



Pre-election period guidance

**For use in the pre-election period for all elections and by-elections:
South Ayrshire Council, European Parliament, Scottish Parliament and
UK Parliament. Also applies to referendums.**

Introduction

This guidance sets out how South Ayrshire Council will manage the various issues that can arise during the formal pre-election period. This is the period between the announcement of an election and the date of the election itself, inclusive of both days.

The guiding principles detailed in this document apply to all elections and referendums managed by the Council.

This document is no substitute for specific detailed, specialist advice. If you are unsure about the Council's legal obligations and duties in law during the pre-election period, contact Valerie Andrews, Executive Director – Resources, Governance and Organisation on 01292 612466 or email Valerie.andrews@south-ayrshire.gov.uk.

Any queries regarding publicity during the pre-election period should be directed to Denise Robertson, Public Affairs Manager on 01292 612211 or email denise.robertson@south-ayrshire.gov.uk.

Any general queries regarding an election should be directed to Wynne Carlaw on 01292 612192 or email wynne.carlaw@south-ayrshire.gov.uk.

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1. Applicability

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These guidance notes apply to all elections and by-elections: South Ayrshire Council, European Parliament, Scottish Parliament and UK Parliament. The guidance also applies to referendums.

Though the guidance applies to South Ayrshire Council, care should be taken to ensure that projects, initiatives or organisations funded by the Council do not create the potential for allegations that public money is being used in support of an individual politician, political party or candidate, as this is prohibited by statute.

This is likely to be less of an issue where funding is general rather than specific – for example, communications activity by an organisation. The Council's Executive Director/Directors, as appropriate, will advise senior officers in these organisations of the potential for concerns over political neutrality (particularly during the pre-election period) and provide a copy of this guidance for information and application as required.

Timescales

Although the formal pre-election period begins with the publishing of the notice of election, care should be taken in the days before this to avoid any unnecessary concerns over political neutrality.

Revisions and terminology

This guidance is subject to revision at the Chief Executive/Returning Officer's discretion.

Any references to 'constituency' in this guidance shall be taken to refer to any or all of the following: a Scottish parliamentary constituency, a Scottish parliamentary region, a UK parliamentary constituency, a local electoral ward area or any other appropriate electoral area being considered in terms of a particular election, unless otherwise stated.

2. Key points

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While there are some specific areas that require detailed advice, the essence of this guidance is:

- Council staff must, by law, act in a politically neutral way at all times.
- There is particular sensitivity around this political neutrality in the run-up to an election.
- Particular care needs to be taken to ensure that any events, publicity or other communications are politically neutral during a pre-election period.
- Council facilities and resources must not be used in support of a political party or election candidate.
- Unless otherwise stated, it should be assumed that normal Council business will continue.
- Unless otherwise covered by this guidance or under instruction from an Executive Director/Director, staff will respond positively to requests for information or advice from political parties or candidates.
- This guidance should be followed at all times as appropriate.
- If you are unsure about applying this guidance, you must seek further advice immediately.

3. Background and timing

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There are a number of statutory rules that apply to Councils and Council publicity, particularly in the period before an election.

What is the pre-election period?

The pre-election period is the time between the announcement of an election and the date of the election. It is generally taken to be from the publication of the notice of election until polling day, inclusive of both days. This is the timeframe referred to in the Code of Recommended Practice on Local Government Publicity¹, which guides Councils on the issue of publicity.

The main significance of the pre-election period is the need for heightened sensitivity to ensure that public resources are not used in any way that might prejudice, or be seen to prejudice, the result of an election.

Timing of the pre-election period

The pre-election period for the UK Parliamentary General Election 2015 is Tuesday 31 March 2015 to Thursday 7 May 2015 (inclusive).

Legal and other obligations

Councils are prohibited by section 2 of the Local Government Act 1986 from publishing any material which appears to be designed to affect public support for a political party.

Publicity is defined very widely. It includes “any communication, in whatever form, addressed to the public at large or to a section of the public” and takes account of the content and style of the publicity material, the timing and circumstances of publication, and the effect it is expected to have.

The Act sets out that the Council cannot give any financial assistance, or assistance in kind, to any person to produce publicity which the Council is prohibited from publishing itself.

It also makes it clear that the Council must have regard to the statutory Code of Recommended Practice on Local Authority Publicity.

