

# **GMB CONGRESS 2018**

## **CEC SPECIAL REPORT**

### **REVIEW OF GMB ELECTIONS**

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## CEC Special Report to Congress 2018

### Review of GMB Elections

Following Congress 2016 reference of Composite 2 Review of CEC and General Secretary Elections an Elections Review Working Party (ERWP) was established with members from the Central Executive Council (CEC) (Kevin Buchanan, Penny Robinson, Cath Sutton, Mark Sykes), Senior Management Team (Warren Kenny, Paul McCarthy, Gary Smith), the General Secretary (Tim Roache), the Legal Director (Maria Ludkin), the Director of External Relations (Lisa Johnson), the IT Manager (Nicholas McGhee), a Regional Returning Officer (Tony Warr) and the National Returning Officer (Steve Short).

Warren Kenny was elected Chair of the Working Party.

This report to Congress 2018 covers proposals for future elections of the Central Executive Council, General Secretary & Treasurer, President and Vice President, which the ERWP recommends to be effective immediately, subject of course to Congress 2018 adoption of this CEC Special Report.

The ERWP has met several times starting with a blank sheet of paper in trying to encompass what all ERWP members would like to see in terms of current legal advice, best practice from other unions, transparency, trying to make candidature and selection as democratic as possible, considering the opportunities and challenges around social media and addressing issues that have been raised in cases involving GMB and other unions by the Certification Officer with clarity and certainty.

The first drafts of the recommendations led to greater opportunity for candidates to present themselves to the membership but presented a long and exhausting campaign trail. Issues around social media and how much involvement the GMB can have in managing these remain challenging.

However the ERWP has narrowed down the issues and reached final recommendations to Congress 2018.

### CENTRAL EXECUTIVE COUNCIL ELECTIONS 2019

The Working Party agree that the current procedures for CEC elections work well and should remain unchanged, save for the nomination process by Branches.

Under the current system a branch must get a nominee to countersign the nomination form before submitting to a Regional Returning Officer (RRO), and the nomination form must be the original form sent to the branch by the Regional Returning Officer and not a photocopy or scan of it.

It had been argued by a candidate in the 2015 CEC elections that this is an onerous task for both branches and nominees. The ERWP agreed and make the following recommendations to Congress on how to simplify this process.

#### Recommendations

- 1. Branch nominations to be sent direct to the Regional Returning Officer (RRO) without the need for the nominee's countersignature.**
- 2. Nomination forms can be returned to the Regional Returning Officer by post or electronically.**

3. Upon receipt of a valid nomination the Regional Returning Officer will write to the nominee asking them if they accept or decline nomination. Only one acceptance from the nominee will be required regardless of number of Branch nominations
4. The period for nominees to submit their Personal Details Forms, Supporting Statement and Photo would be increased from 10 days to 14 days to allow for any Regional Council member receiving their first nomination on the close of nominations date to accept nomination and be sent forms for completion by the deadline.
5. The RRO will notify the nominating Branch(es) if their nominee has accepted or declined nomination
6. The ERWP also recommend that all ballot packs would be sent to members by a direct stand-alone mailing in future elections, unless the law prohibiting electronic balloting is lifted in which case GMB should use electronic balloting.
7. Amend the wording on the Nomination Form to reflect the above changes.
8. Amend the wording of the Election by-laws accordingly to reflect the above changes

The issue was discussed of the role of Regional Returning Officers in deciding if words in an election statement are defamatory, obscene or otherwise unlawful.

Legal advice confirms that the election address of a candidate in a CEC election sent with the voting papers should not be modified without the consent of the candidate. Hence, if the RRO considers part of an election address to be defamatory, obscene or otherwise unlawful, that address should only be changed with the consent of the candidate. Any liability for publishing the contents of the election address with the voting paper falls on the candidate (and not the GMB).

No other statement from any candidate beside the election address published with the voting paper is to be published by the GMB in CEC elections

To address this it is recommended that the CEC by-laws make clear that liability on publication of a candidate's election address lies with the candidate.

