



UNISON

ELECTION OF GENERAL SECRETARY 2015

RETURNING OFFICER'S REPORT

February 2016

When referencing this report we request that the Returning Officer is always referred to as Electoral Reform Services Limited. Any decisions or recommendation made in this report are the opinion of the company and should not be referenced to any individual employee of Electoral Reform Services Limited.

Any correspondence relating to this report should be addressed to:-The Returning Officer, The Election Centre, 33 Clarendon Road, London, N8 0NW or e-mailed to unison@electoralreform.co.uk.

Electoral Reform Services Ltd is appointed Independent Scrutineer and Returning Officer for the election for the UNISON General Secretary 2015.

1. Role and Responsibilities of the Returning Officer

The role and responsibilities of the returning officer can be found in the UNISON Rule Book and in the Election Procedures that apply to this election. Specifically, they provide that:-

6) The returning officer will carry out the role of a scrutineer and carry out the duties set out in Section 49 of the Trade Union and Labour Relations (Consolidation) Act 1992. They will be responsible for storing and distributing voting papers and counting votes.

18) At the end of the nomination period, the returning officer will decide if nominations are valid. If the returning officer decides that the nomination is invalid, the nominating body will be told why it is invalid

23) At the end of the nomination period, as laid out in the timetable, the returning officer will decide whether candidates are eligible to stand in this election. If the returning officer decides that the nominated candidate is not eligible to stand, the candidate will be told why they are not eligible.

24) Candidates will receive an e-mail or letter, no later than the date set out in the timetable, to confirm whether or not they are eligible to stand in the election, as decided by the returning officer.

26) Appeals must be sent to:

The Returning Officer, Electoral Reform Services, The Election Centre, 33 Clarendon Road, London, N8 0NW

27) The returning officer will make a final decision on the candidate's eligibility and the nomination validity by no later than the date set out in the timetable.

54) If you want to make a complaint about the fairness of the election, or how the election has been carried out, you must write to the returning officer at Electoral Reform Services (at the address below) by no later than the deadline set out in the election timetable. You should include any documents that support your complaint.

55) The returning officer will decide whether a complaint is valid. If they are not satisfied that the election meets the requirements of the law and our rule book, they have the right (if they consider it reasonable) to ask for all or part of the election to be held again.

It should be noted that whilst the returning officer may comment on the procedures governing the election and the substance of complaints that are brought to their attention the returning officer does not have the right to sanction a member, candidate or nominating body. This right rests, in our view correctly, with the elected executive of the union.

2. Result of Voting

In accordance with the requirements of the Trade Union and Labour Relations (Consolidation) Act 1992 the Independent Scrutineers Report containing details of the votes cast in the election was issued to UNISON on the 17th December. A copy of the Independent Scrutineers Report forms Appendix 1 to this report. The Independent Scrutineers Report was accompanied by a statement from the Returning Officer and this forms Appendix 2 to this report.

3. Complaints to the Returning Officer

The returning officer received 157 complaints from candidates and their representatives and other members by the relevant deadline (5pm, 11th December 2015). The returning officer also received a number of approaches from members and candidates relating to the conduct of the election that did not amount to complaints. These were noted by the returning officer but are not specifically referred to in this report.

Many of the grounds and the facts of the complaints are common and where possible for the purpose of this report we have grouped these complaints.

A full list of the complaints can be found in Appendix 4 to this report.

3.1. Complaint about guidance issued by UNISON to nominating bodies relating to Paragraph 51(a)

Paragraph 51 of the Election Procedures provides:

“Our funds, property or resources cannot be used to support campaigning for any particular candidate, except in the following circumstances.

- a) If a nominating body wants to tell their members about the nominations through their established methods of communication (for example, branch newsletters and social media resources)
- b) To hold meetings (as explained in these procedures)
- c) To provide candidates with a copy of the contact details for all nominating bodies (as explained in these procedures).

‘Funds, property or resources’ include (but are not limited to):

- funds
- secretarial, administrative and office facilities
- electronic information
- UNISON social media
- union stationery
- phone calls and text messages at the union’s expense
- the paid time of branch staff, and
- expenses for travel and subsistence (food and drink). “

On the 21st October the returning officer provided guidance to the union relating to the interpretation of Paragraph 51(a). The guidance was circulated to nominating bodies by UNISON and published on the union’s website. The guidance can be found in Appendix 3.

