

## Scottish Parliamentary election

# Guidance for candidates and agents

## Part 4 of 6 – The campaign

January 2023

This document applies to Scottish Parliamentary elections. Our guidance and resources for other elections in the UK can be accessed from our website at: <http://www.electoralcommission.org.uk/i-am-a/candidate-or-agent>.

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# Essential information

This section of the document contains our guidance on campaigning at a Scottish Parliamentary election. Supplementary information, which may only be relevant to some parties or candidates, is provided at the back of this document. You can also view this supplementary guidance by clicking on the links within this document or by clicking on the chapter heading on the contents page.

In this document, we use 'you' to refer to all types of candidates at elections to the Scottish Parliament. We refer to candidates who are not included on a party list at the regional election as 'individual regional candidates'.

We use 'must' when we refer to a specific requirement. We use 'should' for items we consider to be minimum good practice, but which are not legal or regulatory requirements.

Deadlines mentioned in this document are generic and we have published a [generic election timetable](#) on our website.

For scheduled elections, we will publish an election timetable containing the specific deadlines for those polls which you can download from [our website](#).

We are here to help, so please contact us if you have any questions.

See our [Overview document](#) for contact details.

Data protection legislation applies to the processing of all personal data.

Please contact the [Information Commissioner's Office](#) for further information about how the General Data Protection Regulation affects you.

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## Campaigning dos and don'ts

### When can you start campaigning?

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

1.2 However, you should be aware that election spending limits apply ahead of the election. [Part 3 – Spending and donations](#) explains the rules for constituency candidates, individual regional candidates and regional party list candidates. Regional party list candidates will also need to be aware of the spending and donation rules for political parties. We have produced [guidance for political parties on campaign spending](#), including those submitting regional lists of candidates for the election.

1.3 There is a long and short campaign for all candidates in Scotland and you should ensure you are aware of the rules for each part of the campaign.

### When does a person officially become a candidate?

1.4 The date you officially become a candidate is relevant for the following purposes:

- candidate spending and donation rules (see [Part 3 – Spending and donations](#))
- access to the electoral register by constituency and individual regional candidates (see paragraph **1.10** below)
- access to publicly funded rooms and schools for public meetings by constituency and individual regional candidates (see paragraph **1.24** below)

1.5 The earliest a person can officially become a candidate is on the day which is 27 days before 6 May 2021.

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

1.7 If your nomination papers are submitted after the day which is 27 days before polling day or, if after that date, you or others declare that you will be a candidate at the election, you will become a candidate on the date your nomination papers are submitted or such a declaration is made, whichever is the earlier.

### During the campaign, you may...

- Encourage people who are not on the electoral register to apply for registration. The deadline for registering to vote in time for the election is 12 working days before the poll. Individuals can register online at <https://www.gov.uk/register-to-vote>. You can find out more about who can register at <https://www.electoralcommission.org.uk/i-am-a/voter>.
- Help voters with information about postal and proxy voting – you can find information at <https://www.electoralcommission.org.uk/i-am-a/voter>. The deadline for applying for a postal vote for the 2021 Scottish Parliamentary elections is 5pm on the twenty-first working day before the poll. The deadline for applying for a proxy vote for the elections is 5pm on the sixth working day before the poll, although an elector can apply for an emergency proxy if, after 5pm on the sixth working day before the poll they have suffered a disability (or, for electors who suffered a disability before the deadline, their disability meant that they could not reasonably make an application in time), they have been called away on business, or they are serving a prison sentence of 12 months or less.
- In addition, the emergency proxy provisions for Scottish Parliamentary elections have been extended to allow for an elector who is following Scottish Government advice or

While the earliest you can officially become a candidate is on the day which is 27 days before 6 May 2021, nomination papers can be submitted from the day after the notice of election has been published and as set out on the notice.

You must continue to ensure that you are qualified to stand for election **at the time of nomination**.

Further detailed information on standing for election can be found in [Part 1 – Can you stand for election?](#) and [Part 2a – Standing at the constituency election](#) and [Part 2b – Standing at the regional](#)

the advice of a medical professional in relation to coronavirus to apply for an emergency proxy on these grounds. These provisions extend to the appointment of a new proxy if the appointed proxy cannot reasonably attend the polling station due to coronavirus.

