

# Scottish Local Government Election Guidance 2022

February 2022

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Guidance for civil servants working for the Scottish Government, its agencies and national devolved public bodies on their role and conduct during the 2022 local election campaigns.

1. Elections to all 32 Scottish local authorities take place on 5 May 2022. This note provides guidance to civil servants working in the Scottish Government, its agencies and national devolved public bodies on their role and conduct during the forthcoming local election campaigns.

2. All civil servants should take time to familiarise themselves with the contents of this guidance, which provides practical advice on the conduct of Government business in the lead-up to the local elections. If you have any doubts or concerns about how business should be handled during the local election period, you should seek advice from your line manager. Cabinet Secretariat will also be happy to answer any questions you may have (e-mail: *Election Guidance Mailbox (Cabinet Secretariat)*).

## **The local election period**

3. The period of sensitivity preceding local elections is not fixed to any particular dates, but the general convention is that particular care should be taken in the three weeks preceding the elections – in this case from 14 April to 5 May 2022.

4. You should also be mindful that local authorities will have their own pre-election periods, which will start earlier than the period observed by the Scottish Government. Each local authority will set its own pre-election period, which will normally commence on publication of the Notice of Election in that area. The Electoral Management Board for Scotland has directed that Notices of Election should be published on 14 March 2022. Local restrictions will vary from council to council. While the Scottish Government will be observing a three-week pre-election period, local authorities' own restricted periods might have a bearing on activity being planned jointly between the Scottish Government and local government or on any Government announcements or visits which have a strong local government angle, particularly as we get closer to the Scottish Government's own pre-election period.

## **Requirements of the Civil Service Code**

5. Local elections are different from Scottish Parliament elections. The Scottish Government will remain in office whatever the outcome, and Ministers will continue to carry out their functions in the usual way. Civil servants will continue to support Ministers in their work. However, it needs to be borne in mind that the activities of the Scottish Government could have a bearing on the local election campaigns. Particular care will need to be taken during this period to ensure that civil servants conduct themselves in accordance with the requirements of the Civil Service Code.

6. Care also needs to be taken in relation to the announcement of Scottish Government decisions which could have a bearing on the local elections. In particular, civil servants are under an obligation:

- To ensure that public resources are not used for party political purposes; and
- Not to undertake any activity which could call into question their political impartiality.

### **General principles**

7. The following general principles should be observed by all civil servants, including Special Advisers:

(a) Particular care should be taken over official support, and the use of public resources, including publicity, for Ministerial or official announcements which could have a bearing on matters relevant to the local elections. In some cases, it might be better to defer an announcement until after the elections, but this would need to be balanced carefully against any implication that deferral could itself influence the political outcome – each case should be considered on its merits;

(b) Special care should be taken in respect of paid public engagement campaigns, which should not be open to the criticism that they are being undertaken for party political purposes;

(c) There should be even-handedness in meeting information requests from the different political parties;

(d) Officials should not be asked to provide new arguments for use in local election campaign debates.

### **COVID-19 Pandemic**

8. Activity aimed at responding to the four harms caused by the COVID-19 pandemic (the direct impact of the virus, other health impacts, societal impacts, and economic impacts) will, like other Scottish Government functions, continue as normal during the local election period, but must be carried out in a way that is consistent with the principles set out in this guidance.

9. The Scottish Government will continue to keep the public informed about the progress of the pandemic and ensure that they are aware of the latest developments. Communications activity which supports COVID-19 public information dissemination, including in relation to the measures in place to protect public health, will continue and should also adhere to the principles set out in this guidance.

10. Further advice on the application of this guidance in relation to the COVID-19 pandemic can be sought from Cabinet Secretariat (e-mail: *Elections Guidance Mailbox (Cabinet Secretariat)*).

## **Handling of requests for information**

11. There should be even-handedness in meeting information requests from candidates from the different political parties. The aim should be to respond to requests from candidates as soon as possible.

12. While very straightforward enquiries may be able to be handled immediately on a 'business as usual' basis, all information requests must be handled in accordance with the Freedom of Information (Scotland) Act 2002 (FOISA) or the Environmental Information (Scotland) Regulations 2004 (EIRs). The request should be sent to the Freedom of Information Unit for validation and triage – see the Guidance for FOI case handlers. The legislation requires public authorities to respond to requests promptly and in any event not later than 20 working days after the date of receipt. Where a candidate asks for a response well before the statutory 20 working day deadline but it is clear that it will not be possible to provide such a quick response, the candidate should be given the opportunity to refine the request if they wish so that it can be responded to more quickly.

13. Enquiries from the media should be handled by Scottish Government Communications teams in the usual way.

## **Ministerial visits**

14. In the period from 14 April to 5 May, particular care should be taken in respect of proposed visits to local areas which have a focus on local issues. Official support must not be given to visits and events with a party political or campaigning purpose. In cases of doubt, further guidance should be sought from Cabinet Secretariat (e-mail: *Elections Guidance Mailbox (Cabinet Secretariat)*).