Following the publication of the guidance a complaint was received from a member suggesting that our interpretation was incorrect and that Paragraph 51A does not permit a branch or other nominating body to inform its members of more than the name of their nominee.

The complaint is deemed invalid. The subject matter of the complaint was fully considered by the returning officer prior to the provision of the guidance to the union and our considerations on this matter are contained therein.

3.2. Complaints about branches relating to Paragraph 51 of the Election Procedures - use of Unison resources

The complaints received about branches relating to Paragraph 51 are as follows:-

- use of greater than 100 words when telling members about the nominations. Eight complaints received. All complaints deemed valid.

- inclusion of links to social media and/or candidate's election websites
Seven complaints received. All complaints deemed valid.
- use of UNISON social media (twitter) accounts by nominating bodies in support of candidates.
Seven complaints received. All complaints deemed valid.
- use of UNISON resources (branch website) to advise members about nominations by other nominating bodies.
Three complaints received. All complaints deemed valid.
- use of other UNISON resources to support campaigning for a particular candidate.
Fourteen complaints received. Four complaints deemed valid. Ten complaints deemed invalid due to insufficient evidence provided or due to other evidence received.

3.3. Complaint about a branch relating to Paragraph 48 of the Election Procedures - invitations to candidates to speak at meetings

A complaint was received regarding the invitation by a branch to one candidate to the opening of the branch office. The complaint was deemed invalid as there is no evidence that the invite was for a meeting (or social event) during which any candidate's involvement in the election was to be discussed.

3.4. Complaints about UNISON publications and website relating to Paragraph 51 of the Election Procedures - use of UNISON resources

Four complaints were received regarding the use of UNISON resources, specifically the union's website, U digital and UNISON Focus to support campaigning for a particular candidate. The complaints were deemed invalid as the specific incidents highlighted by the complainants were deemed to be news reports on the activity of an officer in the ordinary course of their duties that are routinely reported in this manner.

3.5. Complaints about candidates relating to Paragraph 45 - use of the contact details of nominating bodies supplied to candidates

Seven complaints were received regarding candidates use of the contact details of nominating bodies for campaigning after the close of nominations. The complainants cited Paragraph 45 in their complaints.

Paragraph 45 provides:

"For the purposes of looking for nominations, a candidate can ask the Member Liaison Unit for a copy of the contact details for all nominating bodies. We shall provide this free of charge. Any action the candidate later takes to look for nominations is their responsibility at their expense."

The complaints were deemed invalid. The use of the contact details for all nominating bodies is deemed permissible to support campaigning by Paragraph 51c (detailed above). The inclusion of the words "except in the following circumstances" means that the activities under a, b, and c of Paragraph 51 are permissible. Rule 51c means that the candidates are able to be provided with details of all nominating bodies if they request it and use that information.

3.6. Complaints about the presentation of candidate's details by the union

A complaint was received regarding the absence of a candidate's job title from the union website and a complaint was received regarding the ordering in alphabetical order of the candidate's names on the voting paper.

Both complaints were deemed invalid. The complainant had not provided details of their job title on their candidate form (although the union did amend the website to include the job title at the candidates request). The order of the candidate's names on the voting paper is a matter for the administration of the union and it is our opinion that it is not unfair if they are listed in alphabetical order.

3.7. Complaints about branches regarding procedures at nomination meetings

Four complaints were received alleging breaches of the procedures followed at branch nomination meetings. Three complaints were concerned with the quorum of the meetings the fourth complaint related to procedural aspects of the conduct of the meeting.

All four complaints were deemed invalid. No evidence was produced to substantiate the complaints regarding the number of members at the meetings and after further investigation it was found that the procedures followed at the other meeting (4th complaint) were in accordance with published guidelines.

3.8. Complaint regarding the published list of nominations.

Two complaints were received that the name of a nominating body who had made a valid nomination had been omitted from the list of nominating bodies published in the printed election material and on the union's website.

Both complaints were deemed valid. At the request of the returning officer the administration of the union publicised the omission in union publications and on the union website.