### During the campaign, you should...

- If you develop your own application forms, make sure they include all the required information, or the applications will be rejected. In particular, you must make sure that the signature and date of birth fields on postal and proxy application forms are in the correct format. You should use our absent voting application forms on <https://www.electoralcommission.org.uk/i-am-a/voter/how-cast-your-vote> as a guide. You should consider liaising with your Electoral Registration Officer(s) who may be able to provide you with forms you can use.
- Make sure your supporters follow the [Code of conduct for campaigners in Great Britain](#) – this will help them to avoid situations where their honesty or integrity could be questioned.
- Make sure your supporters are courteous when dealing with other candidates and their supporters.
- Be aware of the deadlines for appointing an election agent, and agents to attend postal vote opening sessions, polling stations and the count. Deadlines are set out in our guidance document [Part 2a – Standing at the constituency election](#) and [Part 2b – Standing at the regional election](#).
- Check our guidance on how postal vote openings, the voting process and the count will work so that you know what you can expect to happen and when, see [Part 5 – Your right to attend key electoral events](#).
- Check that your systems for recording spending and donations are working. For more information on donations

and election spending see [Part 3 - Spending and donations.](#)

## During the campaign, you must not...

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

Neither the Returning Officer nor the Commission regulate these offences. Any complaints should be made to the police.

1.8 More information on election offences and how to report these can be found in the supplementary information section at the end of this document (from paragraph **1.51**).

1.9 If either you or the election agent have made a mistake and have acted in contravention of the rules, you can apply for relief from the consequences of having made a mistake. See paragraph **1.73** for more information.

## Use of the electoral register and lists of absent voters

### Access by constituency and individual regional candidates

1.10 Constituency candidates and individual regional candidates will be entitled to receive a copy of the electoral register and lists of people voting by post or proxy ('the lists of absent voters') once they officially become a candidate as set out in paragraphs **1.5** to **1.7**.

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

1.11 Constituency candidates are entitled to copies covering the constituency they are standing in, while individual regional candidates are entitled to copies for the region.

### Access by party lists

1.12 Party list candidates are not entitled to receive copies of the electoral register or absent voting lists. Instead, the election agent for the party list, once the party list has been submitted

Any person found breaching the restrictions on use of the electoral register could face a fine of up to £5,000.



to the Regional Returning Officer, will be entitled to a copy of the electoral register and lists of absent voters for the whole of the region. The register and lists can only be supplied to the election agent after the party has submitted a list of candidates.

1.13 Registered political parties are, however, entitled to obtain and use the electoral register and lists of absent voters at any time for electoral purposes and, in the case of the register, the checking of donations.

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

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

1.15 Constituency candidates, individual regional candidates, parties and election agents can use the information on the registers and lists to:

- help them campaign
- check that donations are permissible

1.16 You must not release to any person any details that appear only in the electoral register and not on the open register which is available for general sale, otherwise than for the purposes set out above. You must not use the full register and lists of absent votes for any other purpose not listed above.

1.17 If you have supplied a copy of the electoral register or lists of absent voters to party list candidates and/or campaign workers, they must also comply with the requirements above.

1.18 You must ensure that you keep the electoral register secure and the lists of absent voters secure. Once you no longer need the register and lists of absent voters for any

#### **There are two registers. Why?**

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

#### **The electoral register**

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

#### **The open register**

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

electoral purpose, you should securely destroy any copies supplied to you as a candidate in accordance with the Information Commissioner's [guidelines](#).

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

1.19 Copies of the electoral register and lists of absent voters can be obtained from the relevant Electoral Registration Officer. An Electoral Registration Officer will have been appointed, covering each local council area within the region, to maintain the electoral registers. Contact details are available on our website <https://www.electoralcommission.org.uk/i-am-a/voter>.

1.20 The request must be made in writing and we have made a [register request form](#) and an [absent voters' lists request form](#) available for this purpose on our website.

1.21 While requests must be made to the Electoral Registration Officer, election agents for a party list and individual regional candidates should also liaise with the relevant Regional Returning Officer, who may have put arrangements in place to coordinate requests for all the registers and lists in the region.

1.22 The register and lists will be supplied in electronic format unless a paper copy is specifically requested.

1.23 The version of the electoral register and lists you will receive will be those that are current at the time of your request. You may also request the updates to the electoral registers and lists that are published in the lead-up to the poll, including the list of newly registered electors when it is published five working days before the poll.

## Using schools and rooms for public meetings

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

1.25 Any constituency or individual regional candidate is entitled to use rooms and schools funded by Scottish Ministers or any other part of the Scottish Administration, or a Scottish public authority, for public meetings from the point they officially become a candidate as set out in paragraphs 1.5 to 1.7, until the day before polling day. Party list candidates have this right once the party's nomination form and list of candidates has been submitted.

1.26 The Proper Officer of each council in Scotland keeps a list of the location and availability of meeting rooms in their area. They will make this list available for inspection by candidates, election agents and the Nominating Officer of a party which has submitted a regional list, from the day the notice of election is published. You can obtain the contact details of the Proper Officer through your local council.

1.27 You should contact the owner of the premises to make a booking. You must give reasonable notice, which will reduce the risk of the request being refused.

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

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

## Free postage on one election communication

1.29 Each constituency candidate is entitled to free postage on an election communication sent to electors in the constituency.

1.30 Each individual regional candidate, as well as the Nominating Officer of a registered political party which has submitted a list of candidates, is entitled to free postage on an election communication sent to electors in the region.