It should be noted that these obligations apply year-round, but are particularly sensitive during a pre-election period.

¹ The [version of the code that applies to Scotland is the 1988 version](#) (*without* the revisions that apply to England and Wales only which are included as an appendix to the original when republished in 2001. Note that the subsequent version of the Code published in 2011 also does not apply in Scotland).

4. Premises

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Definition

Council premises can include schools, offices, depots, stores and care homes where access is generally controlled or limited. It does not include Council-owned houses.

It can also include other spaces that might generally be open to the public but where there may be an element of control e.g. leisure centres and parks.

For the purposes of this guidance, it does not include public roads and pavements.

Use as offices and for public meetings

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The Local Government Act 1986 definition of publicity prevents the Council from allowing its premises and other resources to be used in a manner that could be perceived to give support to a particular political party. However, there are some exceptions.

The Council will allow political parties to use its premises as offices, where such facilities are provided, on a first-come, first-served basis on normal commercial terms.

Politicians, parties or candidates may use a school room or other listed 'meeting rooms' for a public meeting within the appropriate constituency. The let will be free of charge, but the Council is entitled to be reimbursed for heating, lighting and other utilities, as well for any damage caused to the room by the let.²

Politicians, candidates or agents are required to give reasonable notice in booking a room and any booking should not interfere with existing arrangements such as prior bookings or school opening hours.

The Council also keeps – for each ward or constituency wholly or partly in its area – a list of rooms in school premises and a list of 'meeting rooms' which candidates are entitled to use. Politicians and candidates are also entitled to inspect a list of these rooms during working hours. A list of the Council premises with rooms available for use as offices and for public meetings can be found at [Appendix 1](#).

Visits to Council premises by candidates

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As the election approaches, politicians and candidates may wish to visit Council premises to meet residents and potential voters – for example, in residential homes, to be seen within the area, or to become more familiar with Council facilities. The following procedure will apply in relation to these visits during the pre-election period:

- Visits to any Council facility must be arranged in advance with the relevant Executive Director/Director and, through them, with the manager of the facility or establishment.
- Visits must be of short duration – no more than two hours.

² These provisions are contained within the Representation of the People Act 1983, and the various elections orders.

- Visits must not interfere with the efficient and proper running of the service or the facility, taking into account the best interests of the residents/users at the facility.
- If, during a visit, it becomes apparent to the manager of a facility that the visit is interfering with the running of the service, then the manager has the right to immediately terminate the visit and will advise the relevant Executive Director/Director.
- A fair and consistent approach must be taken to such visits to ensure politicians and candidates from all parties or who are independent have the same or similar opportunities.
- It is normal practice for elected representatives to visit Council premises as invited guests for organised events. Such events and visits should generally be avoided until after the close of poll, unless exceptional circumstances apply.
- 'Business as usual' visits to Council premises from sitting politicians on constituency business will generally be permitted; however, these visits should not give rise to references to the election or be used to generate publicity related to the election.
- Visits by politicians or candidates to Council premises during the pre-election period cannot be used for publicity purposes.

Exceptions where restrictions on visits to Council premises will not apply are set out below:

- Council premises rented or leased on a commercial basis, where entry is at the discretion of the tenant/leaseholder.
- School rooms and meeting rooms made available to designated organisations in line with legislation.
- Visits at the request of an individual resident of a Council residential home or hostel.
- Visits to Council premises for business and Council meetings.
- Any activity in a Council-managed public open space approved by the Chief Executive (or nominated depute).

Use of Council premises for publicity

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In general, no visits by politicians or candidates to Council premises during the pre-election period can be used for publicity purposes and the media will not be allowed access during any permitted visits.

Exceptions may apply in very particular circumstances. However, any such media requests should be directed to the public affairs team, as per standard practice. The decision will be taken by the Public Affairs Manager, in conjunction with the relevant Executive Director/Director, and the decision will apply equally to all political parties and candidates.

If the media is involved in an approved visit, Council employees must not be photographed, recorded or televised with politicians or candidates. Any queries regarding this should be directed to the Public Affairs Manager in the first instance.

It should be noted that an individual who lives in a Council residential home or hostel has the right, as a voter, to invite politicians, campaigners and the media into their own room – their 'home' – and can, if they wish, be photographed or recorded by the media. In such cases, Council employees must not facilitate or be involved with any publicity.

