

Pre-Election Period Guidance

2023



A photograph of a stone tower on a cliffside, partially obscured by a white text box. The tower is built from grey stone and has several small, rectangular windows. It sits on a steep, rocky cliff that is covered with patches of green grass and brown, scrubby vegetation. The sky is blue with some white clouds. The foreground shows a sandy beach with some seaweed.

Information for Councillors and Staff

These guidance notes apply to all elections administered by South Ayrshire Council; Local Government, Scottish Parliament and UK Parliament, as well as by-elections. The guidance may also be applied to referendums, although specific additional guidance may be required.

It is crucial 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 a particular party or candidate, as this is prohibited by statute.

Key Points

While some areas may require more detailed advice, the general guidance during any pre-election period is as follows:

- Council employees must, by law, act in a politically neutral way at all times and there is particular sensitivity around this in the run-up to an election.
- Extra care must 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 or for political purposes.
- Unless otherwise stated, normal Council business will continue.
- Staff will respond positively to requests for information or advice from parties or candidates unless stated otherwise in this guidance, or under instruction from a member of the Executive Leadership Team (ELT).

Statutory Provisions

The period before an election is sometimes referred to as 'purdah'. This is a statutory period which restricts how the UK and Scottish Governments behave during an election campaign, however, purdah does not apply to local authorities.

Restrictions on communications activity undertaken by local authorities are contained within the 1986 Local Government Act and the associated Code of Recommended Practice on Local Government Publicity - these apply at all times.

The Code defines publicity as "any communication in whatever form, addressed to the public, or to a section of the public". This is a wide definition and includes press releases; verbal briefings to the press;(with the exception of specific requests for information); social media updates; letters from Members to constituents; committee agendas; committee reports; committee minutes; organising of events; correspondence; webcasting meetings; and call handling scripts for customer service advisors. This list is not exhaustive.

The Code also requires councils to "not publish any material which, in whole or in part, appears to be designed to affect public support for a political party"

Prior to any Council related activity, staff should always consider whether a particular act could be perceived as seeking to influence public opinion or to promote the public image of a particular candidate, group of candidates or political party – this is known as the 'Key Test'

Although these rules apply at all times, there is particular sensitivity in the run-up to an election/referendum. This is known as the 'pre-election period' which begins when the 'Notice of Election' is published.

For the Local Government By-Election on 21 September 2023, this period will begin on Thursday 10 August 2023 and end on Thursday 21 September 2023 inclusive.

Effect of the restrictions

The Council will continue to operate as close to normal as possible during this period. However, we need to be careful about what messages we communicate to the public.

The Act does not set out in detail what is/is not permissible. This means that a judgement call has to be made on a case by case basis.

The key thing to remember is that if you think a particular activity could appear to be designed to influence the outcome of an election, then you should not do it.

While the Code does not explicitly rule out facilitating contact between Elected Members and the public, particular care should be

taken if you are considering this. You should always consider whether there is a need for the communication to be in the name of an Elected Member, and if it is essential that it's communicated during this period.

As a general rule, we cannot facilitate contact between Elected Members and the public on matters which are politically controversial. In the case of Council elections, this means we cannot quote councillors in media statements; social media; websites and other publications, or, involve them in any media events. However, there is nothing to prevent Elected Members speaking directly to the media as long as they do not use Council facilities to do so.



Publicity

The Council will continue to publicise its activities and services during a pre-election period in the usual way. However, this must be balanced against the requirement for sensitivity during this period and by applying the 'Key Test'.

Unless exceptional circumstances apply, statements will be attributed to, or delivered by the relevant Chief Officer rather than Elected Members.

You should consider:

- The content and style of the material.
- The time and circumstances of 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 the activity is 'business as usual' or where the timing might be beyond the reasonable control of the Council.

Prior to arranging any publicity during the pre-election period, staff should contact Communications@south-ayrshire.gov.uk in the first instance. Any final decision on whether to proceed with the publicity will be taken by the Chief Executive.

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 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.

Approved events should generally not include formal roles for politicians and candidates, and they will not feature in any related publicity.

Media Requests

All media requests for filming or photo opportunities during the pre-election period should be handled as normal via the Communications team.

Consideration should always be given to ensure there is no chance that the media outlet could be perceived as taking a particular stance in favour of one party or candidate. Requests to organise or cover hustings events will normally be permissible on the basis that they are open to all relevant candidates.

Strict rules to maintain political neutrality apply to broadcasters and the Council should assume that all broadcasters will meet their own obligations in this regard.

Further restrictions on staff activity

Use of Council Premises

The 1986 Local Government Act's definition of 'publicity' prevents councils from allowing premises and other resources to be used in a manner that could be perceived as giving support to a particular political party/candidate. This includes IT equipment, telephones, stationery, secretarial support and mailing facilities. This is not an exhaustive list and Elected Members should check if they are not sure what is appropriate.

There are some exceptions:

- The Council may 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.
- Parties or candidates may use a school room or other listed meeting room 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 as for any damage caused to the room by the let. Candidates/their 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.