3.9. Complaint about UNISON staff in Greater London Region - use of UNISON Resources

83 complaints were received regarding staff in the Greater London Region, specifically that UNISON staff during working time were undertaking campaigning activities. The basis of all these complaints was a recording and transcript of a meeting of UNISON staff that took place at the Greater London UNISON offices at 2pm on 21st October 2015.

Due to the potential implications for the UNISON staff who are the subject of this complaint these complaints have been investigated in accordance with the union's internal employee policies and procedures. The complaints are, as at the date of this report, the subject of an ongoing investigation by the union. This investigation has involved the interviewing of complainants and UNISON staff by Roger McKenzie, Assistant General Secretary. Mr McKenzie will be making his report on this matter to the union in due course. We met with Mr McKenzie and discussed these complaints and his investigation. Mr McKenzie has confirmed that the fact that the meeting took place as detailed in the complaints is not in dispute. He also confirmed that during the course of his investigations, that have included the offer of meetings with representatives of all branches in the Greater London Region, he has not been presented with any further complaints relating to UNISON staff in or outside of Greater London nor has he received any evidence that any of the alleged activities were undertaken at the request or to the knowledge of Dave Prentis.

In any election the returning officer is concerned with the impact of any potential breach of rule or electoral procedure on the election result. These complaints suggest that undue influence has been placed on the nomination process of branches resulting in nominations being made for Dave Prentis that otherwise may not have been made in the Greater London Region. Further, that UNISON resources in Greater London have also been used to unfairly influence and support the campaign of Dave Prentis.

To assess the impact of the matters complained of on the result of the ballot we have conducted an analysis of the votes cast by members in the Greater London Region in relation to the overall ballot result.

Our analysis identified that of the 134,014 valid votes cast in the ballot for UNISON General Secretary, 13,629 of these were cast by members in the Greater London Region (representing 10.2% of the votes cast). The result of votes cast by members in the Greater London Region and the overall result of the ballot is as follows:-

	BANNISTER	BURGESS	PRENTIS	WAKEFIELD
GL Votes	1,494	2,906	6,309	2,920
GL %	11.0%	21.3%	46.3%	21.4%
All Votes	16,853	15,573	66,155	35,433
All %	12.6%	11.6%	49.4%	26.4%

Further analysis reveals that of the 12 regions the percentage vote for Dave Prentis in the Greater London Region is the 2nd lowest percentage votes he received by region.

These complaints involve serious allegations against UNISON staff and we welcome the union's response and the steps that they took immediately in response to the allegations and subsequently. It would be inappropriate whilst investigations are continuing and with the possibility of further internal procedures should these be recommended at the conclusion of the investigation for us to make a decision as to the validity of these complaints. To do so could undermine and prejudice the outcome of the union's investigations. We consider these complaints further in our conclusion below. We can advise that we are satisfied that there is no evidence that Dave Prentis requested nor had knowledge of the alleged actions of UNISON staff.

3.10. Complaints about regional councils and national service group executives regarding communications about nominations

Seven complaints were received from members regarding the use of UNISON resources by regional councils and national service group executives to advise members of nominations in breach of Paragraph 51. It was submitted by the complainants that emails issued by these nominating bodies regarding nominations amounted to breaches on some or all of the following grounds:-

1. the information provided went beyond that allowable by Paragraph 51
2. the recipients were not members of the nominating bodies
3. the method of communication was not an established method of communication by the nominating body to the members they represent

As detailed elsewhere in this report the returning officer's view on the first ground was contained in the guidance provided to the union on 21st October 2015.

Regional councils and national service group executives are nominating bodies as defined in the procedures and, along with branches, are, in terms of Paragraph 51, specifically permitted to "tell their members about the nominations". It was asserted by a complainant that national service group executives and regional councils do not have members other than the elected members of the relevant nominating body. Therefore for these bodies to e-mail all members in their region or members of the service group amounts to a breach of Paragraph 51.

We understand the argument made by the complainant and the application of a strict interpretation of terminology to the procedures.