### **Recommendation**

**There be included in the CEC election by-laws provision making clear where liability lies on publication of the election address.**

### **GENERAL SECRETARY & TREASURER ELECTION 2020**

The Working Party discussed the last election and agreed that the election process for General Secretary & Treasurer Election needs updating. In particular it was noted that steps needed to be introduced to ensure more knowledge of the process, more clarity, the widest possible circulation of information regarding the election, more opportunities to introduce potential nominees to branches and a realistic approach to social media.

The ERWP agreed to make the following recommendations to Congress:

### **Recommendations**

1. The Working Party recommend some basic general principles:

- that the minimum number of branch nominations be increased to 50, to include a nomination from a Branch(es) in at least two different Regions to enhance democracy
- that distribution of ballot packs by a direct stand-alone mailing was the only option for future elections, unless the law prohibiting electronic balloting is lifted in which case GMB should use electronic balloting.
- the process is fair and even and candidates are prevented from “buying” the result.
- hustings worked but not in isolation, with challenges related to accessibility, geography and number of meetings to be addressed where practicable,
- pre-determined clear criteria for eligibility to stand for election were required
- The Election by-laws would to be updated and amended accordingly to reflect any new process.

The ERWP agreed that social media activity during an election is almost impossible to police. Therefore, the ERWP recommends that the by-laws establish a period of purdah. At the next election we anticipate this will be from the date of the announcement of the election - 29 May 2020 to 11 November 2020. During purdah all Employees should refrain from active campaigning in line with election by-laws and all Employees, Central Executive Council members, Regional Committee members and Regional Council members must refrain from any online activity or social media activity in respect of, related to or referencing the General Secretary & Treasurer election. By-laws will establish any disciplinary action against individuals who breach purdah, and a letter will be sent to all the above members advising responsible behaviour regarding campaigning and social media activity during the purdah period.

GMB is only protected in relation to a candidate’s election address when published with the voting paper if that address is potentially defamatory, or otherwise unlawful, material is concerned. To address the risk arising from the publication of potential nominee statement, the ERWP suggests that the CEC Finance & General Purposes Committee (F&GPC) be given an appropriate power to remove wording before publication.

Additionally tweets, texts and emails giving only factual information on locations and dates of hustings meetings will be centrally issued by GMB.

It is recommended therefore that the F&GPC can make a decision on whether to remove any wording in a potential nominee’s supporting statement to be published by the GMB if deemed untrue, obscene, discriminatory, defamatory or otherwise unlawful. That decision is final and not subject to appeal. This does not however apply to a candidate’s election address to be published with the voting paper.

ERWP therefore recommends Congress to adopt CEC Rule Amendment – CECRA7

Therefore the ERWP recommends that in accordance with current election by-laws, other than face-to-face canvassing or hustings meetings, no canvassing or campaigning will be permitted by or on behalf of a candidate,

## 2. Proposed GS&T Election Timetable – 6 months (29/5/2020 to 12/11/2020)

April 2020	April 2020 Finance & General Purposes Committee determines election budget for each candidate
April 2020	April 2020 CEC meeting adopts by-laws, agrees timetable, agrees qualifying standards and criteria, appoints independent scrutineer, and appoints national returning officer  The purdah period will be 29 May to 11 November 2020.
By w/e Friday 29 May	Letter to Branches, posting on GMB website, text and twitter message to members and an email to all staff notifying that an election is due, notifying who the independent scrutineer will be and setting out the process for any member who wishes to seek nominations. It is the responsibility of Branches and individuals seeking nominations to ensure that they access the information in the letter/email as soon as possible, and they contact the NRO if any difficulty. Letter sent to Employees, CEC members, Regional Committee members and Regional Council members advising responsible behaviour regarding social media activity during the purdah period.
Monday 1 June to Monday 22 June	Potential nominees, including the incumbent, declare their intention to seek nominations by contacting their Regional Secretary or in the case of the General Secretary & Treasurer, Regional Secretaries, National Officials by contacting the President or the National Returning Officer (NRO). All potential nominees names will be referred to the National Returning Officer who will supply to each person a pack containing a personal details form, the election by-laws, and instructions on providing a current photo, a personal statement up to 1000 words, and contact details of the nominee.
June 2020	<b>CONGRESS 2020, BLACKPOOL</b>
Monday 15 June	Deadline for potential nominees to declare intention to seek nominations.
Monday 22 June	Deadline for return of personal details form, photo, personal statement and contact details to NRO.

