

Returning Officer for South Ayrshire Council Privacy Notice

Under the Representation of the People Act 1983 each Local Authority must by law appoint a 'Returning Officer'.

This is a personal appointment separate to South Ayrshire Council with its own statutory functions.

The Returning Officer has a statutory duty to process certain personal data for the purpose of administering election and referenda; and as such, is the 'data controller'. This means the Returning Officer decides how your personal data is processed and for what purposes. The Returning Officer for South Ayrshire Council is registered with the Information Commissioner's Office as a data controller – ZA431019

It should be noted that for many of the Returning Officer 'services or functions' the Returning Officer will not be processing personal data on behalf of the Council. It will instead be processing personal data on behalf of one or more of the following statutory office holders:

- (a) The registration officer appointed by the Council under section 8 of the Representation of the People Act 1983;
- (b) The Returning Officer for parliamentary elections for any parliamentary constituency for which the position is held under section 28 of the Representation of the People Act 1983 by the registration officer referred to at (a) above;
- (c) The Returning Officer appointed for the purpose of local elections by the Council under section 35 of the Representations of the People Act 1983;
- (d) The Counting Officer responsible for the administration, within the Council's local authority area, of any local, regional or national referendum;
- (e) Any other statutory office holder whose duties relate to administering elections or referenda and whose office is held by virtue of holding one or more of the offices described in (a) to (d) above or is otherwise required by law be held by an officer of the Council.

Although when referring to the above statutory office holders this privacy notice generally only makes reference to the "Returning Officer", the latter term should be understood as referring, insofar as is relevant in the circumstances, to any of (b) to (e) above.

It is important to note that the Returning Officer is a separate data controller from the Council and the Electoral Registration Officer.

This privacy notice explains what personal information is collected, what it is used for, who it is provided to and the lawful basis relied on to processing your personal information.

Your personal data – what is it?

Personal data relates to a living individual who can be identified from that data. Identification can be by the information alone or in conjunction with any other information. The processing of personal data is governed by the General Data Protection Regulation 2016 (GDPR) and supplemented by the Data Protection Act 2018.

What information the Returning Officer will collect from you?

Candidates: To be able to stand as a candidate at an election, you are required by law to provide the Returning Officer with personal information. In general terms, the Returning Officer will process personal information relating to:

- candidate full name/s
- candidate commonly used name/s
- candidate date of birth
- candidate full home address
- candidate email address
- candidate telephone numbers
- party name
- candidate signature
- candidate qualification/s
- subscriber name(s), signature(s) and elector number/s
- witness personal information including signature
- candidate consent to nomination
- certificate of authorisation (party candidate)
- name, address, office address and signature of appointed election agent
- counting agents and polling agents details
- statement of person(s) nominated
- notice of poll
- election notice/s
- candidates expenses returns
- verifying and counting the votes cast
- declaration of results
- formal notification of election results

Staff: To be able to work at an election, you are required to provide the Returning Officer with personal information. In general terms, the Returning Officer will process personal information relating to:

- full name
- address
- date of birth
- National Insurance Number
- bank details
- email address
- telephone number/s
- appointment and remuneration of Polling Station Inspectors, Presiding Officers, Poll Clerks, Postal Vote Opening Staff, Count Staff and any other person employed by the Returning Officer for election purposes

- election training

Electors: The standard information that we process in accordance with administrating an election is:

- Full name
- Date of Birth
- Address
- Elector Number
- Postal Vote personal identifiers (signature and date of birth)
- Printing and issue of poll cards
- Printing and issue of postal votes
- postal voting statements
- postal vote rejection notices
- waivers
- absent voter application forms
- managing the postal voting process including the issue and return of postal votes
- Provision of polling facilities

The Returning Officer processes the following special category* personal information:

- Race and ethnic origin, insofar as it may be possible for this to be inferred from nationality information.
- Political opinions – such as information contained within subscribed nomination papers.
- Health data – this may be contained within applications to vote by post or proxy.

* Data Protection legislation defines Special Category Data as data relating to the processing of personal data regarding racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership and the processing of genetic data, biometric data, data concerning health or data concerning a person's sex life or sexual orientation.

