

THE BRITISH DIETETIC ASSOCIATION ELECTION BYLAWS

The British Dietetic Association, in exercise of its powers under articles 1, 40 and 46(k) of the Memorandum and Articles, hereby makes the following Rules –

1 Citation and Commencement

These rules may be cited as The British Dietetic Association Election Bylaws and shall come into force on 24 January 2007.

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;

“nomination day” shall be construed in accordance with rule 5(2);

“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 unless (other than in the case of the withdrawal of a nomination under rule 7 or a death, etc.. under rule 13) it is sent electronically to the Returning Officer by the fixed date.

3 Returning Officer

(1) When there is a need to notify the membership of a Council vacancy for which they may vote, the Council shall, as regards the election to be held in respect of that vacancy, 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 election, 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 notice under rule 5(2).

- (5) The Returning Officer and any Deputy Returning Officer shall cease to hold office when the election 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 election 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 election.
- (7) The Returning Officer may delegate any administrative function in the conduct of the election to the Independent Scrutineer.

4 Independent Scrutineer

- (1) The Council shall, whenever a vacancy occurs which results in an election, appoint an Independent Scrutineer to supervise the conduct of the election.
- (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 Nominations

- (1) Not later than seventy days before an Annual General Meeting all members entitled to vote shall be informed of the posts on the Council of Management which shall become vacant and which shall be filled at the forthcoming AGM.
- (2) The membership shall be informed of the process and procedure to nominate a member for any vacant post. Nominations shall be made by at least four members entitled to vote and submitted in the prescribed manner to the Honorary Secretary within 28 days of the notice issued in 5(1) above (the 28th day after the notice in 5(1) above shall be known as the nomination day).
- (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) A candidate
 - (a) May only be nominated for a Council position they are eligible to be elected into:
 - (i) as a Director of the company by being a Full Member;
 - (ii) as a Constituency Member by having their main correspondence address in that Constituency;
 - (iii) as a Student representative by being a student member;
 - (iv) as a Dietetic Assistant representative by being an Associate member of the BDA;
 - (v) as any other representative by being a member of the BDA as Council shall prescribe from time to time.

- (b) must live or work wholly or mainly in the United Kingdom;
- (c) must not be the subject of any allegation, investigation or proceedings by the Council or any other body responsible for regulating or licensing a health or social care profession concerning his fitness to practice.

(5) A nomination shall be valid only if:-

- (i) It is made on the nomination form available from the Returning Officer;
- (ii) it is made on one or more nomination forms signed by the members nominating the candidate and received by the Honorary Secretary by the nomination day; and
- (iii) the candidate has consented to his nomination and that consent has been received by the Honorary Secretary by the nomination day.

6 Consent of and statements from nominated candidates

(1) A candidate for election shall, on or before the nomination day, deliver to the Returning Officer a written statement which identifies and is signed by the candidate confirming that the candidate -

- (i) is willing to stand for election;
- (ii) lives or works wholly or mainly in the UK (and for the purposes of a Constituency Member has their main correspondence address in that country); and
- (iii) is not subject to any allegation, investigation or proceedings by the Council or any other body responsible for regulating or licensing a health or social care profession concerning his fitness to practice.

(2) A candidate may supply to the Returning Officer, not later than forty two days before the AGM an election statement, including particulars of the candidate's qualifications and career, of such length and in such form as the Returning Officer shall specify.

(3) Subject to the following provisions of this rule, any election statement received by the Returning Officer not later than forty two days before the AGM, shall be printed and sent by the Independent Scrutineer with the ballot papers issued to electors eligible to vote for the candidate.

(4) The requirement to send any material to an elector under paragraph (3) shall be treated as satisfied if –

- (i) 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
- (ii) 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 –
 - (a) the availability of that material on a website;
 - (b) the electronic location of that website; and
 - (c) 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 election 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 election of any person.
- (6) Returning Officer shall not be required by this rule to issue an election statement of a length greater than that specified by the Council and, if a candidate's election statement exceeds the specified length the issued statement shall end at the last complete sentence within the specified length.
- (7) The Returning Officer shall not be required by this rule to issue an election statement which, in the Returning Officer's opinion, is or may be libelous, scandalous or untrue on matters of fact and may either edit the statement before issuing it or decide not to issue it.
- (8) Every candidate who supplies material under paragraph (2) shall be deemed to have agreed-
 - (i) that the decision of the Returning Officer not to issue the whole or any part of it shall be final; and
 - (ii) to indemnify the Returning Officer and the Council against any liability to any third party which arises by reason of issuing that material.

7 Withdrawal of nomination

A candidate may withdraw his candidature by notice in writing signed by the candidate and received by the Returning Officer by the nomination day and in that event the nomination of that candidate shall be disregarded for the purposes of the election.

