

Scottish council elections

Guidance for candidates and agents

Part 4 of 6 – The campaign

This document applies to Scottish council elections. 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

2

| | |
|---|-----------|
| Essential Information..... | 3 |
| Campaigning dos and don'ts | 4 |
| When can you start campaigning?..... | 4 |
| When does a person officially become a candidate? | 4 |
| During the campaign, you may..... | 4 |
| During the campaign, you should..... | 5 |
| During the campaign, you must not..... | 6 |
| Use of the electoral register and lists of absent voters | 6 |
| Restrictions on the use of the information contained in the electoral register and lists of absent voters..... | 7 |
| Using schools and rooms for public meetings..... | 8 |
| Campaign publicity dos and don'ts | 9 |
| Using imprints..... | 9 |
| Polling day dos and don'ts..... | 10 |
| Bribery | 12 |
| Treating | 12 |
| Undue influence..... | 12 |
| Personation..... | 12 |
| False statements | 13 |
| False registration information and false postal/proxy voting application..... | 13 |
| False application to vote by post or by proxy | 13 |
| Multiple voting and proxy voting offences | 14 |
| Breaches of the secrecy of the ballot..... | 14 |
| Campaign publicity material..... | 14 |
| Racial hatred..... | 14 |
| Reporting allegations of electoral fraud..... | 14 |
| What if you have made a mistake? | 15 |

Essential Information

This document contains our guidance on campaigning at Scottish council elections.

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 containing the specific deadlines for those polls which you can download from [our website](#).

The Electoral Commission has a statutory role in connection with the administration of Scottish local government elections, but does not regulate spending by candidates at these elections. The Commission has produced any spending information at the request of the Scottish Government to assist candidates and agents by explaining the rules on spending.

Any decision to undertake a prosecution will be taken by the Crown Office and Procurator Fiscal Service. Although the Procurator Fiscal may have regard to the Commission's guidance, decisions regarding prosecution are for the Procurator Fiscal alone.

We are here to help, so please contact us if you have any questions. See our [Overview document](#) for contact details.

Revised 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.

4

Campaigning dos and don'ts

When can you start campaigning?

1.1 You can start campaigning at any time. You do not have to wait until you are validly nominated to declare that you will run for election, ask people to support you or publish campaign material.

1.2 However, you should be aware that election spending limits apply from the day after the date a person officially becomes a candidate. For more information on election spending, please see [Part 3 – Spending](#).

When does a person officially become a candidate?

1.3 The earliest you can officially become a candidate is on the last day for publishing the notice of election, which is on the 28th working day before the poll.

1.4 You will officially become a candidate on this day if on or before this date you have already declared yourself a candidate at the election (or another person has declared that you are a candidate).

1.5 If after this date you or others declare that you will be a candidate at the election, you will become a candidate on the date such a declaration is made, or on the date that you submit your nomination papers, whichever is the earlier.

1.6 Once you have officially become a candidate, you are entitled to a copy of the register of electors for the ward you are standing in.¹ You are also entitled to a copy of the lists of absent voters for the ward you are standing in. In addition, you can use publicly funded rooms and schools for public meetings. (see paragraph **1.18** below).

During the campaign, you may...

- Encourage people who are not on the electoral register to apply for registration. The deadline for registering to vote in time for an election is 12 working days before the poll.² Individuals can register online at <https://www.gov.uk/register-to-vote>. You can find out more about who can register at on our website <https://www.electoralcommission.org.uk/i-am-a/voter>.
- Help voters with information about postal and proxy voting – you can find information on our website <https://www.electoralcommission.org.uk/i-am-a/voter>. The deadline for applying for a postal vote for the elections is 5pm on the eleventh working day before the poll.³ The deadline for applying for a proxy vote for the elections is 5pm on the sixth working day before the poll⁴, although in some circumstances electors may apply for an emergency proxy up to 5pm on polling day.⁵ An elector can apply for an emergency proxy if, after 5pm on the sixth working day before the poll) they have had a medical emergency or have been called away on business.

