

Pre-Election Period Guidance

**For use in the pre-election period for all elections and by-elections:
South Ayrshire Council, Scottish Parliament and UK Parliament**

March 2021

Introduction

This guidance applies to the formal pre-election period for all elections managed by the Council. The pre-election period is the time between the formal announcement of an election and the date of the election itself, inclusive of both days.

If you require more detailed advice and guidance on the Council's legal obligations and duties during the pre-election period, contact Catriona Caves, Head of Legal, HR and Regulatory Services on 01292 612556 or email catriona.caves@south-ayrshire.gov.uk

Any queries regarding publicity during the pre-election period should be directed to Public Affairs Team on 0300 123 0900 or email communications@south-ayrshire.gov.uk .

Any general queries regarding elections should be directed to Wynne Carlaw, Service Lead - Democratic Governance on 01292 612192 or email wynne.carlaw@south-ayrshire.gov.uk.

Any Scottish Government restrictions in place during the current COVID-19 pandemic will be adhered to.

Pre-election period guidance

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1. Applicability

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These guidance notes apply to all elections and by-elections: South Ayrshire Council, Scottish Parliament and UK Parliament.

Though the guidance applies primarily to South Ayrshire Council and its officers, it should also be followed by organisations that provide services or conduct business on the Council's behalf.

Care should also 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 Leadership Team (ELT) 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's discretion.

Any references to 'constituency' in this guidance means – in the context of the particular election – 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 employees 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 a member of the ELT, employees 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 (the day of the election), 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 Scottish Parliamentary Election 2021 is Monday 15 March 2021 until Thursday 6 May 2021.

Legal and other obligations

The Council is 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.

Employees and elected members also have obligations under their respective codes of conduct.

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 other premises where access is generally controlled or limited.

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. It also excludes Council premises that are, in effect, an individual's home – such as Council houses, sheltered housing complexes, residential/care homes or hostels. During the COVID-19 pandemic, visits to a person's home are not permitted for these purposes. On-line or virtual meetings are allowed.

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 temporarily use its vacant 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.

Due to the COVID-19 pandemic, there are legal restrictions on any gatherings involving more than two persons, and as a result public meetings cannot take place should this change, this guidance will be updated.

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 and to be seen within the area, or to become more familiar with Council premises. The following procedure will apply in relation to these visits during the pre-election period:

- Visits to any Council premise must be arranged in advance with the relevant member of the ELT and, through them, with the manager of the premise concerned.

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

- Visits must be of short duration – no more than two hours.
- Visits must not interfere with the efficient and proper running of the service or the premise, taking into account the best interests of the residents/users at the premise.
- If, during a visit, it becomes apparent to the manager of a premise 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 member of the ELT.
- 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, at their request.

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 (prior to dissolution of Parliament in the case of MPs/MSPs) 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 and the media should not be involved in any approved visit.

With the exception of any centrally-organised 'hustings' events for appropriate elections, candidates and their agents or representatives will not be allowed direct access to young voters in South Ayrshire schools during the pre-election period. This is to ensure balance and neutrality and minimise any potential disruption to learning.

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 direct request of an individual resident of a Council house or sheltered housing tenant, or 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).

Any physical visit cannot currently take place during the COVID-19 pandemic and virtual/online alternatives may be used.

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 Director and in consultation with the Chief Executive. 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 team 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.

Sitting politicians, as outlined above, may continue to visit Council premises as part of their usual constituency business; however, these visits must not be used for publicity purposes.

Candidates’ posters and campaign materials

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Political posters and election campaign publicity material are not permitted on any Council property, including lighting columns, traffic sign poles and street furniture. Materials breaching this will be removed as a priority in line with agreed practice.

No party political material – or material that could be perceived to be party political – can be placed on Council notice boards or displayed in Council buildings and any such materials will be removed as a priority.

In addition, vehicles displaying election or party political materials will not be permitted to park within the courtyard of County Buildings. Drivers will be asked to park vehicles displaying such materials elsewhere.

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

Council employees must not provide written materials or images for use in election materials.

Surgery notices

Sitting Councillors, MPs and MSPs may continue to display surgery notices in Council premises during a pre-election period provided the usual notice is being displayed. Following the dissolution of Parliament, MPs and MSPs surgery notices should be removed.

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.

In premises used as polling places, surgery posters will not be displayed on polling day itself.

5. Publicity

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General

The Council will continue to publicise and promote its activities and services during the pre-election period. This will include news releases, media statements, publications, events, photos and videos, online and social media – including Twitter and Facebook, which are the main social media channels used by the Council.

However, this has to be balanced against the requirements for sensitivity during a pre-election period. 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).

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.

Advice should be sought from the Public Affairs Manager in the first instance, and any final decision will be made in conjunction with the Chief Executive.

Specific points on publicity

Public and media statements (reactive and proactive) will continue to be made by the Council during the pre-election period – these will be issued by the Public Affairs team, in accordance with standard practice. Care will 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 generally be attributed to or delivered by the relevant Director (or nominated chief officer) rather than elected members during the pre-election period. Any exceptions to this will be agreed with the Chief Executive.

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 team 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

relevant Director, in consultation with the Chief Executive, such events can be considered 'business as usual' if they can be justified on the grounds of exceptional, unavoidable and/or unforeseen circumstances.

