Union is required to run various cross-campus elections open to all members to both stand and vote in. These elections are as follows:

- 4.1.1. **Students' Union Officer Elections;** shall take place once annually, normally in early/mid Term Two. These elections will occur under the terms of the Bye-laws and the auspices of the Articles of Association; to elect the Union's Executive Committee (as defined in Bye-law 1) including the Union's Sabbatical Trustees.
- 4.1.2. **NUS Representatives/Delegates Elections;** by requirement of NUS stipulation, if affiliated, reflective of NUS delegate entitlement.
- 4.1.3. **Union by-elections** shall serve in all matters of elections outside of the prescribed framework; for purpose of replacing vacant, resigned or removed officer posts.
 - 4.1.3.1. All vacancies that arise shall be considered by the Returning Officer or their nominee, who will agree an appropriate course of action, which may result in a by-election.
 - 4.1.3.2. All timetabling matters for such elections are to be determined by the Returning Officer or their nominee, such timings provide an adequate window for candidacy and membership awareness.
 - 4.1.3.3. If the by-election is to be held to replace an officer post that, for whatever reason is left vacant after the 31st December, Student Senate shall have discretion to either call a by-election or leave the post vacant until the next Union Officer Elections.
- 4.1.4. **Activity Group elections;** the election of Union Activity Groups shall fall outside of the remit of this bye-law; although at discretion this bye-law can be used to inform practice. Such elections will be overseen by the relevant Sabbatical Trustee as outlined in Bye-law 4: Activities.

5. Terms of Office

- 5.1. Elected Officers of the Executive Committee (including Sabbatical Trustees) are elected to serve a term of twelve concurrent months starting from July 1st subsequent to the Union Officer Elections, and ending June 30th of the following year;
 - 5.1.1. Such Officers elected via by-election after July 1st will serve a term of office for a duration ending on June 30th subsequent to election.

6. Eligibility to stand for election

- 6.1. Only members as defined by the Union's Articles of Association are eligible to stand for election.
- 6.2. No member may nominate themselves for election for more than one post, in any set of Officer Elections.
- 6.3. 'Job sharing' of elected officer roles is not permitted, only one member is permitted to stand per individual nomination.
- 6.4. Only members who are able to take a full year sabbatical from study; or are imminently to end studies prior to graduation; and who are eligible to hold the office of Trustee as defined by the Articles of Association; may

stand for the Sabbatical Trustee positions.

- 6.5. From time-to-time other restrictions may apply to specific portfolio roles, which will be detailed by portfolio and in all election materials.

7. Election Timetable & Nominations

- 7.1. Notice of elections; the dates of elections (including nomination, campaigning and voting periods) shall be announced at the discretion of the Returning Officer or their nominee. The Union will ensure that elections are sufficiently publicised and promoted prior to commencement to encourage participation.
- 7.2. The nominations process will be determined by the Returning Officer or their nominee, who shall ensure that nominations are open for a suitable time to allow a fair opportunity to submit nominations.
- 7.3. In order to stand for election, candidates must submit a valid nomination via the relevant system (normally via the Union's website).
- 7.4. Once successfully nominated, nominees will not officially become candidates within an election until they have formally confirmed their understanding of the elections rules and regulations and completed the Candidate Confirmation Form and Candidate Declaration, including confirmation of eligibility to become a Trustee for Sabbatical roles. This will be issued to all nominees for completion following the release of any Candidate Briefings/Candidate Information Packs and before the start of the campaign period. Failure to do so, or subsequent disclosure that would mean ineligibility, will trigger an automatic disqualification and result in withdrawal from the election.
- 7.5. If after the close of the nominations period, in any election or a by-election, a post remains unfilled, the Returning Officer or their nominee may extend nominations for the post for a limited set period of time.