Completed registration or absent vote applications given to you or your campaigners should be sent on unaltered to the Electoral Registration Officer within two working days of receipt.

During the campaign, you should...

- If you develop your own application forms, make sure they include all the required information, or the applications will be rejected. In particular, you must make sure that the signature and date of birth fields on postal and proxy application forms are in the correct format. You should use our absent voting application forms on <https://www.electoralcommission.org.uk/i-am-a/voter> as a guide. You should consider liaising with the Electoral Registration Officer who may be able to provide you with forms you can use.
- Make sure your supporters follow the [Code of conduct for campaigners in Great Britain](#) – this will help them to avoid

The Equality and Human Rights Commission have published guidance for political parties and candidates about how equality and human rights law affects election campaigning. A copy of their guidance can be found here: <https://www.equalityhumanrights.com/en/publication-download/equality-and-human-rights-law-during-election-period-guidance-local-authorities>.

6

situations where their honesty or integrity could be questioned.

- Make sure your supporters are courteous when dealing with other candidates and their supporters.
- Be aware of the deadlines for appointing an election agent, and agents to attend postal vote opening sessions, polling stations and the count. Deadlines are set out in our guidance document [Part 2a – Standing as an independent candidate](#) and [Part 2b – Standing as a party candidate](#).
- Check our guidance on how postal vote openings, the voting process and the count will work so that you know what you can expect to happen and when, see [Part 5 – Your right to attend key electoral events](#).
- Check that your systems for recording spending are working. For more information on election spending and reporting see [Part 3 – Spending](#).

During the campaign, you must not...

- Knowingly make a false statement about the personal character of another candidate.⁶
- Pay canvassers.⁷ Canvassing means trying to persuade an elector to vote for or against a particular candidate or party.

1.7 More information on election offences and how to report these can be found in paragraph **1.50**.

1.8 If either you or your election agent have made a mistake and have acted in contravention of the rules, you can apply for relief from the consequences of having made a mistake. See paragraph **1.56** for more information.

Use of the electoral register and lists of absent voters

1.9 Once you officially become a candidate as explained in paragraphs **1.3** to **1.4** you are entitled to receive a free copy of

You should never handle or take any completed ballot paper or postal ballot packs from voters.

Registered political parties are entitled to receive a copy of the electoral register at any time.

There are two registers. Why?

Using information received from the public, registration officers keep two registers – the electoral register and the open register (also known as the edited register).

The electoral register

The electoral register lists the names and addresses of everyone who is registered to vote in public elections. The register is used for electoral purposes, such as making sure only eligible people can vote. It is also used for other limited purposes specified in law, such as detecting crime (e.g. fraud), calling people for jury service, checking credit applications.

The open register

The open register is an extract of the electoral register, but is not used for elections. It can be bought by any person, company or organisation. For example, it is used by businesses and charities to confirm name and address details. Electors can request not to have their name and address included in the

the electoral registers.⁸ You are also entitled to the lists of people voting by post or proxy ('the lists of absent voters') for the ward that you are contesting.

Restrictions on the use of the information contained in the electoral register and lists of absent voters

1.10 The electoral register and lists of absent voters contain people's personal data, including personal data of young people who will be aged 16 or 17 on polling day, and so their use is very carefully controlled.

1.11 You can use the electoral register and lists of absent voters to help you campaign at the election.

1.12 You must not release to any person any details that appear only in the electoral register and not on the open register which is available for general sale. You must not use the electoral register or lists of absent voters for any other purpose not listed above.⁹

1.13 If you have supplied a copy of the register or lists of absent voters to campaign workers, they must also comply with the requirements above.

1.14 You must ensure that you keep the electoral register and list of absent voters secure.¹⁰ Once you no longer need the register and lists of absent voters for any electoral purpose, you must securely destroy any copies supplied to you as a candidate in accordance with the Information Commissioner's Office [guidelines](#).

Any person found breaching the restrictions on use of the electoral register could face a fine of up to £10,000.