Paragraphs 44 to 51 attempt to provide a structure for campaigning that limits the use of UNISON resources to specified activities whilst accepting that it is important that members should have the opportunity to hear directly from the candidates and also learn about who the different bodies of the union are nominating. We do not believe that it was the intent of the National Executive Council to prevent the members these bodies represent from learning of the decisions being made by their elected members in relation to an election. It seems to us entirely appropriate that members should be aware who the different constituent parts of the union are nominating to enable them to make a fully informed decision when voting. Therefore we do not accept that the purpose of Paragraph 51a is to restrict regional councils, national service group executives or indeed the National Executive Council from only communicating with the elected members of the particular nominating body.

Finally, in all instances where the method of communication was the subject of a complaint sufficient evidence was provided to us to illustrate that the method of communication was an established method of communication of the relevant nominating body.

All complaints were deemed invalid.

3.11. Complaint regarding a regional council declining to e-mail region members

A complaint was received from a member regarding the administration of the South East Region declining to e-mail members in the region advising them of the candidate nominated by the region. The reason provided by the administration was that e-mail was not an established method of communication of the region. The region did allow the inclusion of information about the region's nomination in a weekly email which was distributed to all branches and activists. Evidence was produced by the complainant of previous e-mails being sent to all members by the region.

It is disappointing that a region will decline to e-mail its members when there is evidence to suggest that it is, arguably, an established method of communication used by the region. However, the decision to "tell their members" is a matter for the nominating body to decide and the rules do not require them to do so.

Complaint deemed invalid.

3.12. Complaints where no evidence to support the breach was provided.

Complaint received regarding the use of personal Facebook accounts by union officers - no evidence provided by complainant that actions were in breach of the procedures. Complaint deemed invalid.

Complaint of undue influence by branches to support a particular candidate - no evidence provided by complainant. Complaint deemed invalid.

Complaint of external influence of political party - no evidence provide by complainant. Complaint deemed invalid.

3.13. Complaints regarding allegations of harassment of branch staff by regional representatives.

Complaints were received alleging that branch officials of the union were subjected to harassment and intimidation by regional officials. Reports of such activities are a serious matter and these complaints are investigated on our behalf by the union.

A complaint was received regarding the actions of regional officials in Northern Ireland. The investigation into this complaint has been completed and on the basis of the conclusions of the report the complaint deemed invalid.

Investigations into three other complaints of this nature are ongoing. It would, in our opinion, be inappropriate for us to make any decision on these individual complaints as the outcome of these investigations could be the subject of further internal processes. We consider these complaints further in our conclusion below.

4. Conclusion

It should clearly be a matter of concern for the union that the Election of General Secretary 2015 resulted in a significantly higher number of complaints being made to the returning officer than in previous elections.

The matter which resulted in the most complaints was in relation to UNISON staff in the Greater London Region, currently the subject of ongoing investigations within the union.

There were a number of other complaints reported to the returning officer relating to a range of matters detailed in this report. Thirty of these complaints were deemed to be breaches of the election procedures. Three other complaints remain the subject of ongoing investigations within the union.

We have carefully considered how these breaches and potential breaches may, individually and collectively, have influenced the result of the election. As part of our considerations we analysed the votes cast by members of each nominating body that was the subject of the complaints and how they compare to the votes cast by members of other nominating bodies as well as their impact on the overall election result.

Whilst undoubtedly the number and nature of the complaints has undermined some members confidence in the integrity of the election, particular the serious nature of the complaints in the Greater London Region, there is minimal evidence to suggest that the reported breaches influenced the voting intentions of members and there is no evidence to suggest these breaches unfairly influenced the overall ballot result.

We would have preferred that all the investigations in relation to complaints had been concluded prior to the issuing of this report. However, we have been provided with sufficient information to enable us to determine the extent and potential impact of the issues that are the subject matter of these ongoing investigations. It is now two months since the close of voting and we feel that any further delay in the issuing of this report would not be beneficial to the union, its members and the candidates. We are satisfied that any actions that remain the subject of these ongoing complaints, whether or not these actions are in breach of the procedures, have not influenced the voting intentions of members such that the outcome of the election would have been different were it not for these actions - i.e. that a different candidate would have received the most votes.

It should also be emphasised that the returning officer has not at any stage been presented with any evidence that suggests that any candidates were directly involved in, or had knowledge of any of the activities that were the subject of the complaints.