8. Campaigning and Conduct

- 8.1. All candidates will be required to adhere to the elections regulations outlined within this bye-law along with the campaigning and elections rules that will be set by the Returning Officer or their nominee for each election. Such rules will be outlined to candidates as part of any Candidate Briefings and/or Candidate Information Packs issued. Failure to comply with the elections rules & regulations may result in disqualification from the election.
- 8.2. It is the responsibility of all candidates to ensure that they, and all their supporters/campaign team members, are fully aware of the rules and regulations set out in this bye-law and within any Candidate Briefing and Candidate Information Packs. Ignorance of these rules and regulations shall not be an acceptable excuse for contravening them.
- 8.3. Candidates may have both formal and informal supporters, and campaign teams, which are the responsibility of the candidate.
 - 8.3.1. Should any election offence be committed by a supporter or campaign team the offense may be considered in the same way as if the candidate had committed the offense personally.

- 8.3.2. The Returning Officer or their nominee considering a complaint may decide to ignore an offence committed by a supporter, provided they are satisfied that there was no collusion between the supporter and the candidate and that the offence was only of a minor nature.
- 8.4. Candidates may not campaign until the commencement of the campaign period – a full definition of what constitutes as ‘campaigning’ will be issued by the Returning Officer or their nominee.
- 8.5. No candidate or their supporters may apply undue influence to voters when they are casting their vote online; either in a physical or virtual sense. Candidates should not touch any other students’ electronic voting device (e.g. mobile phone) while the ballot is open and live.

9. Candidate Expenditure

- 9.1. Prior to each election the Returning Officer or their nominee shall decide the level of expenditure permissible by candidates running for election. Such levels will be clearly stated in the candidate information packs and briefings. Campaign expenditure shall be defined as “any expenditure that is carried out with the purpose of promoting a candidate’s election”.
- 9.2. Candidates must not spend more than their campaign allowance. If the Returning Officer or their nominee has evidence that amounts being spent are higher than candidate allowance, candidates may be disqualified.
- 9.3. Occasionally candidates may wish to express their preference for, or collaborate with, other candidates within the elections. This is permitted providing that no candidate expenditure is associated with this; candidates must only use their campaign allowance for their own promotion, and any expenditure must not involve any other candidates.

10. Re-Open Nominations (R.O.N.)

- 10.1. Re-Open Nominations (R.O.N.) may be used as a candidate in elections. If utilised, the Returning Officer or their nominee shall ensure this option is explained to members.

11. Voting

- 11.1. Each election will be run in accordance with the alternative vote system as defined by the electoral reform society and in accordance with any regulations produced by the NUS, where relevant, if affiliated.
- 11.2. Where there is more than one constituency position available in a single election then the single transferable vote system shall be used.
- 11.3. Unless dictated by circumstances, all Students’ Union elections shall normally be by electronic media via the Union’s website. In the event that it is deemed that a manual voting system is to be used, the Returning Officer or their nominee will set out such systems prior to the election.
- 11.4. Voting shall be conducted by secret ballot via the Union’s website provider, with instructions clearly displayed on the Union’s website for at least 5 working days prior to the ballots opening.
- 11.5. Members will be emailed voting details and links to the voting website as

soon as practicable after the ballot opens.

- 11.6. In the event that any candidates are disqualified or withdraw themselves from the election after the ballot has commenced, the count shall be conducted with the names of all the candidates included. Any such disqualified candidate will have all votes for them declared null and the votes transferred to the next preference, if applicable.

12. The Count and Declaration of the Results

- 12.1. The Returning Officer or their nominee shall be in sole charge of the conduct of the count. Elections shall usually be conducted be via the Union's website provider which automatically calculates the votes cast and therefore dispute of the results or a recount is not applicable.
- 12.2. The results shall be declared as soon as is reasonably practicable upon the conclusion of the count, allowing for any mitigation or delays where required.
- 12.3. A copy of the results shall be displayed across all Union sites for not less than 7 days following the declaration and shall be published via all other relevant platforms.
- 12.4. The Returning Officer shall sign a certificate to the effect that the count is accurate and valid.