Do I have to provide this information and what will happen if I don't?

This information must be supplied for the purpose of administering an election.

If you are a candidate failing to provide this information will mean you are unable to stand as a candidate.

As an elector failing to provide this information will mean you are unable to vote in the election.

How the Returning Officer will use information about you?

The Returning Officer will use your information as follows:

- If you apply to be an absent voter, the compilation and maintenance of records of absent voters
- Fulfilling obligations relating to the supply of absent voting lists

- For the administration of local and national elections and referenda, including in particular:
 - Determining which electors are entitled to be issued with ballot papers at polling stations.
 - Determining which electors are entitled to vote by way of an absent vote.
 - Issuing poll cards to electors and to proxies.
 - If you are a postal voter, issuing your postal vote pack and receiving your completed postal vote and postal voting statement.
 - If you are a candidate at an election, processing and determining your nomination papers, publishing statutory notices containing your details, producing ballot papers and managing election processes in which you will be involved.
 - If you are an election agent at an election, publishing statutory notices containing your details and managing election processes in which you will be involved.
 - If you are a counting agent, polling agent, postal vote agent, count supervisor, nominating officer or similar official, managing the election processes in which you will be involved.
 - In its capacity as custodian of the Council's copy of the electoral register, deciding how that copy may be used.
 - If you make an enquiry or complaint, dealing with that enquiry or complaint.
 - If you are employed by the Service (including staff employed directly by the Returning Officer), managing that employment.

Please note that the Returning Officer is legally obliged to publish certain personal information (such as that relating to election candidates and election agents) in the form of public notices.

What is the legal basis for processing (using) your personal data?

The Returning Officer will only process your personal information when there is a lawful reason to do so.

The lawful basis for processing individuals' personal data are as follows:

- (1) Legal obligation (article 6 (1) (c) of the GDPR)- the processing is necessary for compliance with a legal obligation to which the controller is subject.
- (2) Public task (Article 6(1) (e) of the GDPR)- the processing is necessary to perform a task in the public interest or for official functions, and the task or function has a clear basis in law.

The information is required by the Returning Officer in order to carry out duties under the following legislation:

- The Local Government (Scotland) Act 1973 (as amended)
- Representation of the People Acts 1983, 1985 and 2000
- Scotland Acts 1998 and 2012
- Political Parties, Elections and Referendums Act 2000
- Representation of the People (Scotland) Regulations 2001

- Scottish Parliament (Constituencies) Act 2004
- Electoral Administration Act 2006
- The Local Electoral Administration and Registration Services (Scotland) Act 2006
- The Representation of the People (Absent Voting at Scottish Local Government Elections) Regulations 2007 and the Representation of the People (Absent Voting at Scottish Local Government Elections) Amendment Order 2009
- The Representation of the People (Postal Voting at Scottish Local Government Elections) Regulations 2007 and the Representation of the People (Postal Voting at Scottish Local Government Elections) Amendment Regulations 2009
- Political Parties and Elections Act 2009
- The Scottish Parliament (Constituencies and Regions) Orders 2010 and 2014
- Fixed Term Parliament Act 2011
- Local Electoral Administration (Scotland) Act 2011
- The Representation of the People (Post-Local Government Election Supply and Inspection of Documents) (Scotland) Regulations 2007 and the Representation of the People (Post-Local Government Elections Supply and Inspection of Documents) (Scotland) Amendment Regulations 2012
- The Absent Voting at Scottish Local Government Elections (Provision of Personal Identifiers) Regulations 2009
- The Scottish Local Government Elections Order 2011 and the Scottish Local Government Elections Amendment Order 2012
- Local Electoral Administration (Scotland) Act 2011 (Consequential Amendments) Order 2012
- The Representation of the People (Variation of Limits of Candidates' Local Government Elections Expenses) (Scotland) Order 2012
- Electoral Registration and Administration Act 2013
- The Scottish Elections (Reduction of Voting age) Act 2015
- Any future legislation published for Referendums

Special Category Data

The lawful basis for processing Special Category Data is:

Processing is necessary for reasons of substantial public interest as set out in Article 9(2) (g) of the GDPR and meets a condition in Part 2 of schedule 1 of the Data Protection Act 2018.

