



DUTIES AND RESPONSIBILITIES OF EQUITY COUNCIL MEMBERS

Guidance for elected Councillors and candidates in Council elections

The duties and responsibilities of an Equity Council member are governed in three ways:

- the Equity Rule Book,
- policies agreed by the Equity Council,
- legislation governing the operation of trades unions.

THE EQUITY RULE BOOK

The Equity Rule Book [\[http://www.equity.org.uk/rules/\]](http://www.equity.org.uk/rules/) is the contract between members and their union. Rules can be changed only by a two-thirds majority at an Equity Annual Representative Conference or, in the case of certain rules, by a vote of the membership in a referendum.

There are four Rules which govern the constitution, election and powers and duties of the Equity Council. Rule 13 sets down the constitution of the Equity Council, Rule 14 governs the qualification for standing for election to the Equity Council, the procedure for electing the Equity Council is in Rule 15 and the Powers and Duties of the Council are listed in Rule 16.

The Rule Book in its entirety sets out both what the union can do and what it cannot do. For example, Rule 3 lists the objects, powers and duties of the union. This Rule empowers the Equity Council to act on behalf of the members and also puts limits on policies and actions the Council can take.

The Equity Council must at all times act in accordance with the Equity Rule Book. If any member considers that the Equity Council has acted in breach of the Equity Rule Book there are procedures within the Rule Book to challenge the Council. Members may also make a complaint to the Trade Union Certification Officer – see below.

POLICIES AGREED BY THE EQUITY COUNCIL

The Equity Council has made a number of policy decisions about how it will operate.

The Standing Orders for Council Meetings [\[https://www.equity.org.uk/documents/standing-orders-for-council-meetings/\]](https://www.equity.org.uk/documents/standing-orders-for-council-meetings/) are agreed at the beginning of each two-year term of the Equity Council and deal with the rules of debate, confidentiality, Councillor's reports to committees and branches, conflicts of interest, distribution of material during council meetings, frequency and duration of meetings and suspension of standing orders.

The Equity Council also has an agreed code of behaviour for elected members attending meetings of the Council and other Equity committees:

In its review of Equity's democratic structure the Equity Council agreed certain duties for some members of the Council:

Each **English Area Councillor** (Midlands, Northern, South East and South West) will, up to five times a year, meet with the Branch Secretaries within the geographic scope of their Area. These meetings will be face-to-face and in between these meetings the Councillor will keep in touch with each Branch Secretary by using online communications. The Councillors will attend the relevant Area Annual General Meeting of members and will give a report on the work of the union.

Where a Committee or Sub-Committee has a **relevant Councillor** that Councillor will attend its meetings as an Observer but may not also be an elected member of the same Committee or Sub-Committee. The relevant Councillors are: Audio, Creative Team, Members with Disabilities, Minority Ethnic Members, Singers, Stage Management, Variety Circus and Entertainers, Young Members, Northern Ireland, Scotland and Wales.

LEGISLATION

Many laws impact on the operation of trades unions in the United Kingdom but there are three pieces of legislation which have specific relevance:

- The Trade Union and Labour Relations (Consolidation) Act 1992
- The Data Protection Act 1998
- The Equality Act 2010

The principal piece of legislation governing the operation of trades unions is the **Trade Union and Labour Relations (Consolidation) Act 1992**.

[/http://www.legislation.gov.uk/ukpga/1992/52/contents](http://www.legislation.gov.uk/ukpga/1992/52/contents) This law covers, among others things:

- the legal status of trades unions,
- administrative duties such as keeping a register of members,
- election procedures for certain positions which includes principal executive bodies such as the Equity Council,
- legal rights of trade union members,
- use of union funds for political objects,
- the legal status of collective agreements,
- industrial action.

All elections for the Equity Council and for the Equity President must be conducted in accordance with the Trade Union and Labour Relations (Consolidation) Act 1992. Chapter IV of the Act governs candidates, election addresses, appointment of an independent scrutineer, entitlement to vote, voting, scrutineer's report and uncontested elections.

Section 137 of the Trade Union and Labour Relations (Consolidation) Act 1992 prohibits the closed shop by making it unlawful to refuse a person employment because they are or are not a member of a trade union. Subsequent to this legislation the Human Rights Act 1998 enshrined a right to freedom of association which includes the right to form and to join trade unions and the right to refuse to join a trade union.

