

## **Royal College of Nursing Response to Department for Business and Trade Consultation on Make Work Pay: Draft Code of Practice on Electronic and Workplace Balloting for Statutory Union Ballots**

### **About the Royal College of Nursing**

With a membership of over half a million registered nurses, midwives, health visitors, nursing students, health care assistants and nurse cadets, the Royal College of Nursing (RCN) is the voice of nursing across the UK and the largest professional union of nursing staff in the world. RCN members work in a variety of hospital and community settings in the NHS and the independent sector.

The RCN promotes patient and nursing interests on a wide range of issues by working closely with the Government, the UK parliaments and other national and European political institutions, trade unions, professional bodies and voluntary organisations.

### **About you**

Please indicate whether you are responding as:

*A trade union or staff association (please specify): The Royal College of Nursing*

### **Terminology**

#### **Q1 – Are there any definitions that are unclear?**

Yes No ☐ Not sure

Add comments/rationale here (optional)

*The Code's definitions are sufficiently clear for practitioners and members.  
RCN favours keeping those terms as written and signposting them in union guidance to members. Where interpretation matters the later sections reinforce the meaning with process controls. Taken together, the text is workable and internally consistent for day-to-day application in statutory ballots*

#### **Q2 – Are there any other terms you would like to see defined?**

Yes ☐ No ☐ Not sure

Add comments/rationale here (optional)

*Clarify 'hostile actors' with non-exhaustive examples (e.g. state-aligned, criminal, hacktivist), aligning with current UK election cyber-risk framing. Clearer terms will support proportionate geo-blocking and monitoring strategies without over-engineering controls or deterring participation. This is a low-cost change that will raise consistency across ballots and providers.*

## **Responsibilities and requirements**

### Responsible person

**Q3 – Is the detail of who the responsible person is for each ballot method clear?**

**Yes with comment**   ☐ No   ☐ Not sure

Add comments/rationale here (optional)

*To strengthen accountability, RCN recommends unions recording a short-written rationale against the factors and criteria. That note would aid internal assurance, member communication, and any subsequent scrutiny by CAC or courts. It also supports transparent balancing of inclusivity (coverage, accessibility) and security (platform controls) when selecting pure, hybrid, workplace or mixed methods.*

### Trade unions

Lists duties including maintaining accurate voter contact details, appointing qualified scrutineers, ensuring GDPR compliance, providing correct data, and covering ballot costs.

**Q4 – Are the details of the responsibilities of the Trade Unions clear?**

Yes   ☒ **No**   ☐ Not sure

Add comments/rationale here (optional)

*RCN welcomes most of the explicit safeguards around e-balloting communications (maintaining compliant personal contact routes) and clear privacy advice to members. These measures protect the secrecy of the vote, reduce disputes and increase member confidence. The Code's approach complements the existing industrial action framework and supports good industrial relations by making roles and boundaries explicit without adding unnecessary friction.*

*However, we oppose the obligation on trade unions to discourage members from voting on employer/wifi devices. We have concerns about the impact that this would have on workplace organising and subsequently turnout on any subsequent ballot.*

**Q5 – Are there any further responsibilities that should be included for the Trade Unions?**

Yes ☐ No ☐ Not sure

Add comments/rationale here (optional)

*Experience from postal ballots shows contact errors depress turnout and raise challenges and risk. Proactive data cleansing improves inclusivity and fairness at minimal cost. RCN also recommends member education on not forwarding access codes and on recognising official messages, which are simple steps that further protect secrecy and integrity.*

Scrutineers

**Q6 – Are the details of the responsibilities of the Scrutineers clear?**

Yes with comment ☐ No ☐ Not sure

Add comments/rationale here (optional)

*To close the loop on incident handling, RCN recommends time-bound notification to the commissioning party (and CAC where relevant) for any security or availability incident affecting eligibility, secrecy, or counting. This mirrors best practice in election administration and builds trust without over-burdening providers.*

**Q7 – Are there any further responsibilities that should be included for Scrutineers?**

☐ Yes No ☐ Not sure

Employers

Clarifies employers must not interfere in electronic balloting, cannot monitor employee participation, must grant and respect access agreements for workplace ballots, and maintain neutrality.