At no time can Council premises be used for the filming of party political broadcasts.

Candidates' posters and other advertising

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The display of election campaign publicity material on any Council property, including lighting columns, traffic sign poles and street furniture is not allowed. Materials breaching this will be removed as a priority in line with agreed practice.

No party political material can be placed on Council notice boards or displayed in Council buildings.

Please note that Police Scotland has previously advised that candidates must not use any photographs or images featuring police officers/employees in any election materials.

Surgery notices

Sitting Councillors, MPs, MSPs, and MEPs may continue to display surgery notices in Council premises during a pre-election period provided the usual notice is being displayed.

For the UK Parliamentary General Election, parliament has now been dissolved. This means MPs are no longer in office and are therefore not entitled to advertise surgeries, although the business of government continues with ministers holding office until they are replaced.

Councillors are permitted to advertise their surgeries in Council premises during the pre-election period provided the usual notices are displayed. This is because sitting Councillors remain in office until the day of the Council election.

5. Publicity

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General

The definition of publicity is very broad, and any content subject to interpretation. Publicity can cover news releases, publications, events, photos and videos. It also includes online and social media communications as well as 'traditional' publicity.

The main factors to take into account are:

- The content and style of the material in question.
- The time and circumstances of the publication.
- The likely effect of the material on those to whom it is directed.
- Whether the material promotes or opposes a point of view which could be identified as the view of one political party but not another.
- Whether or not the material contains references to any political party or to a person identified with a political party.
- Where the material is part of a campaign, the effect that the campaign appears to be designed to achieve.
- The extent to which any activity is 'business as usual' or where the timing might be beyond the reasonable control of the authority.

The key test is whether a particular communication can be perceived as seeking to influence public opinion or to promote the public image of a particular politician, political party, candidate, or group of candidates (whether or not they are existing members).

Specific points on publicity

Public and media statements (reactive and proactive) will continue to be made during a Council pre-election period. Great care should be taken to ensure that any content is clearly and directly relevant to the service or issue being discussed and reflects the Council's agreed position. Unless exceptional circumstances apply, statements will be attributed to or delivered by the relevant Executive Director (or nominated chief officer) rather than elected members during the pre-election period.

Council newsletters and publications should not be published during the pre-election period. Routine publications advising on Council services may be published during the pre-election period but cannot feature photography of or comments from any politicians or candidates. If you are unsure of what this means for your service, please contact the Public Affairs Manager in the first instance.

Opening ceremonies or other events

Official openings, events or major announcements – whether or not specifically designed to attract publicity – should not take place during the pre-election period. However, on the agreement of the Chief Executive or relevant Executive Director/Director, such events can be considered 'business as usual' if they can be justified on the grounds of exceptional, unavoidable and/or unforeseen circumstances.

Photocalls should generally be avoided during the pre-election period, unless exceptional circumstances apply or the materials will not be issued or put into circulation until after the close of poll.

Media requests

In general, media requests for general filming or photo opportunities during the pre-election period will be treated as they would normally, in line with existing practice. The only issue that would arise is if there is any question of the media outlet taking a particular stance that may be, or may be perceived to be, in favour of a politician, political party or candidate.

Broadcasters will be expected to meet their own obligations in relation to political neutrality.

All media enquiries should be directed to the Public Affairs team, as per standard practice at all times.

6. Other issues

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Staff candidature

If a Council employee in a politically-restricted post wishes to stand for election (whether to the Council for which he or she works, or another Council, European Parliament, Scottish Parliament or UK Parliament), he or she must resign their post.

Council employees not in politically-restricted posts may stand for election to the Council that employs them without resigning their post but must resign within one day of the declaration of the result should they be elected, otherwise they cease to be a Councillor and will cause a by-election.

Staff – other political activity

Staff in politically-restricted posts must not undertake any political activity at any time.

Staff in posts that are not politically-restricted may carry out political activity in their own time. However, if they are a witness for any election-related documents or otherwise personally involved in support for a particular party or candidate, by law they must not be involved with polling or counting.