Accordingly whilst there are clearly some matters in relation to the election that are unsatisfactory we do not consider it reasonable to ask for all or part of the election to be held again.

5. Recommendations

We make the following observations and recommendations in relation to the election.

Member Participation

The turnout of members voting in the election was just 9.8%. We recognise that the union did try to promote and publicise the election and that democratic disengagement is commonplace in many membership organisations. However, we recommend that the union

undertakes a review of members' engagement in the union's election processes with the aim of addressing the continual decline in participation.

Campaigning

It is evident that there is significant misunderstanding as to the meaning and application of the rules for campaigning as set out in the current election procedures. The union should consider, not only how these rules can be made clearer for members (particularly Branch Officers) and staff. Consideration should be given to providing Q&A documents and briefing notes that provide practical examples of the do's and don'ts.

Further, the increase of social media by candidates and nominating bodies needs to be considered and practically reflected in the election procedures.

**Electoral Reform Services Limited
Independent Scrutineer and Returning Officer**

Appendix 1

17 December 2015

UNISON - ELECTION OF GENERAL SECRETARY

Our report of voting for the above election which closed at 5pm on Friday 4 December 2015 is as follows:

Number of eligible voters:	1,372,827
Total number of votes cast:	134,515
Turnout:	9.8%
Number of votes found to be invalid:	501
Total number of valid votes to be counted:	134,014

Result

BANNISTER, Roger	16,853
BURGESS, John	15,573
PRENTIS, Dave	66,155
WAKEFIELD, Heather	35,433

As Scrutineers appointed in accordance with Section 49 of the Trade Union and Labour Relations (Consolidation) Act 1992 (as amended), we are satisfied as to each of the matters specified in subsection 52(2) with regard to the election. The following points should be noted:

- a) The person appointed under section 51A to carry out the storage and counting of voting papers was Electoral Reform Services Limited.
- b) The person appointed under section 51A to carry out the distribution of voting papers was Electoral Reform Services Limited.
- c) A copy of the register of voters (as at the relevant date) was examined in accordance with section 49(3). The examination took place at our own instance and did not reveal any matter that should be brought to the attention of the trade union.

We would draw your attention to sections 52(4), 52(5), and 52(6). Section 52(4) requires that a copy of this report be published and made available to all members of the union within a three month period from today. This does not, however, mean that every member has to be notified individually.

Yours sincerely

Electoral Reform Services

Appendix 2

17th December 2015

UNISON GENERAL SECRETARY 2015 ELECTION

Statement by the Returning Officer and Independent Scrutineer, Electoral Reform Services

Electoral Reform Services is appointed as Returning Officer and Independent Scrutineer for the Unison General Secretary 2015 Election.

This dual role requires Electoral Reform Services to provide two reports to the union. The Returning Officers Report encompasses all matters relating to the election, the Independent Scrutineers report is restricted to only those matters relating to the legislative requirements applying to the election.

Returning Officers Report

We can advise that there are a number of ongoing investigations into complaints raised with us by members that include allegations of a serious nature that relate to alleged breaches of rules and/or the election procedures. We have therefore advised UNISON that, until these investigations have been concluded and we have been able to fully consider the information we receive from the union and through our own investigations in relation to these complaints it would be inappropriate for us to provide the union with our Returning Officers Report.

We are satisfied that the investigations into these complaints are proceeding in a timely manner and we currently expect to be able to provide our report in the week commencing 11th January 2016.

Independent Scrutineers Report

After careful consideration of all matters brought to our attention relating to the relevant legal requirements of the election we have advised Unison that we have been able to conclude our role as Independent Scrutineer for the General Secretary 2015 Election.

In that regard, it should be noted that Section 49 (c) of the Trade Union and Labour Relations (Consolidation) Act 1992 requires the Independent Scrutineer to make their report to the trade union "as soon as reasonably practicable after the last date for the return of voting papers".

Therefore, in accordance with the legislative requirements and the election timetable our Scrutineer's Report on the election has been provided to Unison.

Electoral Reform Services

Appendix 3

17th December 2015

UNISON GENERAL SECRETARY 2015 ELECTION

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Electoral Reform Services

Appendix 4 - Complaints to the Returning Officer

See attached document