

Council elections in Scotland

Guidance for candidates and agents

Part 6 of 6 – After the declaration of results

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This document applies to council elections in Scotland. Our guidance and resources for other elections can be accessed from our website at:
<https://www.electoralcommission.org.uk/i-am-a/candidate-or-agent>.

Contents

Essential information	2
Results data	3
Declaration of acceptance of office	3
Election petitions	3
What happens to the election paperwork after the results are announced?	4
Submitting your election spending returns	4
Supplementary information	5
Lodging an election petition.....	5
Inspection and supply of election-related documents.....	6
Inspection and supply of the marked registers and lists of absent voters	6
Inspection of other election documents	8
Inspection of election spending returns	8
What happens if a spending return or declaration isn't submitted?.....	8

2

Essential information

This section of the document contains our guidance on what happens after the results at council elections in Scotland have been announced.

Supplementary information, which may only be relevant to some candidates, is provided at the back of this document. You can also view this supplementary guidance by clicking on the links within this document or by clicking on the chapter heading on the contents page.

In this document, we use 'you' to refer to the candidate. We use 'must' when we refer to a specific requirement. We use 'should' for items we consider to be minimum good practice, but which are not legal or regulatory requirements.

Deadlines mentioned in this document are generic and we have published a [generic election timetable](#) on our website. If a by-election has been called, you will be able to obtain a copy of the specific timetable for that election from the Returning Officer.

For scheduled elections we will publish an election timetable, which you can download from our [website](#).

We are here to help, so please contact us if you have any questions.

See our [Overview document](#) for contact details.

Data protection legislation applies to the processing of all personal data.

Please contact the [Information Commissioner's Office](#) for further information about how the current data protection legislation affects you.

Results data

1.1 After the election, the Returning Officer will give public notice of the results for each ward, as well as a breakdown of results by polling station. In order to preserve the secrecy of the vote, if fewer than 200 votes were cast at a particular polling station, the data from that polling station will be added to the results data from at least one other polling station.

Declaration of acceptance of office

1.2 If elected, your appointment as councillor will become effective immediately after you have been declared elected. However, you may not act as councillor (this includes attending and voting at meetings) until you have signed the declaration of acceptance of office¹. By signing the declaration, you agree to follow the [national code of conduct for councillors](#).

1.3 The declaration must be made within two months from the day of election². If you do not submit your declaration by this deadline, the seat will be declared vacant and a by-election will be held.

Election petitions

1.4 The outcome of a council election can be challenged through an election petition. For further details on challenging an election, see paragraph **1.9**.

4

What happens to the election paperwork after the results are announced?

1.5 After the results are declared, all election documents are securely held by the Proper Officer of the council for a period of 12 months³. Most documents are available for public inspection. Please note that ballot papers are not open to public inspection. If you wish to inspect election documents, see paragraph **1.16** for further information.

Submitting your election spending returns

1.6 Within 35 calendar days of the election result being declared, your election agent will need to prepare and submit to the Proper Officer an election spending return⁴.

1.7 In addition, both you and your election agent will need to sign a declaration stating that the return is complete and correct to the best of your knowledge and belief⁵.

1.8 Detailed guidance on completing and submitting your spending return is contained in [Part 3: Candidate spending](#)

Supplementary information

Lodging an election petition

1.9 Only certain people can lodge an election petition, and only under specific circumstances.

1.10 An election petition can be presented by⁶:

- someone claiming to have been a candidate at the election, or
- at least four electors (not anonymously registered electors) who had a right to vote at the election (although they need not have voted)

1.11 The allowable grounds for a petition are that⁷:

- the successful candidate was disqualified at the time of the election
- the successful candidate was not duly elected
- the election was invalidated by corrupt or illegal practices
- the election was invalidated because of general corruption or the employment of a corrupt agent

1.12 Normally, a petition must be presented within 21 calendar days after the date of the election⁸. However, if the petition complains of corrupt or illegal practices involving the payment of money or other reward, or an illegal practice relating to election spending, further time may be allowed.

1.13 The petition must be presented to the sheriff principal of the sheriffdom in which the election took place. Where the

6

council area is situated within more than one sheriffdom, the petition must be presented to all the sheriffs principal of the sheriffdoms covered by the council area.

1.14 For any questions relating to election petitions and the process for lodging petitions, including to confirm the deadlines, you should contact the relevant sheriff court. You can obtain their contact details at: www.scotcourts.gov.uk/the-courts/sheriff-court/find-a-court .

1.15 There are costs attached to an election petition. If you are considering lodging an election petition, we strongly recommend that you take independent legal advice.