Monday 29 June	<p>NRO reports to a Special CEC Finance &amp; General Purposes Committee meeting for their ratification that potential nominees comply with qualifying standards and criteria. The F&amp;GPC decision is final. NRO writes to potential nominees to confirm F&amp;GPC decision.</p> <p>The F&amp;GPC may remove wording from a potential nominee's personal statement that is deemed by them to be untrue, obscene, discriminatory, defamatory or otherwise unlawful. The decision of the F&amp;GPC is final.</p>
By w/e Friday 3 July	Nominees personal details, photo, statement and contact details are loaded onto the GMB website under a General Secretary & Treasurer Election page.
By w/e Friday 3 July	Nomination packs sent to each branch containing nomination form, by-laws, list of qualified potential nominees, plus hard copy of potential nominees personal details forms/photo/statement/contact details, so branches can contact nominees direct to seek further information.
Monday 6 July – Monday 31 August	8 week nomination period. Minimum 50 branch nominations required, to include Branch nominations from at least two different Regions
Monday 31 August	Close of Nominations
Monday 7 September	Special Finance & General Purposes Committee meets under Rule 15.3 to determine that nominees have met deadlines, are eligible under rule, have complied with the by-laws, have received sufficient valid nominations. F&GPC also confirms nominees who did not achieve 50 nominations, confirms NRO decisions to reject branch nominations. F&GPC confirms list of candidates.
Monday 7 September	NRO writes to each candidate to confirm candidature and requests each candidate to supply an election address of up to 1000 words supporting statement for inclusion in voting packs . Deadline 23 September.
Monday 14 September	Deadline of 1 week for appeals to be lodged (rule 59)
Monday 21 September	Appeals against F&GPC decisions heard by Appeals Committee. Appeals Committee decision is final
Tuesday 22 September	NRO provides Regions with contact details to invite candidates to hustings

*Maximum 3 hustings per Region – No branch hustings. The first hustings held in each Region will be deemed as the Regional Hustings and will be filmed and loaded onto the GMB website (Hustings Period – 22 September to 11 November)*

*During the hustings period nationally sent tweets, text messages and emails will be issued solely for the purpose of providing factual information to members on locations and dates of hustings meetings.*

By Thursday 24 September	NRO supplies candidates' names, personal details, photo, the election address of up to 1000 words and list of nominating branches to independent scrutineer. Candidates details uploaded to General Secretary page on website.
Up to Thursday 15 October	Printing and distribution of voting packs / Last date for despatch of ballot packs.
Wednesday 21 October	Last date for ballot packs to reach members
Wednesday 21 October – Wednesday 11 November	3-week voting period
Wednesday 11 November	Close of Voting
Wednesday 11 November – Thursday 12 November	Witnessed count at Independent Scrutineers, if requested by candidates
Thursday 12 November	Result Announced Independent Scrutineer report to be uploaded to GMB website

**Subject to Congress 2018 approval the ERWP will be re-convened to review election by-laws for CEC endorsement, including deadlines for financial returns against the election budget, breaches of by-laws leading to disqualification, and determine criteria for eligibility to seek nominations which needs to focus on job description experience without shutting out lay member nominees. The Union's Data Protection Officer will be consulted in respect of safeguarding the Union's data during an election period.**

## **PRESIDENT / VICE-PRESIDENT ELECTIONS**

### **President Election – Congress 2018**

Following a question raised at an ERWP meeting on whether the current rulebook election procedure for GMB President elections was correct, legal opinion was sought. That legal opinion advised that elections of President and Vice-President should satisfy the provisions of the TULR(C) Act 1992, and in order to satisfy TULR(C) Act 1992, if to be elected by Congress, only members of the Central Executive Council (CEC) would be eligible for election as President or Vice-President.

Legal advice received demonstrated ambiguity in our current rulebook which requires amendment by Congress to clarify this point that only CEC members would be eligible to stand for election as President or Vice-President, or hold the office of President or Vice-President.

