

Access to documentation after a council election in Scotland

This document provides guidance on access, supply and inspection of election documents after a council election in Scotland. It should be read alongside the section on [Access and supply of the electoral register](#) in our Running electoral registration guidance. We have also produced an [access and supply checklist](#), which should be used alongside this document.

It is important to maintain a document retention policy to demonstrate your compliance with the principles of processing personal data as set out in data protection legislation. Your document retention policy should set out the following for all documents you receive and hold:

- whether the document contains personal data
- the lawful basis on which any personal data was collected see '[Lawful basis for processing](#)' in our [data protection resource](#)
- your retention period
- your rationale for the retention period

In some cases this will be straightforward since electoral legislation will require a set period for which documents are retained. In other cases, you will need to make a local decision and justify this in your document retention policy, which should include the data protection principles.

Documents not available for public inspection

The following documentation is not available for inspection, except by court order¹:

- ballot papers
- completed corresponding number lists
- certificates of employment on duty on polling day
- the storage device containing the complete electronic copy of the information from the electronic counting system

These documents can only be accessed if the sheriff principal who has jurisdiction in the ward is satisfied by evidence on oath access is required for one of the following reasons²:

- for instituting or maintaining a prosecution for an offence in relation to ballot papers
- for the purpose of an election petition

The Sheriff Principal or election court will make certain conditions about access to the documents: for example, how any particular person voted must not be disclosed until it has been proved by a court that the vote was not valid³.

An appeal to any decision on access by a Sheriff Principal can be made to the Court of Session⁴.

Applications do not have to be made in open court: they can be made by the Sheriff Principal either in open court or otherwise⁵.

Access to nomination papers and home address forms

Nomination papers at a Scottish council election are available for public inspection during normal office hours on any working day from 4pm on the day after the deadline for nominations up to and including the day before the poll⁶. The nomination papers available include all the forms required for the nomination, including the nomination form, any agent appointment form and any emblem request form.

During this period the nomination papers, excluding the home address form, may have the details on them copied by hand and/or any page or the entire set of papers may be copied and supplied⁷.

Candidates can submit a home address form, which requires for their home address to be made public⁸. There are different rules regarding the home address forms and these are set out below.

The home address form is available for inspection by certain people, these are⁹:

- the candidate
- any other candidate standing in the same electoral area
- the election agent of any other candidate standing in the same electoral area (or if the candidate is acting as their own agent, any person nominated by them)

Home address forms must be inspected under supervision as taking extracts of the home address forms, or copies of them, is not permitted.

From polling day onwards, the nomination papers and the home address form are not open for inspection¹⁰. With exception of the home address form, the Returning Officer should nevertheless keep them securely for one year in case they are needed for electoral petitions or prosecutions¹¹. If such legal proceedings are to, or are liable to, take place, the Returning Officer should retain the nomination papers until the court has completed its process.

During the period starting on polling day and ending when the Returning Officer destroys the nomination papers, the nomination papers may only be viewed and supplied to those who have a legal power to obtain documents. This may be a police officer using any powers they may have to take documents into their custody, or a court order.

The home address forms must be kept securely stored for a period of 35 calendar days after the officer has returned the name of the candidate or candidate elected for that electoral ward¹². They must be securely destroyed on the next working day after the 35-day period. However, if an election petition relating to the election is presented within the 35 calendar days, the home address forms must be kept securely until the conclusion of the petition proceedings (including any appeal from such proceedings). They must then be securely destroyed as soon as practicable following the conclusion of the proceedings or appeal.

Election documents available for public inspection

The tables below set out:

- the types of election documents available for inspection or supply
- who can have access to these documents
- how requests for accessing these documents must be made
- any applicable fees (where relevant)

Table 1: Public inspection of election documentation

Document type	<p>Any person may request that the following be made available for inspection¹³:</p> <ul style="list-style-type: none">• marked register of electors• marked postal voters' list• marked list of proxies• marked postal proxy voters' list• any other document relating to the election (except the ballot papers, completed corresponding number lists, certificates of employment on duty on polling day and the storage device containing the complete electronic copy of the information from the electronic counting system)
Conditions	<p>The request must¹⁴:</p> <ul style="list-style-type: none">• be made in writing• specify which documents are requested• specify who will be inspecting the documents• specify the date on which they wish to inspect the documents• specify whether they would prefer to inspect the documents in printed or electronic data format <p>In the case of a request to inspect the marked register or lists, the request must¹⁵:</p> <ul style="list-style-type: none">• state the purpose for which the information will be used and why the inspection of a copy of the full register or unmarked list(s) would not be sufficient to achieve that purpose <p>Where the Proper Officer determines that the purposes for which the applicant wishes to use the information may be achieved by inspecting a copy of the full register, they shall advise the applicant of their decision and inform them where the full register is available for inspection under supervision¹⁶.</p>

Table 1 (cont.): Public inspection of election documentation

**Conditions
(cont.)**

The relevant documentation must be made available for inspection within 10 days of the receipt of the request and¹⁷:

- only handwritten notes of the marked register of electors and the marked absent voters' lists may be made; laptop computers and other recording equipment may not be used except by police and security organisations listed in Table 3
- copies of the other election documentation open to inspection may not be made in any form

Any information obtained through the inspection of the election documentation may only be used for¹⁸:

- research purposes within the meaning of Article 89 of the General Data Protection Regulation (research, history and statistics)
 - electoral purposes
 - and subject to the conditions that are applicable under the regulation entitling the individual or body to the use of the full register of electors¹⁹
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Table 2: Supply of copies of the marked register of electors and absent voters' lists

Document type	<p>On request and on payment of a fee specified individuals and organisations are entitled to copies of the relevant part of the²⁰:</p> <ul style="list-style-type: none"> • marked register of electors • marked postal voters' list • marked list of proxies • marked proxy postal voters' list
Conditions	<p>The request must²¹:</p> <ul style="list-style-type: none"> • be made in writing • specify which marked register or list(s) (or relevant part) is required • state whether a printed or electronic data copy of the marked register or list(s) is required • state the purpose for which the marked register or list(s) will be used and why the supply or purchase of a copy of the full register or unmarked list(s) would not be sufficient to achieve that purpose <p>There must be payment of a fee comprising a single administration fee of £10 plus £1 per 1,000 entries or part of 1,000 entries for electronic data copies and £2 per 1,000 entries or part of 1,000 entries for printed copies²².</p> <p>If the Proper Officer is not satisfied that the requestor needs to see the marks on the marked register or list(s) for the purpose for which it is requested, they may treat the request as one for information in unmarked lists or for a copy of the full register, or both²³.</p> <p>The marked register of electors and lists may only be used for²⁴:</p> <ul style="list-style-type: none"> • research purposes within the meaning of Article 89 of the General Data Protection Regulation (research, history and statistics) • electoral purposes • purposes that are applicable under the regulation entitling the individual or body to the use of the full register of electors
Must be supplied on satisfaction of the above conditions to	<ul style="list-style-type: none"> • registered political parties²⁵ • candidates at the election²⁶

You should ensure you have processes in place to retrieve data and securely destroy it at the appropriate time in accordance with electoral law and with your document retention policy.

- ¹ Rule 59, Schedule 1, Scottish Local Government Elections Order 2011 (Local Government Rules).
- ² Rule 59(1), Schedule 1, Local Government Rules.
- ³ Rule 59(2) and (3), Schedule 1, Local Government Rules.
- ⁴ Rule 59(4), Schedule 1, Local Government Rules.
- ⁵ Rule 59(5), Schedule 1, Local Government Rules.
- ⁶ Rule 11, Schedule 1, Local Government Rules.
- ⁷ Rule 11, Schedule 1, Local Government Rules.
- ⁸ Rule 4(11) Schedule 1, Local Government Rules.
- ⁹ Rule 11A Schedule 1, Local Government Rules.
- ¹⁰ Rule 11, Schedule 1, Local Government Rules.
- ¹¹ Rule 60, Schedule 1, Local Government Rules.
- ¹² Rule 60A, Schedule 1, Local Government Rules.
- ¹³ Regulation 4, Representation of the People (Post-Local Government Elections Supply and Inspection of Documents) (Scotland) Regulations 2007 ("Supply and Inspection Scotland Regulations 2007"), and Section 5(2)(a) and 7, Local Electoral Administration and Registration Services (Scotland) Act 2006 ("LEARS Scotland Act 2006").
- ¹⁴ Regulation 4(2), Supply and Inspection Scotland Regulations 2007.
- ¹⁵ Regulation 3(1)(a)(iii), Supply and Inspection Scotland Regulations 2007.
- ¹⁶ Regulation 3(2), Supply and Inspection Scotland Regulations 2007.
- ¹⁷ Regulation 4(3), (6) and (7), Supply and Inspection Scotland Regulations 2007.
- ¹⁸ Regulation 5(2) and (3), Supply and Inspection Scotland Regulations 2007 and Regulation 18 of Representation of the People (Absent Voting at Local Government Elections) (Scotland) Regulations 2007 ("Absent Vote (Scotland) Regulations 2007").
- ¹⁹ Regulation 3(3)(b), Supply and Inspection Scotland Regulations 2007.
- ²⁰ Regulation 2(3), 3(1)(c) and 6, Supply and Inspection Scotland Regulations 2007.
- ²¹ Regulation 3(1)(a), Supply and Inspection Scotland Regulations 2007.
- ²² Regulation 3(1)(c) and 6, Supply and Inspection Scotland Regulations 2007.
- ²³ Regulation 3(2), Supply and Inspection Scotland Regulations 2007.
- ²⁴ Regulation 3(3)(a) and (b), 5(2) and (7), Supply and Inspection Scotland Regulations 2007, and Regulation 117(2), RPR (Scotland) 2001.
- ²⁵ Section 5(3)(a), Local Electoral Administration and Registration Services (Scotland) Act 2006 ("LEARS (Scotland) Act 2006").
- ²⁶ Section 5(3)(b), LEARS (Scotland) Act 2006.