1.31 Before the publication of the statement of persons (and parties) nominated, if a constituency or individual regional candidate declare that they are a candidate at the election, they are entitled to exercise this right, but only if they give a

security required by Royal Mail for the payment of postage in case they are not shown on the relevant statement as standing nominated.

1.32 A party that has submitted a party list but is not yet shown on the statement of persons and parties nominated as standing at the election, is entitled to exercise this right, but only if the Nominating Officer (or a person appointed to act on their behalf) gives a security required by Royal Mail for the payment of postage in case the party is not shown as standing nominated on the statement.

## Terms and conditions of the election communication

1.33 The address must only contain matters relating to the election.

1.34 Postage may be paid on either:

- one unaddressed election communication of up to 60 grams to every postal address, or
- one election communication of up to 60 grams addressed to each elector

1.35 You should contact Royal Mail to make arrangements if you would like to send an election communication free of charge. Royal Mail can require their own reasonable terms and conditions to be complied with. Additionally, any material that is sent must only include matters relating to the election and must not contain any other advertising. We strongly advise that you consult Royal Mail's guidance on candidate mailings at [www.royalmail.com/business/manage-mail/candidate-mail](http://www.royalmail.com/business/manage-mail/candidate-mail)

## Campaign publicity dos and don'ts

1.36 You must:

- Use imprints on all your printed campaign material and any electronic campaign material that is designed to be

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printed off locally. See paragraph **1.39** below for more information

- comply with planning rules relating to advertising hoardings and large banners – you should ask the relevant council for advice
- make sure that outdoor posters are removed promptly after the election – you must do this within two weeks of the election

1.37 You should:

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

1.38 You must not:

- produce material that looks like the poll cards sent to voters by Returning Officers
- pay people to display your adverts (unless they display adverts as part of their normal business)

## Using imprints

### What is an imprint?

1.39 An imprint should be added to all campaign material and, in the case of printed material, must be added by law, to show who is responsible for its production. It helps to ensure that the campaign is transparent. You should ensure that your imprint is clear and visible.

1.40 Legislation on imprints has been updated by the Scottish Government. Our guide to [Candidate Imprints at Scottish Parliamentary elections](#) contains further guidance.

## Polling day dos and don'ts

### 1.41 You should:

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

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

### 1.42 You must not:

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

In particular, if you (or your agents) are attending postal vote opening sessions, you must not seek to identify and publicise how votes have been marked on individual ballot papers.

- Before the close of poll, publish exit polls or any other data based on information given by people about how they voted after they have cast their vote, including a postal vote.

## Maintaining the integrity of the election

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

1.44 The person who acts as your election agent is responsible for your campaign and, in particular, is legally responsible for its financial management.

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

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

# Supplementary information

## List of offences

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

### Bribery

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

### Treating

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

### Undue influence

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

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

1.52 Undue influence doesn't exclusively relate to physical access to the polling station. For example, a leaflet that

Neither the Returning Officer nor the Commission regulate any of these offences.

For details of how to report any allegations of electoral fraud see paragraph **1.66**.



threatens to make use of force in order to induce a voter to vote in a particular way could also be undue influence.

## Personation

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

## False statements about a candidate's personal character or conduct

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

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

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

## False statement in nomination papers

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

## False registration information and false postal/proxy voting application

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

## False application to vote by post or by proxy

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

## Multiple voting and proxy voting offences

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

## Breaches of the secrecy of the ballot

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

## Campaign publicity material

1.62 Certain offences relate specifically to election campaign publicity material. Printed election campaign publicity material must contain an imprint and not resemble a poll card. Campaign publicity material must also not contain a false statement as to the personal character or conduct of another candidate.

We do not regulate the content of campaign material and are not able to comment on the legality of any particular electoral material beyond what is covered in this guidance.

## Racial hatred

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

## Reporting allegations of electoral fraud

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

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

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

1.67 You can find contact details of Electoral Registration Officers on our website

<https://www.electoralcommission.org.uk/i-am-a/voter> .  
[Contact addresses and telephone number](#) of Constituency Returning Officers and Regional Returning Officers will be updated prior to scheduled elections. [website](#).

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

1.69 Please note that if your allegation relates to party, election or registered campaigner finance matters, such as spending or donations, then you should follow the advice given at the following link: [www.electoralcommission.org.uk/party-finance/enforcement/making-allegations](http://www.electoralcommission.org.uk/party-finance/enforcement/making-allegations).

## What if you have made a mistake?

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

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

1.72 For more information, you should contact the Petitions Department at:

Petitions Department  
Court of Session  
Parliament Square  
Edinburgh  
EH1 1RQ

Email: [supreme.courts@scotcourts.gov.uk](mailto:supreme.courts@scotcourts.gov.uk)

Tel: 0131 240 6747  
Fax: 0131 240 6711