Working relationships between staff and elected members

Some employees may have a close working relationship with Councillors. It is important that this close working relationship is not compromised in any way. If an employee is asked by a Councillor to provide assistance with a matter that is clearly party political or which does not have a clear link with the work of the Council, they should politely refuse and inform the Councillor they are referring the matter to the relevant Executive Director. This rule also applies if a Councillor seeks assistance on behalf of a candidate.

Use of Council facilities and resources by elected members

Facilities and resources provided by the Council for elected members to help them carry out their duties must never be used for party political or campaigning activities. This includes computer equipment, telephones, stationery, secretarial support and mailing facilities. This is not an exhaustive list and Councillors should check if they are not sure what is appropriate.

Freedom of Information requests

There are no implications for FOI or other information requests covered by legislation. These should be handled as normal.

7. Questions and answers

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The following are based on issues that have previously arisen during a pre-election period. Please note, final advice will depend on the exact circumstances and these FAQs are only given as an indicative response. They are not a substitute for specific, detailed advice, which should be sought as required.

1. **A Council service proposes to hold a public meeting in the pre-election period. It is likely to attract interest from local politicians. Should the meeting be postponed?**

Yes. Generally it would not be appropriate to hold such a meeting in the pre-election period, nor immediately before it officially begins.

2. **A controversial item is on the agenda for a Panel or Council meeting scheduled during the pre-election period. Should consideration of the item be postponed until after the election?**

Probably not. As a general rule, the work of the Council should continue as usual and the item should be considered. However, the relevant Executive Director/Director and/or Chief Executive may consider it is more appropriate to postpone the item until after the election. If the item is considered during the pre-election period, any related publicity will be fronted by the Executive Director/Director (or nominated chief officer) rather than a Councillor.

3. **A school has been approached by a candidate in the forthcoming election who wishes to meet pupils and have a general discussion with them about topics of concern to them. Is it okay to allow the visit?**

Perhaps. All political visits to schools during a pre-election period must be approved by the Director of Educational Services. For example, with approval, schools could invite all candidates to meet the pupils at the likes of a mock hustings meeting, but it would not be appropriate to allow only one candidate to meet the pupils. Approval must be sought before any such event is organised.

4. **Officers have been asked to attend an event to give advice on Council services. Is this okay?**

This would depend on the nature of the event and who was organising it. For example, if the event was associated with a particular political party or candidate, and held during the pre-election period, officers should generally not attend. Any queries regarding this during the pre-election period should be directed to the relevant Executive Director/Director in the first instance.

5. **Is it okay for an election candidate to be photographed outside a Council office or facility?**

The taking of photographs of politicians, candidates, party officials and other staff in or beside any part of any Council building should be discouraged and not facilitated by Council staff. Photography in and around schools is strictly prohibited.

6. **What do I do if a politician/candidate/political party refuses to accept my decision?**

Contact the relevant Executive Director/Director who will discuss the issues raised with the Returning Officer as appropriate and let you and the politician/candidate/party know the outcome of these discussions.

7. **A politician or candidate turns up at a Council facility on an arranged visit during the pre-election period, but there are media following them. Should they be allowed in?**

No, unless in exceptional circumstances. If unsure, advice should be sought from the Public Affairs Manager.