**Q8 – Are the details of the responsibilities of the Employers clear?**

Yes ☐ No ☐ Not sure

Add comments/rationale here (optional)

*The Code rightly confirms that employers will have no involvement in e-balloting and should avoid monitoring that could identify participants. This protects members from perceived or actual pressure and preserves secrecy. Clear limits on employer roles reduces conflict and help parties focus on robust, independent balloting led by scrutineers.*

**Q9 – Are there any further responsibilities that should be included for the Employers?**

Yes ☐ No ☐ Not sure

Add comments/rationale here (optional)

*For workplace balloting, employers should designate senior contacts and confirm practical privacy steps in writing. RCN also proposes cross-referencing the CAC Code on Access and Unfair Practices to reinforce responsible campaigning and dispute resolution during the access period. These additions would further protect privacy and confidence.*

*Employers should not prevent the use of any employer-provided internet during a statutory union ballot for the purpose of casting a ballot vote electronically. This responsibility extends to, in the case of seafarers or residential workers (those working in residential care and defence nurses living in barracks), the owner of the vessel or property on/in the eligible voter's place of work.*

**Central Arbitration Committee (CAC)****Q10 – Are the details of the responsibilities of the Central Arbitration Committee (CAC) clear?**

Yes with comment ☐ No ☐ Not sure

Add comments/rationale here (optional)

*RCN recommends the CAC publish short anonymised case notes on hybrid determinations and issues encountered, improving predictability for future ballots. This is consistent with CAC practice of issuing guidance and supports proportional, evidence-based decision-making while respecting parties' confidentiality.*

**Q11 – Are there any further responsibilities that should be included for the Central Arbitration Committee (CAC)?**

Yes ☐ No ☐ Not sure

Add comments/rationale here (optional)

*Beyond appointing a permitted scrutineer and data-sharing assurance, a public (or member-facing) register of hybrid determinations would lift transparency and learning across sectors. Where confidentiality is needed, summaries can be anonymised. This small step would help Responsible Persons benchmark choices and drive consistency.*

**Electronic balloting requirements**

Scrutineer Standards

**Q12 – Are the standards required of scrutineers for conducting electronic balloting clear?**

Yes ☐ No ☐ Not sure

Add comments/rationale here (optional)

*RCN supports keeping Cyber Essentials Plus standards current with National Cyber Security Centre revisions and making scope explicit. These anchors provider assurance in a recognised UK standard. It also complements the Code's separate requirements on encryption, databases and audit.*

Voter Access and Distribution: Pure electronic balloting

**Q13 – Are the provisions for distributing pure electronic ballots to eligible voters clear?**

Yes ☒ No ☐ Not sure

Add comments/rationale here (optional)

*Distribution of e-ballots should include personal and work email accounts, with members opting for a preference for distribution. Giving members that choice is an important workaround that deals with digital literacy issues.*

*Yes, the running of pre-ballot contact checks to minimise bounces and ensure inclusivity, which would include fallback to hybrid or postal where compliant digital contact is*

unavailable. This keeps participation high while maintaining secrecy.

#### Voter Access and Distribution: Hybrid electronic balloting

**Q14 – Are the provisions for distributing hybrid electronic ballots to eligible voters clear?**

**Yes with comment** ☐ No ☐ Not sure

Add comments/rationale here (optional)

*Hybrid provisions combine the reach of postal ballots with the convenience of secure electronic return. They also provide resilience where compliant digital contacts are incomplete. RCN supports hybrid as an inclusive default where necessary, with clear member instructions and scrutineer-controlled re-issue processes to handle access problems without compromising secrecy or integrity.*

#### Ballot Requirements

Ensures compliance with statutory ballot paper rules, secrecy, spoil-vote option, voter information requirements, and secure generation of electronic access.