Applying for a copy of the electoral register and the lists of absent voters

1.15 Copies of the register and lists of absent voters can be obtained from the relevant Electoral Registration Officer. An Electoral Registration Officer will have been appointed, covering one or more council areas to maintain the electoral

8

registers. [Contact addresses and phone numbers](#) will be updated prior to scheduled elections. The request must be made in writing¹¹ and we have made a [register request form](#) and an [absent voters' lists request form](#) available for this purpose on our website.

1.16 The register and lists will be supplied in electronic format unless a paper copy is specifically requested. The version of the electoral register and lists you will receive will be those that are current at the time of your application. You may also request the updates to the electoral register and lists that are published in the lead-up to the poll, including the list of newly registered electors when it is published five working days before the poll.

Using schools and rooms for public meetings

1.17 You may want to engage with the public at public meetings, promoting your views and responding to questions from the audience.

1.18 The Proper Officer of the council keeps a list of the location and availability of meeting rooms in their area. They will make this list available for inspection by candidate and election agents from the day the notice of election is published. Once you are a candidate as set out in paragraphs **1.3** to **1.4**, you will be able to use public rooms until the day before polling day.¹²

1.19 You can obtain the contact details of the Proper Officer through your local council.

1.20 You should contact the owner of the premises to make a booking, giving reasonable notice to reduce the risk of the request being refused.

1.21 There is no hire charge for using these rooms, but you must pay for any expenses incurred, such as heating, lighting and cleaning, and for any damage to the premises.

Candidates' right to use rooms does not include hours during which a school is used for educational purposes. Equally, any prior letting of a meeting room must take precedence.

Campaign publicity dos and don'ts

1.22 You must:

- Use imprints on all your printed campaign material, any electronic campaign material that is designed to be printed off locally¹³ and any digital election material. You should ensure the imprint is clear and visible. See paragraph Error! Reference source not found. below for more information
- Comply with planning rules relating to advertising hoardings and large banners – you should ask the council for advice
- Make sure that outdoor posters are removed promptly after the election – you must do this within two weeks of the close of poll

1.23 You should:

- Consider how to make your campaign accessible to people who are visually impaired, have learning difficulties or low literacy skills, or whose first language isn't English. You may want to make contact with disability groups in your local area for advice.

1.24 You must not:

- Produce material that looks like the poll cards sent to voters¹⁴
- Pay people to display your adverts (unless they display adverts as part of their normal business)¹⁵

Using imprints

What is an imprint?

1.25 An imprint should be added to all campaign material and, in the case of printed material, must be added by law, to show who is responsible for its production.¹⁶ It helps to ensure that

10

the campaign is transparent. You should ensure that your imprint is clear and visible.

1.26 Legislation on imprints has been updated by the Scottish Government. Our guide [to candidate imprints at Scottish Parliamentary and council elections](#) contains further guidance.

Polling day dos and don'ts

1.27 You should:

- Make sure that any tellers working for you follow our [tellers' dos and don'ts](#) and any guidance issued by the Returning Officer.
- Make sure your campaigners follow the [Code of conduct for campaigners in Great Britain](#) which sets out what is, and is not, considered acceptable behaviour at polling stations and in the community.
- Comply with requests by polling station staff and the Returning Officer about campaigning near polling stations. You should, however, be allowed to put your message to voters on polling day, including in public spaces outside polling places.
- Make sure that any agents who are attending polling stations, postal vote opening sessions or the count understand the rules about the secrecy of the ballot. For more information, see our documents setting out the secrecy requirements for [the poll](#), [postal voting](#) and [the count](#).

1.28 You must not:

- Campaign near polling places in a way that could be seen by voters as aggressive or intimidating (for example, large groups of supporters carrying banners, or vehicles with loudspeakers or heavily branded with campaign material).
- Breach the requirements on secrecy of the ballot.¹⁷ This is an essential part of any modern democracy and breaches are taken seriously.

Tellers are volunteers for candidates and parties who stand outside polling stations and record the elector numbers of electors who have voted.