Visits to Council Premises by Candidates

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

- Visits to any Council facility/premise must be arranged in advance with the relevant member of ELT, and through them, with the manager of the facility/premise concerned.
- Visits must not interfere with the efficient and proper running of the service or facility, taking into account the best interests of the residents/users of the facility.
- Visits must be of short duration i.e. one – two hours.
- If, during a visit, it becomes apparent to the manager of the facility/premise that the visit is interfering with the running of the service, then the manager has the right to immediately terminate the visit. In such cases the manager must inform the relevant member of ELT.
- A fair and consistent approach on a Council-wide basis must be taken to such visits to ensure that they are not used to signify favour for any party/candidate. All candidates from other parties within the constituency should have the same or similar opportunities at their request.

It is normal practice for elected representatives to visit Council premises as invited guests to organised events. Such events and visits should be avoided until after the close of poll on election day, 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.

With the exception of any centrally organised hustings event, candidates and their agents 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 to minimise any potential disruption to learning.

Some further exceptions where restrictions on visits to Council premises will not apply include:

- Council premises rented/leased on a commercial basis, where entry is at the discretion of the tenant/leaseholder.
- 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).

Use of Council premises for publicity

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.

Any such media request should be directed to the Communications team who will consult with the relevant Chief Officer and Chief Executive. If the media is involved in an approved visit, Council staff must not be photographed, recorded or televised with politicians or candidates.

At no time can Council premises be used for the filming of party political broadcasts. Candidates' posters and campaign materials

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

No party political material can be placed on Council notice boards or displayed in Council buildings. Also, any vehicles that display election or party political materials will not be permitted to park within the courtyard of County Buildings.

Surgery Notices

Sitting councillors, MPs and MSPs may continue to display surgery notices in Council premises during a pre-election period, provided that it is the usual notice 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 that the usual notices are displayed. This is because sitting councillors remain in office until the day of the local election.

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

By-Elections

Care should be taken to avoid any publicity that might appear to be party political or deals with controversial issues in the ward or constituency affected by a by-election during the period after the notice of election has been issued. Consideration should also be given to stop normal Council publicity during this period if appropriate.

Other issues

Staff Candidature

If a Council employee in a politically restricted post wishes to stand for election (whether to the Council, Scottish Parliament or UK Parliament), they must resign their post prior to submitting their nomination.

Council employees who are not in a politically restricted post may stand for election to the Council 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 an Elected Member and will cause a by-election.

Staff – Other Political Activity

Staff in politically restricted posts should 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 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. 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.

Freedom of Information Requests (FOI)

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



Question and Answers

The following Q and As 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, please contact the Communications team who will seek advice as appropriate from the Chief Executive.

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.

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.

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.

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 the candidate is attending a hustings event. This is allowing a Council facility to be used for a party political activity involving the media, without arrangement and without the agreement of a Chief Officer. If you are unsure, please contact the Communications 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.

11. The Council was intending to facilitate a debate on an important issue. Should it be cancelled/postponed?

Yes, 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 Communications team.

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?

The two issues here are: 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.

Electoral Commission guidance for candidates and agents

The Electoral Commission guidance for candidates and agents can be found [here](#).

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 on a politically even handed basis, as appropriate, but will not feature in any publicity produced by or on behalf of the Council.

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 for this to take place during the pre-election period, approval must be given by the Chief Executive, and the publicity will generally be fronted by the relevant Director (or nominated chief officer).

Contacts and further information

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.

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 elections and pre-election period guidance

Eileen Howat, Chief Executive, 01292 612612

Catriona Caves, Head of Legal, HR and Regulatory Services, 01292 612556

Wynne Carlaw, Service Lead - Democratic Governance, 01292 612192

Electoral Registration Office - Magnus Voy, Electoral Registration Officer, 01292 612513

General advice on pre-election period publicity

Communications team, communications@south-ayrshire.gov.uk, 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

This information can be made available, on request, in braille, large print or audio formats and can be translated into a range of languages. Contact details are provided below.

درخواست کرنے پر یہ معلومات ناپینا افراد کے لئے ابھرے حروف، بڑے حروف یا آڈیو میں مہیا کی جاسکتی ہے اور اسکا مختلف زبانوں میں ترجمہ بھی کیا جاسکتا ہے۔ رابطہ کی تفصیلات نیچے فراہم کی گئی ہیں۔

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ਇਹ ਜਾਣਕਾਰੀ ਮੰਗ ਕੇ ਬੋਲ, ਵੱਡੇ ਅੱਖਰਾਂ ਅਤੇ ਸਣਨ ਵਾਲੇ ਰਪ ਵਿਚ ਵੀ ਲਈ ਜਾ ਸਕਦੀ ਹੈ, ਅਤੇ ਇਹਦਾ ਤਰਜਮਾ ਹੋਰ ਬੋਲੀਆਂ ਵਿਚ ਵੀ ਕਰਵਾਇਆ ਜਾ ਸਕਦਾ ਹੈ। ਸੰਪਰਕ ਕਰਨ ਲਈ ਜਾਣਕਾਰੀ ਹੇਠਾਂ ਦਿੱਤੀ ਗਈ ਹੈ।

Niniejsze informacje mogą zostać udostępnione na życzenie, w alfabecie Braille'a, w druku powiększonym lub w formacie audio oraz mogą zostać przetłumaczone na wiele języków obcych. Dane kontaktowe znajdują się poniżej.

Faodar am fiosrachadh seo fhaighinn, le iarrtas, ann am braille, clò mòr no clàr fuaim agus tha e comasach eadar-theangachadh gu grunn chànanan. Tha fiosrachadh gu h-ìosal mu bhith a' cur fios a-steach.

South Ayrshire Council
Contact Centre
0300123 0900