**Q15 – With respect to electronic balloting, are the requirements for the operation of the virtual ballot clear?**

**Yes with comment** ☐ No ☐ Not sure

Add comments/rationale here (optional)

*RCN supports the inclusion of scrutineer-controlled access methods, statutory ballot content, and clear voter information. For industrial action ballots, this dovetails with TULRCA 1992 s.229 on content. Together, they give members clarity and preserve independence while simplifying the user journey, which should support turnout and reduce errors.*

### Electronic Balloting Platform Requirements, and Cybersecurity: Voter Platform Requirements

**Q16 – Are the voter platform requirements for electronic balloting clear?**

**Yes with comment** ☐ No ☐ Not sure

Add comments/rationale here (optional)

*The platform requirements appropriately stress accessibility, plain-English instructions and strong encryption. RCN supports optional geo-IP restrictions and bot-mitigation for higher-risk ballots, applied proportionately so as not to disenfranchise travelling or overseas members. Even in these circumstances, however, it's essential that fully anonymised voting remains in place. Clear help and support content and scrutineer-run support complete the picture and will improve member confidence.*

**Q17 - Do you agree that encryption should be to the AES256 standard to ensure the confidentiality and integrity of the ballot?**

**Yes with comment** ☐ No ☐ Not sure

Add comments/rationale here (optional)

*Mandating strong encryption is essential to confidentiality and integrity. The Code's expectation that data is encrypted at rest and in transit and that platforms use AES256 or stronger aligns with current good practice. Given the sensitivity of voter data and results, RCN supports this standard, alongside separation of identity and votes, as part of a layered security model managed by independent scrutineers.*

### Electronic Balloting Platform Requirements, and Cybersecurity: Ballot Access Method Requirements

**Q18 – Are the Unique Identifying Number (UIN) requirements clear?**

**Yes with comment** ☐ No ☐ Not sure

Add comments/rationale here (optional)

*The UIN model is clear and appropriate: every voter receives a randomly generated identifier, linked to both user and voter datasets that are stored separately. This enables support and validation while protecting secrecy if any single dataset is compromised. RCN supports making UINs single-use where feasible and ensuring robust generation to resist prediction and maintain security.*

**Q19 – Are the User Database, and Voter Database requirements clear?**

Yes ☐ No ☐ Not sure

Add comments/rationale here (optional)

*Separation of the user and voter databases is pivotal to secrecy, and hosting should meet the Code's integrity and logging expectations. These measures reduce re-identification risk and support post-event verification without revealing how an individual voted.*

**Q20 – Are the provisions for the use of the ballot access method by eligible voters clear?**

Yes with comment ☐ No ☐ Not sure

Add comments/rationale here (optional)

*Provisions on ballot access methods are clear: unique, hard-to-guess credentials, re-issue capability, and optional 2 factor authentication (2FA). RCN supports applying 2FA for higher-risk ballots where the user impact is proportionate. Clear comms on how codes are delivered and what to do if credentials fail will minimise support load and member frustration.*

Ballot Access Vote Requirements

**Q21 – Are the Ballot Access Vote Requirements for electronic balloting clear and understandable?**

Yes ☐ No ☐ Not sure

Add comments/rationale here (optional)

*The Ballot Access Vote Requirements enforce one-person-one-vote, limit eligibility to those entitled, and provide on-screen confirmation with a reference number, without revealing choices. RCN agrees this is a good balance of usability and assurance, reducing disputes and aiding troubleshooting if members later seek help.*



### Database Integrity and Access Controls

**Q22 – Are the controls as specified under the heading Database Integrity and Access Controls clear?**

**Yes with comment** ☐ No ☐ Not sure

Add comments/rationale here (optional)

*Controls for database integrity and access are comprehensive: encryption, secure GDPR-compliant hosting with 24/7 physical/digital monitoring, strict named-user access, and reporting of any capability to change live data. RCN supports adding explicit cloud/supply-chain due diligence as a ‘should’ to reflect evolving risks.*

### Electronic Balloting System Security

**Q23 – Are the requirements regarding the security of the electronic balloting system clear?**

**Yes** ☐ No ☐ Not sure

Add comments/rationale here (optional)

*This section aligns with UK election-security practice that stresses resilience and monitoring throughout the event. RCN supports CHECK-style testing as best practice where proportionate.*

**Q24 – Are the requirements regarding the monitoring of the electronic balloting system clear?**

**Yes with comment** ☐ No ☐ Not sure

Add comments/rationale here (optional)