Who we share your information with?

To enable the Returning Officer to carry out its own statutory functions we may share information under our legal obligations with partner organisations, including:

- The Electoral Commission
- Contracted Electoral Print Suppliers
- Electoral Registration Office
- Police Scotland

For certain elections, information will be shared with other Authorities' Counting/Returning Officers. For spending returns in certain elections, information will be shared with the Cabinet Office or Scottish Government.

Staff data will be shared with South Ayrshire Council's internal departments where necessary and Police Scotland.

The Returning Officer will also make any disclosures required by law and may also share information with other bodies responsible for detecting/preventing fraud or auditing/administering public funds.

The Returning Officer may need to appoint other organisations to carry out some activities on its behalf. These may include, for example, the Council for payment processing, printers, delivery organisations, mailing houses and contractors or consultants providing services to the Returning Officer, where they need to be provided with personal information to allow them to provide these services. We select these organisations carefully and put measures in place to make sure that they are not allowed to do anything with your personal information which the Returning Officer could not do itself.

Where information is shared with other organisations or processed on our behalf, we will ensure adequate protection by ensuring contracts and sharing agreements are in place that define security controls around the sharing of the information

How long do we keep hold of your information?

We will not keep your information for any longer than it is needed, and will dispose of paper and electronic information in a secure way. Your information will be retained in line with our [Corporate Records Retention Schedule](#) which is informed by the Representation of the People's Act 1983, 1985 and 2000 as well as guidance from the Electoral Commission.

Automated Decision Making

If you are a postal voter, the service uses your information to make decisions through automated means when it checks personal identifiers that you provide against those contained in your original postal vote application. In any case where the automated process reports that the personal identifiers you have provided do not match those on your original postal vote application, there will be an intervention by a human being who will make a final decision (there will always be the involvement of a human decision-maker where the result of the automated process indicates the possibility of a decision to your detriment).

Providing accurate information

It is important that we hold accurate and up to date information. If any details have changed, or change in the future, then individuals should ensure that they inform the Returning Officer as soon as possible so that they can update their records at:



Returning Officer
Elections Office

County Buildings
Wellington Square
Ayr
KA7 1DR



election@south-ayrshire.gov.uk



01292 612300

Will your information be transferred abroad?

Your information will be stored and processed on servers based within the European Economic Area. While it may sometimes be necessary to transfer personal information overseas, any transfers will be in full compliance with data protection legislation. We will take all practical steps to make sure your personal information is not sent to a country that is not seen as 'safe' either by the UK or EU Governments.

What are my rights?

Under data protection legislation, individuals have the right to:

- Rectify your personal information if it is inaccurate;
- Access your personal information held by us
- Complete your personal information if it is incomplete;
- Restrict the processing of your personal information in certain circumstances;
- Erase your personal information in certain circumstances.
- Object to the processing of your personal information
- Object to decisions being made by automated means
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Individuals can contact the Returning Officer's office regarding their data protection rights, the processing of their data, or to request access to information the Returning Officer holds about them by contacting the Data Protection Team at:



Data Protection Officer
Information Governance Team
Legal & Democratic Services
County Buildings
Wellington Square
Ayr
KA7 1DR



Email: DataProtection@south-ayrshire.gov.uk



Telephone: 01292 612223

If you have a complaint

If you are unhappy with the way the Returning Officer for South Ayrshire Council has dealt with your personal information, you can complain to the Data Protection Officer using the contact details noted above.

If you remain dissatisfied, you have the right to complain to the Information Commissioner (<https://ico.org.uk/for-the-public/>):



Information Commissioner's Office
45 Melville Street
Edinburgh
EH3 7HL



Email: scotland@ico.org.uk.



Telephone: 0131 244 9001

If you have no Internet Access

Please contact us at the above postal address or telephone number if you wish to have copies of any of the above information and you do not have access to the internet. We will endeavour to let you have hard copies of the information.