Any approved events will generally not include formal roles for politicians and candidates and they will not feature in the related publicity.

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.

Any photocalls taking place during the pre-election period must be approved by the Public Affairs Manager. If approved, any photography issued during a pre-election period will not feature politicians, candidates or campaigners.

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.

Requests to cover hustings events will generally be permitted on the basis that they are open to all relevant candidates.

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.

Electoral registration

It's important that all those who are eligible to vote in an election have the opportunity to do so. Politicians, candidates and agents – as well as Council employees – can encourage people who are not on the electoral register to apply for registration.

Information on electoral registration is available on the Council website at www.south-ayrshire.gov.uk/elections.

6. Other issues

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Employee 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, Scottish Parliament or UK Parliament), he or she must resign their post prior to submitting their nomination.

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.

Employees – other political activity

Employees in politically-restricted posts must not undertake any political or campaigning activity at any time.

Employees in posts that are not politically-restricted may carry out political or campaigning activity **in their own time**. This means party political or election materials/emblems cannot be worn while in the workplace or displayed on employees' vehicles while parked in a Council workplace.

By law, any employees who are a witness for any election-related documents or otherwise personally involved in support for a particular party or candidate cannot be involved with polling or counting.

Employees who are appointed to work either as polling staff or at the election count – or in related activities – will be required, as a precondition of their appointment, to sign an official statement confirming they have not been employed by, or on behalf of, a candidate or political party or campaign in relation to the election.

If you are unsure how this applies to you, or a member of your team, please contact Wynne Carlaw, Service Lead - Democratic and Governance, on 01292 612192 or wynne.carlaw@south-ayrshire.gov.uk.

Working relationships between employees and Councillors

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 Head of Legal, HR and Regulatory Services. This rule also applies if a Councillor seeks assistance on behalf of a candidate or a political party. This rule applies at all times – not just during the pre-election period.

Use of Council facilities and resources by Councillors

Facilities and resources provided to Councillors 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. If unsure, advice should be sought from the Public Affairs Manager.

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 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 generally be fronted by the 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?

No. With the exception of any centrally-organised 'hustings' events, candidates and their agents or representatives will not be allowed direct access to young voters in South Ayrshire schools during the pre-election period. This is to ensure balance and neutrality and minimise any potential disruption to learning.

4. A candidate wishes to visit a sheltered housing complex to meet with tenants and residents. Can the visit go ahead?

No. A visit like this – to someone's home – can only go ahead at the request of an individual tenant or resident from the property concerned. Council employees must not facilitate or be involved with any publicity in relation to any such visit.

Any physical visit cannot currently take place during the COVID-19 pandemic.

5. 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, politician 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 Head of Legal, HR and Regulatory Services in the first instance. Such physical events currently cannot take place during the COVID -19 pandemic and virtual/online alternatives may be used.

6. Is it okay for an election candidate to be photographed outside a Council premise?

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 employees. Photography in and around schools is strictly prohibited.

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

Contact the Head of Legal, HR and Regulatory Services who will discuss the issues raised with

the Chief Executive as appropriate and let you and the politician/candidate/party know the outcome of these discussions.

8. A politician or candidate turns up at a Council premise 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 or previously approved. If unsure, advice should be sought from the Public Affairs team.

9. 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.

10. 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 are 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.

During the current COVID-19 pandemic, such events, if they involve more than two persons, are not permitted.

11. 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 Head of Legal, HR and Regulatory Services. 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 team.

During the COVID-19 pandemic this would require to be an online debate.

12. 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 10 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.

13. A Councillor wants to give their view on a specific matter to the media. Is this allowed?

Councillors are at liberty to do this at any time. They must make it clear they are not speaking on behalf of the Council, and must not use Council facilities for party political or campaigning purposes.

14. 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.

15. 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 Director, in consultation with the Chief Executive. If an event does go ahead, politicians or candidates can be invited as appropriate, but will not feature in any publicity produced by or on behalf of the Council. During the COVID-19 pandemic this would almost certainly be an on-line/virtual event, as physical events are prohibited.

16. 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, this will require to be approved by the Chief Executive, and the publicity will generally be fronted by the relevant Director (or nominated chief officer).

8. Contacts and further information

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This guidance specifically applies to the period leading up to an election and includes polling day. Additional supporting guidance and information also applies for polling day itself.

The Electoral Commission's guidance for candidates and agents for the Scottish Parliamentary Election on Thursday 6 May 2021 is available at <https://www.electoralcommission.org.uk/sites/default/files/2020-10/SP%20-%20Overview.pdf> .

Further information regarding the election is available at www.south-ayrshire.gov.uk/uk-election.

General advice on elections

elections@south-ayrshire.gov.uk

[Wynne Carlaw](#), Service Lead - Democratic Governance, 01292 612192

General advice on pre-election period guidance

[Eileen Howat](#), Chief Executive, 01292 612612

[Catriona Caves](#), Head of Legal, HR and Regulatory Services, 01292 612556

Electoral Registration Office

[Helen McPhee](#), Electoral Registration Officer, 01292 612221

General advice on pre-election period publicity

[Communications](#), Public Affairs Team, 0300 123 0900

Electoral Commission Scotland

infoscotland@electoralcommission.org.uk, 0131 225 0200

Use of Council-managed public space/pavement area

[Licensing](#), 01292 617682/3