Further advice clarified that provided this rule clarification is endorsed by Congress, it will have instant effect in relation to the election of President at Congress 2018. Any nominees who are not CEC members would then be ruled out.

Following the sad death of Mary Turner, and in line with rule 12.4 the Vice-President Malcolm Sage has assumed the Presidency until the next Congress. Malcolm has indicated he will not seek election as President, but will continue as Vice-President to which he was elected by Congress 2017 for a four-year term of office. Therefore an election for President will be held at Congress 2018.

In order to maintain the synchronicity of the timing of elections for President and Vice-President the President elected by Congress 2018 will serve a three year term of office.

In accordance with Rule 12.3 nominations must be received by the General Secretary by the Monday of the week before Congress i.e. by Monday 28 May 2018

The rulebook is completely silent on the nomination process, however traditionally nominations have been received following pre-Congress delegation meetings or from Regional Committees or Regional Councils.

Because it is important that the President and Vice-President have the confidence of the Central Executive Council, the members of the CEC, in attendance at Congress, should also have the right to vote in these elections at Congress.

In line with Standing Orders Committee Report No.1 the following procedure will be followed at Congress 2018:

In the event of a contested election of President and/or Vice-President of the Union, the Committee recommends the following procedure:

The General Secretary should announce the names of the candidates to Congress at the close of business on the afternoon of Monday 4 June.

On Tuesday 5 June each candidate will be entitled to make an election address to Congress, prior to the distribution of Ballot papers. The number of minutes allowed for an election address will be established by the Standing Orders Committee.

Ballot papers will be prepared under the supervision of the Standing Orders Committee. At 10.00 am on the morning of Tuesday 5 June, the General Member Auditors will deliver to each Regional Secretary the envelope containing the ballot papers for lay delegates of the Region, and will deliver to the General Secretary the envelope containing the ballot papers for Central Executive Council members. Other non-voting delegates are not entitled to vote in this election. The Regional Secretary will issue a ballot paper to each delegate entitled to vote. The General Secretary, via the Executive Officer, will issue a ballot paper to each Central Executive Council member entitled to vote.

If any delegate arrives late, his/her Regional Secretary should accompany the delegate to the General Member Auditors and request a ballot paper. If any Central Executive Council member arrives late the Executive Officer should accompany the Central Executive Council member to the General Member Auditors and request a ballot paper.

Each delegate and Central Executive Council member is entitled to place their ballot paper in one of the ballot boxes at the front of the hall. Tellers are *not* responsible for collecting ballot papers in this election.

Voting will close at 2.30 p.m. on Tuesday 5 June, at which time the General Member Auditors will take the ballot boxes and count the votes. They should report the result to Congress before the end of the afternoon Session on the same day.

### **Rule Amendments**

The ERWP therefore recommends to Congress 2018 to adopt the following CEC Rule Amendments - CECRA2, 3, 4, 5, and 6 - to take effect immediately upon the Congress decision on Monday 4 June 2018, and to apply to any election of President to be held by Congress 2018.

The ERWP further recommends that rule A3.3 is amended in order to maintain the synchronicity of the timings for elections of Section National Presidents by Section National Conferences with the election cycle outlined in rule A3.3 – CECRA8.

***[Line numbering refers to rules as printed in the GMB Rulebook]***

#### **CECRA2**

Rule 8. Clause 8,  
Line 8

After “• General Member Auditors” insert: “Notwithstanding this clause, all members of the Central Executive Council attending Congress will have the right to vote in elections for the President and the Vice-President.”

Clause to read:

8 The following will take part in the Congress and will have the right to speak but not to vote.

- Central Executive Council members
- The general secretary and treasurer
- Regional secretaries
- Section national secretaries
- National industrial officers
- General member auditors

Notwithstanding this clause, all members of the Central Executive Council attending Congress will have the right to vote in elections for the President and the Vice-President.

#### **CECRA3**

Rule 12, Clause 1  
Line 2

Delete "Congress elected in line with rule 8.4 for that year, and from the members of"

Line 6:

After "their four year term of office" insert: "With effect from and including Congress 2018 in the event an election is required at Congress in an intervening year to fill a casual vacancy, it shall be from among the members of the Central Executive Council and the president then elected will serve the balance of the period of office until the next election is due in line with this rule. Nominations for president will be made by a regional committee, a regional council or a regional pre-Congress delegation meeting."