8 Additional nominations, uncontested vacancies and polls

- (1) if after the time allowed for the nomination of candidates has expired, in respect of any vacancy -
 - (i) there is only one candidate nominated for the vacancy, the Returning Officer shall declare the candidate so nominated to have been elected:
 - (ii) there is more than one candidate nominated for the vacancy, the Returning Officer shall cause a poll to be held.
- (2) When a poll is to be held the Honorary Secretary (under the supervision of the Independent Scrutineer) shall issue to all members eligible to vote a ballot paper, not later than twenty eight days before the AGM, which shall include-
 - (i) the names, qualifications and election addresses of all candidates; and
 - (ii) the names of the persons nominating each Candidate
 - (iii) the date (not later than seven days before the AGM) by when the ballot paper must be returned to the Independent Scrutineer.
- (3) 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.
- (4) No elector may vote both electronically and by post in any election and, if an elector does so, only the vote first received by the Independent Scrutineer shall be valid.

9 Postal Voting

- (1) the Independent Scrutineer shall ensure the Honorary Secretary distributes by post ballot papers, together with lists of candidates and their nominators, any election statements and return envelopes.
- (2) 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 ballot papers and the lists of candidates, and nominators shall be in such form as the Returning Officer may determine and, in particular, where there are multiple vacancies may provide for the polls for those vacancies to be conducted using the same ballot paper.
- (4) A member shall only be entitled to vote for candidates which they are eligible:
 - (i) In the case of Directors of the Company (i.e. national vacancies on the Council of Management) only full, retired or non practicing members may vote;
 - (ii) In the case of a Student Member Representative only Student Members may vote;
 - (iii) In the case of a Dietetic Assistant Representative only Associate members may vote;
 - (iv) In the case of Constituency Member Representatives only full, retired or non-practicing members with a main correspondence address in that constituency may vote;
 - (v) In the case of other Council vacancies which may arise from time to time restrictions on voting eligibility may be prescribed by Council.
- (5) The elector shall record his vote on the ballot paper in accordance with the instructions on the ballot paper.
- (6) The elector 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 polling day.
- (7) 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 applicant that he had not marked and will not mark more than one ballot paper nor vote electronically in the same election.

10 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.

11 Declaration of Election

- (1) Immediately after the polling day the Independent Scrutineer shall cause -
 - (a) the ballot papers to be withdrawn from the envelopes and for the votes validly cast for each candidate to be counted.
 - (b) the electronic votes validly cast for each candidate to be counted; and
 - (c) the total votes validly cast for each candidate to be calculated.
- (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 candidate with the most votes shall win. If in any poll the same number of votes is cast for each of two or more candidates, the Returning Officer shall, where necessary to decide the result of the election, determine by lot which of the candidates shall be deemed to have obtained the highest or the next highest number of votes for the purposes of these Rules.
- (4) When the Returning Officer declares the result of an election, he shall certify in writing-
 - (a) the name of each person elected and that person's home country;
 - (b) if a poll has been held, the names and home countries of all other candidates, the total number of votes cast and the numbers of votes cast respectively for the persons elected and for every other candidate; and
 - (c) and shall present the certificate to the Council.

12 Appointment of members

- (1) The Council, upon receipt of the Returning Officer's certificate, shall report the details of those elected to the Annual General Meeting. The newly elected members shall assume office at the close of the Annual General Meeting.

13 Death, resignation, etc.

- (1) If a candidate resigns or dies before the election for the vacancy or before taking up office, and there is only one other candidate, the Returning Officer may declare the other candidate duly elected. If there is more than one other candidate an election will still take place and the votes cast for the resigned or deceased candidate ignored. If a candidate resigns or dies before the election for the vacancy or before taking up office and there is no other candidate the Returning Officer shall declare that position vacant and the Council may appoint a member to fill the vacancy until the next appropriate election date, in accordance with the Articles of the Association.
- (2) If a person's election is invalid or for any other reason, the Returning Officer shall declare that position vacant and the Council may appoint a member to fill the vacancy until the next appropriate election date, in accordance with the Articles of the Association.

14 Validity of Election

- (1) The certificate of the Returning Officer under rule 11 shall be conclusive evidence of the facts stated in it unless in respect of the election of any person 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 election of that person was not in accordance with the requirements of these Rules;
 - (b) that the election of that person was furthered by conduct which, if the election 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).

15 Protests or Reports

- (1) Any protest or report under rule 14 shall be considered by the Council at its next meeting.
- (2) The Council shall afford the person concerned an opportunity of making a reply in writing to the protest or the report, and may if it thinks fit hear oral statements from representatives of the persons signing the protest, from the Returning Officer and from the person concerned.
- (3) If the Council is satisfied –
 - (a) that the election of the person concerned was furthered by conduct of the kind described in rule 14(2)(b); or
 - (b) that the election of the person 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 election 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 that person's election invalid, and in that event the resulting vacancy shall be filled by a casual appointment until the next election.
- (4) If the Council declare the election of any person 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 the member concerned.
- (5) Any declaration made by the Council under this rule shall be published and shall be binding upon all persons.

16 Commencement of office

- (1) Any person who is the subject of any protest or report made under rule 15 shall not take office until such protest or report has been considered and disposed of by the Council.