- In particular, if you (or your agents) are attending postal vote opening sessions, you must not seek to identify and publicise how votes have been marked on individual ballot papers.
- Before the close of poll, publish exit polls or any other data based on information given by people about how they voted after they have cast their vote, including a postal vote.¹⁸

Maintaining the integrity of the election

1.29 As a candidate, you will be one of the key public faces of the election, and your conduct will be scrutinised in detail by your opponents, the media and voters. Voters should be able to trust that you will comply with the law and maintain the integrity of the election process.

1.30 You are also responsible for the conduct of your supporters, and the person who acts as your election agent is responsible for your campaign and, in particular, its financial management.

1.31 You should make sure that you, and your supporters, fully understand the law and know what they need to do to ensure that voters can participate freely in this election.

1.32 The police can only investigate allegations of electoral fraud where there is evidence to show that an offence has taken place, so you should always be able to substantiate any claims or allegations when you refer them to the police. You should also consider the impact on public trust and confidence of making false or unsubstantiated allegations about the conduct of other campaigners.

12

List of offences

1.33 You should be aware of a number of electoral and non-electoral offences, and should seek your own legal advice where necessary.

Bribery¹⁹

1.34 The offence of bribery includes where someone directly or indirectly gives any money or procures any office to or for any voter, in order to induce any voter to vote or not vote.

Treating²⁰

1.35 A person is guilty of treating if either before, during or after an election they directly or indirectly give or provide any food, drink, entertainment or provision to corruptly influence any voter to vote or refrain from voting. Treating requires a corrupt intent - it does not apply to ordinary hospitality.

Undue influence²¹

1.36 A person is guilty of undue influence if they directly or indirectly make use of or threaten to make use of force, violence or restraint, or inflict or threaten to inflict injury, damage, harm or loss upon or against any person in order to induce or compel that person to vote or refrain from voting.

1.37 A person may also be guilty of undue influence if they impede or prevent any voter from freely exercising their right to vote – even where the attempt is unsuccessful.

1.38 Undue influence doesn't exclusively relate to physical access to the polling station. For example, a leaflet that threatens to make use of force in order to induce a voter to vote in a particular way could also be undue influence.

Personation²²

1.39 Personation is defined as an individual voting as someone else either by post or in person at a polling station, as an elector or as a proxy. This offence applies if the person that is being personated is living, dead or fictitious. Aiding,

Neither the Returning Officer nor the Commission regulate these offences.

For details of how to report any allegations of electoral fraud see paragraph **1.50**

abetting, counselling or procuring the offence of personation is also an offence.

False statements

About a candidate's personal character or conduct²³

1.40 It is an offence to make or publish a false statement of fact about the personal character or conduct of a candidate in order to affect the return of a candidate at an election.

1.41 False statements that are not about a candidate's personal character or conduct are not illegal under electoral law, but could be considered libel or slander.

1.42 It is also an illegal practice to make a false statement of a candidate's withdrawal in order to promote or procure the election of another candidate.

In nomination papers²⁴

1.43 It is an offence to provide a false statement on a nomination paper, which you know to be false. For example, if you know you are disqualified from election you must not sign the consent to nomination.

False registration information and false postal/proxy voting application²⁵

1.44 It is an offence to supply false information on a registration, postal vote or proxy vote application form. False information includes a false signature.

False application to vote by post or by proxy²⁶

1.45 A person is guilty of an offence if they apply to vote by post or proxy to gain a vote to which they are not entitled or to deprive someone else of their vote.

Neither the Returning Officer nor the Commission regulate the content of campaign material and are not able to comment on the legality of any particular electoral material beyond what is covered in this guidance.

14

Multiple voting and proxy voting offences²⁷

1.46 There are various offences regarding multiple voting and proxy voting, including voting in person or by post as an elector or proxy knowing that you are subject to a legal incapacity to vote and inducing or procuring another to commit the offence.