Trades unions also have specific duties under the **Data Protection Act 1998** [<http://www.legislation.gov.uk/ukpga/1998/29/contents>]. The duty under the Trade Union and Labour Relations (Consolidation) Act 1992 (see above) to keep a register of members makes trades unions data controllers under the Data Protection Act 1998.

The Act sets down eight principles under which data must be handled by a data controller:

1. Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless – (a) at least one of the conditions in Schedule 2 is met, and (b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.
2. Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.
3. Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.
4. Personal data shall be accurate and, where necessary, kept up to date.
5. Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.
6. Personal data shall be processed in accordance with the rights of data subjects under this Act.
7. Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
8. Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

The Act identifies eight categories of information which are sensitive personal data – see 1(b) above. One of these is whether or not an individual is a member of a trade union as defined in the Trade Union and Labour Relations (Consolidation) Act 1992. The Data Protection Act 1998 makes the presumption that because sensitive personal data could be used in a discriminatory way, and is likely to be of a private nature, it needs to be treated with greater care than other personal data. In particular, if a data controller is processing sensitive personal data they must satisfy one or more of the conditions for processing which apply:

1. The individual who the personal data is about has consented to the processing.
2. The processing is necessary: - in relation to a contract which the individual has entered into; or - because the individual has asked for something to be done so they can enter into a contract.
3. The processing is necessary because of a legal obligation that applies to you (except an obligation imposed by a contract).
4. The processing is necessary to protect the individual's "vital interests". This condition only applies in cases of life or death, such as where an individual's medical history is disclosed to a hospital's A&E department treating them after a serious road accident.

5. The processing is necessary for administering justice, or for exercising statutory, governmental, or other public functions.
6. The processing is in accordance with the “legitimate interests” condition.

Councillors are expected at all time to adhere to the Data Protection principles and comply with the legal obligations regarding data protection, so as to avoid any liability for the Equity Council and/or Equity and/or an individual Councillor.

The **Equality Act 2010** [<http://www.legislation.gov.uk/ukpga/2010/15/contents>] brought together a number of previous pieces of equality legislation and broadened the number of protected characteristics covered by law to include:

- age,
- disability,
- gender reassignment,
- marriage and civil partnership,
- pregnancy and maternity,
- race,
- religion and belief,
- sex,
- sexual orientation.

Individuals within these categories have legal protection under the Equality Act 2010 on equal pay, employment services and public functions and associations.

The Equality and Human Rights Commission, which has a statutory remit to protect, enforce and promote equality across the nine protected characteristics, has published codes of practice under the Equality Act 2010: <http://www.equalityhumanrights.com/advice-and-guidance/information-for-advisers/equality-act-codes-of-practice/>

Trades unions have both powers and duties under the Equality Act 2010. Trade unions can use the law to tackle discrimination and fight for equality in the workplace. Trades unions must also operate both as employers and as membership organisations in a way which does not breach the Equality Act 2010.

The Trades Union Congress has published a guide to equality law for trades unions:

<http://www.tuc.org.uk/sites/default/files/tucfiles/guideequalitylaw2011.pdf>

Councillors are expected at all time to comply with the legal obligations arising from the Equality Act 2010, so as to avoid any liability for the Equity Council and/or Equity and/or an individual Councillor.

A **Trades Union Certification Officer** [<http://www.certoffice.org/>] was established in the United Kingdom by Act of Parliament in 1975. They head the Certification Office for Trade Unions and Employers' Associations and have six duties in respect of trades unions:

1. maintaining a list of trade unions and employers' associations,
2. receiving, ensuring compliance with statutory requirements and keeping available for public inspection annual returns from trade unions and employers' associations,
3. determining complaints concerning trade union elections, certain other ballots and certain breaches of trade union rules,

4. ensuring observance of statutory requirements governing mergers between trade unions and between employers' associations,
5. overseeing the political funds and the finances of trade unions and employers' associations,
6. certifying the independence of trade unions.

Trade union members who believe their union is operating in breach of either their rules or legislation can make a complaint to the Trade Union Certification Officer. Union members are normally expected to have used internal union procedures for making complaints before approaching the Trade Union Certification Officer.