*RCN recommends adding a pre-ballot independent test to validate controls before go-live. This is consistent with modern assurance approaches and would further reduce outage and integrity risk.*

### Audit Trail and Data Retention

**Q25 – Are the audit requirements to verify the outcome of the ballot clear?**

Yes ☐ No ☐ Not sure

**Q26 – Do you have any other comments to raise about the Electronic Balloting section of the Code of Practice?**

Yes ☐ No ☐ Not sure

Add comments/rationale here (optional)

*RCN supports modernisation to increase participation and reduce costs while retaining postal and hybrid for inclusivity. The Code's layered safeguards mirror UK election good practice and should maintain confidence. We recommend the supplementary guidance suggested above to aid consistent implementation by scrutineers and unions.*

### **Workplace balloting requirements**

#### Scrutineer Standards

**Q27 – Are the standards required of the scrutineers to conduct workplace balloting clear?**

Yes with comment ☐ No ☐ Not sure

Add comments/rationale here (optional)

*The employer must not unreasonably refuse permission to hold a workplace ballot and must respond to the request in writing detailing their reasons as soon as reasonably practicable, with a suggested timeframe of 2 working days.*

*RCN also recommends a short pre-opening checklist (e.g. privacy of room, CCTV off/masked, signage, ballot box seals in place) and a simple incident log template. These are low-effort, high-value additions that mirror physical election good practice and will reassure members voting on site.*

### Ballot Requirements

#### **Q28 – Are the ballot requirements clear?**

Yes ☐ No ☐ Not sure

Add comments/rationale here (optional)

*The scrutineer's possession of unmarked and returned papers throughout, plus post-ballot retention, mirrors the discipline expected in statutory postal ballots and will aid confidence and challenge-readiness if disputes arise.*

#### **Q29 – Are there any further responsibilities that should be included for the parties involved in workplace balloting?**

Yes ☐ No ☐ Not sure

Add comments/rationale here (optional)

*Add a de-escalation protocol if access terms are contested during the ballot window, with reference to the CAC Code on access/unfair practices. A clear path (who convenes, timelines) will reduce disruption and ensure neutrality at the site, especially in complex NHS environments with multiple entrances and shift patterns.*

### Voluntary Access Agreement and Contingency Planning

#### **Q30 – Is there anything else you think the Code should recommend to be included in a voluntary access agreement?**

Yes ☐ No ☐ Not sure

Add comments/rationale here (optional)

*The voluntary access agreement should explicitly cover: cover who pays if access is withdrawn mid-ballot, whether the window is extended, treatment of already-cast votes, and confirmation of CCTV and access controls. These specifics prevent last-minute ambiguity and support member confidence that on-site voting remains private and orderly.*

### Voter Access and Identification

**Q31 – Is there anything else that you think the Code should recommend to be included in the provisions as set out for voter identification?**

**Yes**   ☐ No   ☐ Not sure

Add comments/rationale here (optional)

*RCN supports adding an indicative list of acceptable IDs (e.g., staff ID plus payroll number where appropriate) and reasonable adjustments for those without conventional documentation. This will reduce the risk of turning eligible members away while preserving due diligence by the scrutineer.*

### Site Requirements

**Q32 – Do you consider this section on the requirements on sites used for workplace balloting clear?**

**Yes**   ☐ No   ☐ Not sure

Add comments/rationale here (optional)

*Site requirements are generally clear. RCN suggests including signage/queue-management templates and explicit guidance for any breaks or evacuations, ensuring sealed boxes, secure storage and witnessed handovers. These practical touches will make delivery smoother across varied NHS premises.*

**Q33 – Should the Code include any other recommendations in relation to the requirements set out for each site location to ensure secrecy of the ballot?**

**Yes**   ☐ No   ☐ Not sure

Add comments/rationale here (optional)

*Add explicit no-filming/no-photography rules inside the voting area and require re-sealing and logging of any ballot box openings or moves during pauses. These measures mirror wider election security advice and protect secrecy, particularly in public-facing hospital environments with CCTV and visitors.*

**Q34 – Do you have any other comments to raise about the Workplace Balloting section of the Code of Practice?**

Yes ☐ No ☐ Not sure

Add comments/rationale here (optional)

