



21 July 2026

Rt Hon Andy Burnham MP
Prime Minister
10 Downing Street
London
SW1A 2AA

Dear Andy,

Electronic balloting and the 50% threshold

Congratulations on your appointment as Prime Minister and Leader of the Labour Party.

We know that you recognise and appreciate the importance of trade unions and the need to ensure that trade union law and regulation is fit-for-purpose in the 21st century. The Employment Rights Act (ERA) represents a significant shift in the employment landscape and is a significant step in the right direction.

Before the general election, Labour committed to repealing the most recent anti-union legislation. This was set out in the Manifesto and in the Labour document on delivering the New Deal For Working People:

*'It (i.e. current legislation) places unnecessary red tape on trade union activity that work against their core role of negotiation and dispute resolution. Over the past 14 years, the Conservatives have consistently attacked rights at work, including through the Trade Union Act 2016, the Minimum Service Levels (Strikes) Bill and the Conduct of Employment Agencies and Employment Businesses (Amendment) Regulations 2022 – all of which Labour will repeal to give trade unions the freedom to organise, represent and negotiate on behalf of their workers.'*¹

It is clear that this included the abolition of the 50% threshold that was introduced under the 2016 Act.

We are, therefore, concerned at the fact that the government has now sought to delay the repeal of the 50% threshold through the introduction of an explanatory note that seeks to tie this to the monitoring and review of the introduction of electronic and other forms of balloting for trade unions.²

Paragraph 10.2 of this note states:

'Monitoring of the use and effects of non-postal balloting will also contribute to the Government's wider consideration of participation in industrial action ballots. Section 159(5) and (6) of the 2025 Act requires the Secretary of State to lay a statement before Parliament setting out how they have had regard to the impact of non-postal balloting on

¹ [LABOUR'S PLAN TO MAKE WORK PAY - Delivering A New Deal for Working People](#)

² [The Trade Unions \(Permissible Means of Voting\) and Employment Rights \(Unfair Dismissal\) \(Amendment\) Order 2026](#)

voter participation in industrial action ballots before repealing the 50% turnout threshold for those ballots by means of section 68 of the 2025 Act (industrial action ballots: turnout threshold). Information arising from the implementation of this instrument will inform that consideration, alongside other relevant evidence.³

The detail set out Sections 159(5) and 159(6) should not provide for the Secretary of State to be allowed to further delay the process for repealing **the entire** 2016 Act, including the 50% threshold. It should be noted that the section includes the opportunity for the Secretary of State to have regard to the likely impact of the introduction of electronic balloting (our emphasis added):

'In deciding whether and when to make regulations under subsection (3) bringing section 68 (industrial action ballots: turnout threshold) into force for any purpose, the Secretary of State must have regard to what effect any provision made after this Act is passed for industrial action ballots to be conducted otherwise than by post has had, or is expected to have, on the proportion of those eligible to vote in such ballots doing so.'

'The Secretary of State may not make regulations under subsection (3) bringing section 68 into force for any purpose unless the Secretary of State has laid before Parliament a statement as to how the Secretary of State has had regard to any such effect.'

Sections 159(5) and 159(6) should have never been introduced as they contradict the manifesto commitment by imposing unnecessary additional hurdles for the repeal of the 50% threshold.

Labour had previously promised to repeal this within 100 days of taking office.

It cannot go unnoticed that no other such vote, including elections for local or national government, requires such a threshold.

We are concerned that the failure to repeal the 50% threshold means that under a Labour Government the UK will still not comply with the International Labour Organisation (ILO) Convention 87 and the International Covenant on Economic, Social and Cultural Rights, Article 8(1)(d).

It is difficult to comprehend the fact that, in keeping the 50% threshold, we have a Labour Government in Westminster that still will not comply with these important and fundamental provisions.

The ILO Freedom of Association Committee has stated that:

'The requirement of a decision by over half of all the workers involved in order to declare a strike is excessive and could excessively hinder the possibility of carrying out a strike, particularly in large enterprises.'⁴

You will be aware of the Advisory Opinion of the International Court of Justice delivered on 21 May this year which emphasised the fundamental nature of the right to strike as inherent in freedom of association and protected by Convention 87. In those circumstances, given the finding by the Committee on Freedom of Association, the restriction imposed by the 50% requirement cannot be justified.

³ Ibid.

⁴ [untitled](#)

We believe that there is a pressing need for this failure to be addressed as a matter of priority and would welcome the opportunity to discuss this with you further at the earliest opportunity.

Yours sincerely,

Dave Calfe
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ASLEF

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BFAWU

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