Inspection and supply of election-related documents⁹

1.16 All documents available for supply and inspection are retained by the Proper Officer of the council.

Inspection and supply of the marked registers and lists of absent voters¹⁰

1.17 The marked electoral registers and lists of absent voters show who has been issued with a ballot paper, who has returned their postal ballot paper, and who has had a proxy vote cast on their behalf.

1.18 You can inspect or obtain copies of the marked register of electors and lists of absent voters after the election if you make a request in writing to the Proper Officer. You will be able to contact the Proper Officer via your local elections office. [Contact addresses and telephone numbers](#) will be updated prior to scheduled elections.

1.19 Note that you can only use the information obtained from these documents for research or electoral purposes.

1.20 The request for inspection must specify¹¹:

- which documents are requested
- the purposes for which the information in any document will be used
- where the request is to inspect the marked register or lists, any reason why inspecting the full register or unmarked lists would not be sufficient to achieve that purpose
- who will inspect the documents
- the date on which you wish to inspect the documents
- whether you would prefer to inspect the documents in a printed or data form

1.21 Inspection is under supervision and will be free of charge. You will not be able to take copies, but may make handwritten notes.

1.22 The request for supply must specify¹²:

- which of the marked register or lists (or the relevant part of the register or lists) are requested
- whether a printed copy of the records or lists is requested or a copy in data form
- the purposes for which the marked register or lists will be used and why the supply or purchase of a copy of the full register or unmarked lists would not be sufficient to achieve that purpose

1.23 The requested document will be supplied for a fee of £10 plus £2 for printed and £1 for data versions per 1,000 entries¹³.

1.24 Note that after 12 months these documents will be destroyed, unless a court order directs otherwise¹⁴.

1.25 Under current data protection legislation, personal data processed for any purpose shall not be kept for longer than is necessary for that purpose. If you request and are supplied with any of the information listed above, once the purpose for

Nomination papers may only be inspected during the time for delivery of nomination papers, and only by certain people. Further details can be found in [Part 2a: Standing as an independent candidate](#) or [Part 2b: Standing as a party candidate](#).

8

collecting this data has passed, you need to consider if there is a reason for you to retain that data. If there is not you should ensure secure destruction of any data held.

Inspection of other election documents¹⁵

1.26 You can inspect other election documents, but you will not be allowed to make any notes or take copies of these documents. The only documents that cannot be inspected are:

- the ballot papers
- the corresponding number lists
- the certificates allowing polling station staff to vote at the polling station they are working at

1.27 After 12 months all of the election documents, with the exception of election spending returns, will be destroyed, unless a court order directs otherwise¹⁶.

Inspection of election spending returns¹⁷

1.28 Spending returns and declarations can be inspected by any person after they have been submitted. Copies can also be made for a fee of 20p per side.

1.29 Spending returns and declarations are kept for two years. You can request to have them returned to you or your agent at the end of this period. If you or your agent does not want them back, the spending returns and declarations may be destroyed.

What happens if a spending return or declaration isn't submitted?

1.30 Failure to submit a spending return or declaration by the deadline without an authorised excuse is a criminal offence¹⁸.

1.31 The Electoral Commission has a statutory role in connection with the administration of the Scottish council elections on 5 May 2022. With the passage of The Scottish Local Government Elections Amendment Order 2022, which we anticipate will be in place for the May polls, our statutory role will be extended to monitor, and take all reasonable steps to secure, compliance with election expenses incurred by or on behalf of candidates at the elections, as well as donations to candidates.

1.32 If a candidate has been elected but the spending return and/or declaration has not been submitted by the deadline they are barred from sitting or voting, and can be subject to a forfeit or fine of £50 per day if they do so¹⁹.

¹ Local Government (Scotland) Act 1973 (LGA Scotland 1973) s.33A(1)(a)

² LGA Scotland 1973 s.33A(1)(b)

³ Scottish Local Government Elections Order 2011 (Local Election Rules 2011) rule 60

⁴ Representation of the People Act 1983 (RPA 1983) s.81

⁵ RPA 1983 s.82

⁶ RPA 1983 s.128

⁷ RPA 1983 s.127

⁸ RPA 1983 s.129

⁹ Representation of the People (Scotland) Regulations 2001 (RPR Scotland 2001) reg.118

¹⁰ RPR Scotland 2001 reg.117

¹¹ RPR Scotland 2001 reg. 118(2)

¹² RPR Scotland 2001 reg.117(3)

¹³ RPR Scotland 2001 reg.120

¹⁴ Local Election Rules 2011 rule 60

¹⁵ RPR Scotland 2001 reg.118

¹⁶ Local Election Rules 2011 rule 60

10

¹⁷ RPA 1983 s.89

¹⁸ RPA 1983 s.84

¹⁹ RPA 1983 s.85