8. **A public consultation meeting is scheduled during the pre-election period as part of the formal planning process for a new school. Can it go ahead?**
Yes. This is both normal business and there may be significant costs associated with any delay.
9. **A politician, political party or candidate wants to use a Council-managed public space/pavement area for a campaign launch. Should it be allowed?**
General practice is that such activities will be allowed as long as the event is limited, e.g. around one hour and there is equal opportunities for all politicians, parties or candidates to use them. The Council resource/effort in facilitating such events will be minimal, e.g. enabling access to a space. All enquiries relating to such use should be directed to Licensing in the first instance on 01292 617682/3 or email licensing@south-ayrshire.gov.uk.
10. **The Council was intending to facilitate a debate on an important issue. Should it be cancelled/postponed?**
Where possible and where there would be minimal detrimental impact to any postponement or cancellation, this would be the recommended course of action – in agreement with the relevant Executive Director/Director. If any debate was to go ahead, it must be open to participation by all politicians, parties and candidates and care would need to be taken in relation to any publicity, which must be agreed with the Public Affairs Manager.
11. **A partner organisation has asked to use a Council venue for the launch of an initiative. A government minister will be attending and significant media presence is expected. Can we facilitate this?**
No. While the event would be hosted by a third party, the use of a Council venue for such an event could give rise to concerns regarding the Council's political neutrality. There may be publicly accessible spaces that can be used instead (see question 9 above), but a Council venue should not be used to facilitate media coverage for such an event. A material consideration here is that other parties would not have the same opportunity to carry out such activity.
12. **An elected member wants to give their view on a specific matter to the media. Is this allowed?**
Any elected member is at liberty to do this at any time.
13. **An organisation that receives funding from the Council has taken an advert in a political party's newsletter. Is this allowed?**
There are two relevant issues here: what is the Council's funding for (e.g. a general grant or for a specific purpose such as communications) and what is the advert for (e.g. notice of an event or self-promotion)? Generally, this is a low-risk activity as long as there is nothing overtly political about the organisation's activity or its advert, and will be dependent on the organisation's grant conditions.
14. **There is an event scheduled for the launch of a new service. Can elected members be invited? And what about other politicians?**
Such events should generally be avoided during the pre-election period, unless essential for service delivery purposes, and must be approved by the relevant Executive Director/Director. If an event does go ahead, politicians or candidates can be invited as appropriate but cannot feature in any publicity produced by or on behalf of the Council.
15. **We want to highlight a new initiative. Can the relevant portfolio holder be involved?**
Generally, new initiatives should not be announced during the pre-election period. However, where there are genuine reasons why it is taking place during the pre-election period, the publicity will be fronted by the relevant Executive Director (or nominated chief officer).

8. Contacts and further information

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General advice on elections

[Wynne Carlaw](#), 01292 612192

General advice on pre-election period guidance

[Eileen Howat](#), Returning Officer

[Valerie Andrews](#), Depute Returning Officer

General advice on pre-election period publicity

[Denise Robertson](#), Public Affairs Manager

[Mark Baker](#), Head of Policy and Performance

Room bookings

See [Appendix 1](#)

Use of Council-managed public space/pavement area

[Licensing](#)

Appendix 1: Council premises available for use as offices and for public meetings

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Community Centres

Ballantrae Community Centre	01465 831475
Barr Community Centre	01465 861259
Barrhill Community Centre	01465 821266
Colmonell Community Centre	01465 881119
Coylton Community Centre	01292 570539
Crosshill Community Centre	01655 740275
Dailly Community Centre	01465 811212
Girvan Community Centre	01465 713480
Heathfield Community Centre	01292 442090
Lochside Community Centre	01292 263333
McCandlish Hall, Straiton	01655 770275
Pinwherry Community Centre	01465 841641
Prestwick Community Centre	01292 478864
Tarbolton Community Centre	01292 541085
Troon Youth Centre	01292 612655

Community Halls – contact Hall Lets on 01292 612200, except for Maybole Town Hall

Annbank Village Hall	
Loans Village Hall	
Monkton Village Hall	
Montgomerie Hall, Dundonald	
McCosh Hall, Kirkmichael	
Richmond Hall, Kirkoswald	
Loudon Hall	
Troon Walker & Concert Hall	
Maybole Town Hall	01655 882105

Schools – contact School Lets on 01292 612655

Alloway Primary
Annbank Primary
Ayr Academy
Ayr Grammar Primary
Ballantrae Primary
Barassie Primary

Barr Primary
Barrhill Primary
Belmont Academy
Braehead Primary
Cairn Primary
Carrick Academy
Colmonell Primary
Coylton Primary
Crosshill Primary
Dailly Primary
Dalmilling Primary
Doonfoot Primary
Dundonald Primary
Fisherton Primary
Forehill Primary
Gardenrose Primary
Girvan Academy
Girvan Primary
Glenburn Primary
Heathfield Primary
Holmston Primary
Invergarven School
Kincaidston Primary
Kingcase Primary
Kirkmichael Primary
Kyle Academy
Maidens Primary
Marr College
Minishant Primary
Monkton Primary
Muirhead Primary
Newton Primary
Prestwick Academy
Queen Margaret Academy
Sacred Heart Primary
Southcraig Campus
St Cuthbert's Primary

St John's Primary
St Ninian's Primary
St Patrick's Primary
Straiton Primary
Struthers Primary
Symington Primary
Tarbolton Primary
Troon Primary