Breaches of the secrecy of the ballot²⁸

1.47 Everyone involved in the election process or attending certain proceedings must maintain the secrecy of the ballot. The Returning Officer will give a copy of the official secrecy requirements to everyone who attends the opening of postal votes or the counting of ballot papers, and to polling agents.

Campaign publicity material

1.48 Certain offences relate specifically to election campaign publicity material. Printed election campaign publicity material must contain an imprint²⁹ and not resemble a poll card³⁰ and not contain a false statement as to the personal character or conduct of another candidate.³¹

Racial hatred

1.49 Under the Public Order Act 1986, it is an offence to publish or distribute threatening, abusive or insulting material that is intended to stir up racial hatred or which is likely to stir up racial hatred.

Reporting allegations of electoral fraud

1.50 If you are concerned that electoral fraud may have been committed, you should first speak to the Registration Officer or the Electoral Registration Officer.

1.51 They may be able to explain whether or not electoral fraud has been committed, and can refer your concerns to the police if necessary. They can also provide you with the details of a police contact so that you can report the allegation yourself.

1.52 If you have evidence that an electoral offence has been committed you should contact the police **immediately**, using the 101 non-emergency number unless there is a crime in progress, in which case you should use the standard **999** emergency line. The police have a dedicated Single Point of Contact Officer who will be able to provide advice to ensure that your allegations are properly investigated. You should be prepared to give them a statement and substantiate your allegation.

1.53 If you do not want to give a statement to the police, you can report your concerns anonymously on the [Crimestoppers website](#) or by calling Crimestoppers on 0800 555 111.

1.54 You will be able to find contact details of Returning Officers and Electoral Registration Officers by contacting your local elections office. [Addresses and telephone numbers](#) will be updated prior to scheduled elections.

1.55 Please note that if your allegation relates to a party, election or registered campaigner finance matter, such as spending or donations, then you should follow the advice given on the following link:

<https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/our-enforcement-work/make-allegation>

What if you have made a mistake?

1.56 If either you or your agent has mistakenly acted in contravention of the election rules, you can apply for relief from the penalties for any offence.

1.57 You should always seek legal advice if considering applying for relief.

1.58 For more information, you should contact the local sheriff clerk for your ward at the relevant sheriff court as listed below. Contact details can be found at <http://www.scotcourts.gov.uk/the-courts/sheriff-court/about-sheriff-courts>

16

- ¹ Representation of the People (Scotland) Regulations 2001 reg.107
- ² Representation of the People Act 1983 (RPA 83) s.13B(1)-(3) and RPR (Scotland) 2001 reg. 29(4)
- ³ RPR (Scotland) 2001 reg.56
- ⁴ RPR (Scotland) 2001 reg.56
- ⁵ RPR (Scotland) 2001 reg.56
- ⁶ RPA 83 s.106
- ⁷ RPA 83 s.111
- ⁸ RPR (Scotland) 2001 regulation 103
- ⁹ RPR (Scotland) 2001 regulation 101
- ¹⁰ General Data Protection Regulations (GDPR) 2018 art. 5
- ¹¹ RPR (Scotland) 2001 regulation 101
- ¹² RPA 83 s.96
- ¹³ Political Parties, Elections and Referendums Act 2000 (PPERA 2000) s.143
- ¹⁴ RPA 83 s.94
- ¹⁵ RPA 83 .109
- ¹⁶ PERA 2000 s.143 and RPA 83 s.110
- ¹⁷ RPA 83 s.66
- ¹⁸ RPA 83 s.66A
- ¹⁹ RPA 83 s.113
- ²⁰ RPA 83 s.114
- ²¹ RPA 83 s.115
- ²² RPA 83 s.60
- ²³ RPA 83 s.106
- ²⁴ RPA 83 s.65A
- ²⁵ RPA 83 s.13D
- ²⁶ RPA 83 s.62A
- ²⁷ RPA 83 s.61
- ²⁸ RPA 83 s.66
- ²⁹ PERA 2000 s.143 and RPA 83 s.110
- ³⁰ RPA 83 s.94
- ³¹ RPA 83.106