*Workplace balloting should remain voluntary and conditional on privacy/security. It suits discrete, stable sites but will not fit all NHS services. For dispersed nursing workforces, hybrid and e-balloting provide scale and convenience without compromising independence. RCN therefore views workplace balloting as a complementary option rather than a default.*

**Responsible person – factors and criteria**

**Q35 – Are the requirements of the Responsible Person clear?**

Yes ☐ No ☐ Not sure

Add comments/rationale here (optional)

*RCN supports using a brief decision log that captures inclusivity (coverage, accessibility) and security (assurance, contingency) considerations for each method, improving transparency and learning over time.*

**Q37 – Do you think the criteria specified for the responsible person for pure electronic balloting are clear?**

Yes ☐ No ☐ Not sure

Add comments/rationale here (optional)

*Pure e-balloting criteria - Cyber Essential Plus certification, permitted scrutineer status, inclusive coverage, de-duplication, and legal compliance - are appropriate. Meeting them should maintain integrity while enabling modern, convenient voting for members.*

**Q38 – Are the factors specified for the responsible person for hybrid electronic balloting clear?**

Yes ☐ No ☐ Not sure

Add comments/rationale here (optional)

*Hybrid e-balloting factors mirror pure e-balloting but add resilience for members lacking compliant digital contacts. RCN supports hybrid where coverage gaps remain after data cleansing, ensuring no eligible member is excluded by contact method constraints.*

**Q39 – Do you consider the criteria specified for the responsible person for hybrid electronic balloting are clear?**

Yes ☐ No ☐ Not sure

Add comments/rationale here (optional)

*RCN supports the requirements, including agreeing agreeing on how to treat dual returns (which method takes priority). This clarity limits disputes and preserves member confidence.*

**Q40 – Are the factors specified for the responsible person for workplace balloting clear?**

Yes ☐ No ☐ Not sure

Add comments/rationale here (optional)

*In NHS settings, practical feasibility (secure room, staffing patterns) and neutrality safeguards should be tested early with the scrutineer and employer to avoid on-the-day issues.*

**Q41 – Do you consider the criteria specified for the responsible person for workplace balloting are clear?**

Yes ☐ No ☐ Not sure

Add comments/rationale here (optional)

*RCN supports the workplace criteria: permitted scrutineer, inclusivity (alone or in combination), legal scope (IA ballots only), signed access terms and contingency. Combined, they ensure on-site voting is used only whenever it can genuinely be secret, fair and administratively robust.*

**Q42 – Do you have any other comments to raise about the Responsible Person section of the Code of Practice?**

Yes ☐ No ☐ Not sure

Add comments/rationale here (optional)

*RCN recommends that Responsible Persons publish a short member-facing rationale for the chosen method(s) e.g., ‘hybrid used to maximise inclusion while maintaining security’. This will improve understanding and trust while supporting an audit if challenged.*

**Compliance and enforcement**

Scrutineer Reporting Obligations

**Q43 – Are the additional scrutineer reporting requirements clear?**

Yes ☐ No ☐ Not sure

Add comments/rationale here (optional)

*RCN welcomes the transparency set out in this section. It strengthens confidence while respecting secrecy, and secrecy and complements the audit-trail provisions elsewhere in the Code.*

**Q44 – Do you think the Code should include any other recommendations with respect to the additional requirements in scrutineer reports for ballots conducted with the new permitted methods?**

Yes ☐ No ☐ Not sure

Add comments/rationale here (optional)

*Include a standard security/accessibility incident summary in the scrutineer’s report: outages, suspected interference, mitigations, and any accessibility issues encountered. This concise annex will aid learning and consistency across ballots*

*without disclosing sensitive operational detail.*

**Q45 – Are there any areas in the Code of Practice that you think would benefit from further guidance?**

**Yes** ☐ No ☐ Not sure

Add comments/rationale here (optional)

*Further guidance would help on: accessibility and reasonable adjustments for e-ballots, cloud/supply-chain risk, proportionate geo-blocking for high-risk ballots, and evolving data-protection practice for ballot communications.*

For further information, please contact:  
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