13. Complaints

- 13.1. It is recognised that candidates and students may be aggrieved by the conduct of others participating in the election. The process detailed below should be followed in cases where a candidate wishes to make a complaint.
- 13.2. Efforts should be made, where appropriate, to engage in informal resolution. If an issue cannot be informally resolved, or if the issues raised are complex and require more detailed investigation, then a student may submit a formal complaint.
- 13.3. Making a formal complaint; The complaint should be put in writing to the Deputy Returning Officer as soon as the issue has arisen. Any complaints comprising of hearsay or activity that does not directly affect the complainant are unlikely to be successful and may be dismissed.
- 13.4. Complaints need to be accompanied by clear evidence of breach of elections regulations; the complainant must specify exactly which regulation of this bye-law or elections rule the complaint is referencing and explicitly outline why they believe this has been breached.
- 13.5. Complaints alleging harassment, intimidation or violence should be reported to the Deputy Returning Officer immediately. The Deputy Returning Officer may recommend that the student raise the matter with the University or the Police, or through the Union's official complaints process.
- 13.6. The Deputy Returning Officer will respond to the complaint within 3 working days of receipt and investigate in a manner that they deem appropriate.
- 13.7. The Deputy Returning Officer will then produce a written report (if/as required), which shall be published within 10 working days of the dated acknowledgement of the complaint. If there are difficulties with this, i.e. not

being able to complete the investigation thoroughly, the Deputy Returning Officer will inform the complainant and agree a suitable time with them.

13.8. The Deputy Returning Officer, after deliberating the evidence, may make the following decisions:

13.8.1. To not uphold the complaint

13.8.2. To uphold the complaint and take sanctions against an individual(s) and/or issue a warning

13.8.3. To disqualify candidate(s)

13.8.4. To order a new ballot/electronic vote

13.8.5. To pass the complaint onto the complaints policy as governed by the Union's Bye-law 2 or Bye-law 6.

13.9. Complaints raised by election officials or scrutineers will be dealt with through the same process.

13.10. Complaints raised by candidates or students about election officials including the Deputy Returning Officer should be lodged immediately with the Returning Officer.

13.11. Complaints about the Returning Officer shall be reported to the Union Trustee responsible for the Union's complaints procedure who will make a ruling upon the complaint as per the above process.

13.12. All complaints/appeals about the conduct or administration of the election must be lodged before the start of the count. Any exceptions will be subject to the discretion of the Returning Officer or their nominee. The start of the count may be delayed in order for outstanding complaints to be addressed.

13.13. If a student is dissatisfied with the Deputy Returning Officer's outcome of a complaint, they can request the opportunity to appeal to the Returning Officer. A request for an appeal should be on the following grounds, including but not confined to:

- a review of the procedures followed at the complaint stage.
- a consideration of whether the outcome was reasonable in all the circumstances.
- new material evidence which the student was unable, for valid reasons, to provide earlier in the process.

13.13.1. The appeal stage will not consider the issues afresh or involve a further investigation.

13.13.2. The ruling of the Returning Officer shall be final.

14. Referenda Regulations

14.1. The Board of Trustees shall appoint a Returning Officer to oversee referenda and will not appoint a Returning Officer who has an interest in the outcome of any referendum.

14.2. The Returning Officer will be responsible for setting out the rules for the referendum and may make use of the Elections Regulations and Appendix 1: Referendum Guidance of this Bye-law to guide them. The rules of the referendum shall be published at least 2 weeks before the start of any referenda campaigning or voting period.

14.3. The process to call a referendum is defined by article 15 of the Union's

Articles of Association (and referred in appendix A of this Bye-law).

- 14.4. The quorum to pass a referendum is defined by article 15 of the Union's Articles of Association (and referred in appendix A of this Bye-law).
- 14.5. The Trustee Board may overturn any policy passed based on financial, legal or reputational issues as outlined the Articles of Association.
- 14.6. The Executive Committee may, in their discretion, choose to use an inquorate referendum as indicative of student opinion in their judgement, but need not do so.

A: APPENDIX: REFERENDA GUIDANCE

A1. Appendix: Referenda Guidance

- 1.1 This Appendix applies to all referenda by cross-campus ballot of the membership as required by the Articles of Association. The rules may be adapted for use in any other situations where required. For the purposes of promotion to membership, the term 'referendum' may be used interchangeably with 'all student vote'.