After Rule 12 Clause 1, insert new clause 1a:

1a The president shall vacate office if they are no longer an elected member of the Central Executive Council.

Clause to read:

1 The president will be elected in 2005 and at every fourth Ordinary Congress from then on, from among the members of the Central Executive Council. The president will hold office for four years, chair the Congress after that at which they are elected and be eligible to be nominated and re-elected after their four-year term of office. With effect from and including Congress 2018 in the event an election is required at Congress in an intervening year to fill a casual vacancy, it shall be from among the members of the Central Executive Council and the president then elected will serve the balance of the period of office until the next election is due in line with this rule. Nominations for president will be made by a regional committee, a regional council or a regional pre-Congress delegation meeting. During their term of office, the president will chair all meetings of the Central Executive Council and other union meetings the Central Executive Council may hold. They will also:

- be responsible for making sure Congress carries out its business in a proper way;
- sign the minutes (the general secretary and treasurer will also do this);
- make sure all members of Congress keeps to these rules; and
- go to the TUC and Labour Party Conferences, and other conferences as appropriate.

1a The president shall vacate office if they are no longer an elected member of the Central Executive Council

#### **CECRA4**

Rule 13, Clause 1

Line 2

Delete: "Congress elected in line with rule 8.4 for that year, and from members of"

Line 4:

After "They will hold office for four years." Insert: "Nominations for vice-president will be made by a regional committee, a regional council or a regional pre-Congress delegation meeting."

Line 6:

After "hold office until the next Congress" insert: "With effect from and including Congress 2018 in the event an election is required at Congress in an intervening year to fill a casual vacancy, it shall be from among the members of the Central Executive Council, and the vice-president then elected will serve the balance of the period of office until the next election is due in line with this rule."

Clause to read:

1 The vice-president will be elected in 2005, and at every fourth Ordinary Congress from then on, from among the members of the Central Executive Council. They will hold office for four years. Nominations for vice-president will be made by a regional committee, a regional council or a regional pre-Congress delegation meeting. In the event of a casual vacancy the Central Executive Council will appoint a vice-president to hold office until the next Congress. With effect from and including Congress 2018 in the event an election is required at Congress in an intervening year to fill a casual vacancy, it shall be from among the members of the Central Executive Council, and the vice-president then elected will serve the balance of the period of office until the next election is due in line with this rule. If the president is absent from a meeting of the Central Executive Council, the vice-president will chair the meeting and be responsible for making sure business is carried out in a proper way.

#### **CECRA5**

After rule 13 Clause 1, insert new clause 1a:

1a The vice-president shall vacate office if they are no longer an elected member of the Central Executive Council.

#### **CECRA6**

Rule 13, Clause 2

Line 2

Insert "by"

Clause to read:

2 The general secretary must receive all nominations to elect a vice-president by the Monday of the week before Congress.

#### **CECRA7**

Rule 15

Insert New clause 2a

New clause to read

"2a The Central Executive Council may remove wording from a personal statement of a potential nominee, to be published in accordance with by-laws made under this rule by GMB that is deemed to be untrue, obscene, discriminatory, defamatory or otherwise unlawful. The decision of the Central Executive Council will be final and Rule 59 shall not apply to any such decision. For the avoidance of doubt this rule does not apply to the election address of a candidate to accompany the voting paper

#### **CECRA8**

Rule A3.3

Line 7

Insert: "In the event an election is required to fill a casual vacancy at an intervening Section Conference the section national president then elected will serve the balance of the period of office until the next election is due in line with this rule."

Rule A3.3 to read:

3 A section national president will be elected in 2008 and at every second Section Conference from then on, from among the members of the Section Conference elected in line with rule A3.2 for that year, and from the members of the Section National Committee. The section president will hold office for four years, chair the Section Conference after that at which they are elected and be eligible to be nominated and re-elected after their four-year term of office. In the event an election is required to fill a casual vacancy at an intervening Section Conference the section national president then elected will serve the balance of the period of office until the next election is due in line with this rule. During their term of office the section president will chair all meetings of the Section National Committee.