2. Returning Officer / Deputy Returning Officer

- 2.1 The rules in the Union's Elections Bye-law concerning the Returning Officer / Deputy Returning Officer apply equally to referenda.

3. Call for Referendum

- 3.1 A call for a referendum is defined in Article 15 of the Articles of Association and may be made by:
 - 3.1.1 a resolution of the Trustees;
 - 3.1.2 a majority vote of the Student Senate; or
 - 3.1.3 subject to Articles 24.1 and 26.2.1, a Secure Petition signed or agreed to by at least 4% Student Members.
- 3.2 In all cases the question/s to be asked should be specified.
- 3.3 The Returning Officer (in conjunction with Executive Committee where appropriate) should consider the proposed wording of the question/s, as well as any background information to be supplied to voters, and may adjust the text to ensure members can vote on a fairly worded question to which a 'Yes' or 'No' (or 'For' or 'Against') answer can be given.
- 3.4 The originator as specified in 3.1, or representative, should be given the opportunity to comment on the adjusted wording.
- 3.5 Subject to Article 28.3 of the Articles of Association, the Student Members may set Policy by Referendums. Policy set by Referendums may overturn Policy set by the Student Senate and Policy set by the Student Members at a Student Members' meeting

4. Timing of Referendum

- 4.1 The referendum will be held on the next possible semester date, providing for points below:
- 4.2 There must be adequate time for publicity of the proposed referendum, to give Union members the opportunity to take part in any campaigns as well as to vote.
- 4.3 Notice must be given of the date of polling, once the date is confirmed, normally at least 14 days before polling. This should normally include the wording of the question/s which will be asked.

5. Campaign Publicity

- 5.1 Campaign publicity is defined as any poster, pamphlet, leaflet, badge, advertisement or similar item, or any online material, issued at any time between the notice of the referendum and the close of polling, which includes a reference to the referendum, and which may have an influence on voting in the referendum.
- 5.2 In addition, printed or online material may be published by the Returning Officer (or their delegate) containing background information and up to 500 words in favour of the proposal and up to 500 words against it.
- 5.3 Students shall have the choice to join official campaign teams by notifying the Returning Officer (or their delegate). One person from each side shall be designated the agent for that viewpoint and have overall responsibility for publicity.
- 5.4 No publicity other than the agreed texts for and against shall be displayed inside any place used as an officially designated polling station on any day it is in use or in any designated exclusion zone.
- 5.5 Any Election publicity which, in the opinion of the Returning Officer (or their delegate), contains information that is blatantly factually inaccurate, discriminatory or defamatory, will result in the campaign side being penalised or disqualified.
- 5.6 The Returning Officer (or their delegate) may set an expenditure limit or a spending allowance for Referenda publicity.

6. Involvement of Union staff and officers and use of Union facilities

- 6.1 The principles in the Elections regulations regarding Union staff and use of Union facilities apply equally to referenda.
- 6.2 Any elected Officer may campaign for or against referenda.

7. Hustings

- 7.1 Prior to polling, the Returning Officer (or their delegate) may call a public meeting at which the issue may be debated. The Returning Officer or their delegate shall take the chair and shall regulate the proceedings.

8. Polling

- 8.1 The rules in the Elections regulations headed "Method of Voting", "Voting Systems", and "Voting Procedures" (where applicable) apply equally to referenda.
- 8.2 The ballot paper or online voting system shall contain the question as specified and the facility for members to vote for, against, or in abstention.

9. The Count

- 9.1 The rules in the Elections regulations headed "The Count" apply equally to referenda.
- 9.2 In order for the result of a referendum resolution to pass, the total number of votes counted (including those in abstention) must be at least that number required under the Articles of Association and where a majority of the votes cast are in favour of the resolution.

10. Confirmation of Result

- 10.1 The results shall be declared as soon as is reasonably practicable upon the conclusion of the count. The Returning Officer shall declare to the effect that the count is accurate and valid.
- 10.2 A copy of the results shall be displayed across all Union sites for not less than seven days following the declaration and shall be published via all other relevant mediums.
- 10.3 The rules in the Elections regulations headed "Recounts", "Retention of Ballots", and "Complaints" apply equally to referenda.