## **Announcements**

15. Similarly, national announcements by the Scottish Government may have a particular impact on local areas, for example, the publication of policy statements which have a specific local dimension. Ministers will wish to be aware of the potential sensitivities in this regard and might decide, on advice, to postpone making certain announcements until after the local elections. Obviously, this will need to be balanced carefully against any implication that deferral itself could influence the political outcome. Each case should be considered on its merits. Again, in cases of doubt, further advice should be sought from Cabinet Secretariat (e-mail: *Elections Guidance Mailbox (Cabinet Secretariat)*).

## **Public consultations**

16. Public consultations with a particular emphasis on local issues should generally not be launched during the period from 14 April to 5 May. If there are exceptional circumstances where launching such a consultation is considered essential (for example, for safeguarding public health), advice should be sought from Cabinet Secretariat. If a consultation is ongoing during this period, it should continue as normal. However, Directorates should avoid taking action which will compete with

candidates for the attention of the public. This effectively means not undertaking publicity or consultation events for those consultations that are still in progress. During this period, Directorates may continue to receive and analyse responses.

### **Communication activities**

17. Communications staff should apply the principles set out in paragraphs 5 and 6 above when planning and delivering communications activities which will take place during this period. Additional care should therefore be taken in relation to press and marketing activity concerning local issues. In cases of doubt, advice should be sought from the relevant Scottish Government Communications team.

18. It is also important to take care with official websites and social media channels which will be scrutinised closely by the news media and the political parties during the local election period. In cases of doubt, guidance should be sought from Scottish Government Communications (contact: Julie Grant or, for Digital: James Coltham).

### **Use of public property**

19. Scottish Government property should not be used by Ministers or candidates for electioneering purposes.

20. In the case of NHS property, decisions are for the relevant NHS Board, but should visits be permitted to, for example, hospitals, it should be on the basis that there is no disruption to patients' treatment or services and that the same facilities are available to all candidates. Care should also be taken to avoid any intrusion into the lives of individuals using the services. See also paragraph 35 of this guidance.

21. The decisions on the use of schools and other local authority properties should be for those legally responsible for the premises. Where it is decided to agree such visits, the key principle is that the same facilities should be available to all candidates, and that there is no disruption to services.

### **Statistical and social research activities**

22. During the local election period, statistical activities should continue to be conducted in accordance with the UK Statistics Authority's Code of Practice (and the relevant Pre-Release Access to Official Statistics Orders, which should be read as though they are part of that Code). The publication of pre-announced statistics continues during pre-election periods. Although there has not previously been a requirement to pre-announce additional releases during pre-election periods for local government elections, it is recommended that where possible releases should be pre-announced (for a specific date) before the Scottish Government's pre-election period begins on 14 April. Publishing releases on polling day should be avoided.

23. As with previous elections, the provision of full commentary in statistical releases, including statisticians' comments on key releases, will continue. Additional care should, however, be taken with the communication of releases which are relevant to local issues or have a focus on local authority breakdowns.

24. Social research activities should be in accordance with the Government Social Research (GSR) Code and supplementary guidance, including Scottish Government Social Research Publication Guidance.

25. Associated media activity, including social media and blogs, can continue as usual but should follow the principles set out in this guidance and the advice on communications activities at paragraphs 17 and 18.

26. Requests for information should be handled in accordance with the principles set out in paragraphs 11 to 13 of this note and with the Code of Practice for Official Statistics.

27. In cases of doubt you should consult the Scottish Government Office of the Chief Statistician (contact: Paul Matthews) or Office of the Chief Researcher (contact: Rod Harrison), as appropriate.

### **Political activities**

28. Political activity connected with the local elections falls within the definition of local political activity.

29. Detailed guidance on the restrictions on civil servants' involvement in political activities is set out in the Scottish Government's internal guidance for staff (available on the staff intranet) on rules concerning political activity, which is consistent with section 4.4 of the Civil Service Management Code. If you have any questions and you work in the Scottish Government, please raise your question using HR Online (Performance and conduct support/conduct related questions/political activity). If you work for a public body or Scottish Government agency, please contact your local teams in the first instance and if they have a question then they can contact a member of the Scottish Government HR Policy and Delivery/Public Bodies Team (contact: Katharine McGivern or Jane Wilson).

### **Special Advisers**

30. For local elections, Special Advisers may undertake local political activity with the approval of the First Minister and in accordance with the terms of the Code of Conduct of Special Advisers. Special Advisers planning to help with the local elections should note that any help on campaigning must be done in their own time either outside office hours or while on leave from the Scottish Government.

31. Official resources such as telephones, computers, official stationery and Scottish Government administrative support must not be used in support of these elections.

32. Further guidance is set out in the Code of Conduct for Special Advisers.

## **Public bodies**

33. National devolved public bodies spend public money and make public announcements, use Scottish Government property and can employ civil servants. This guidance therefore also applies to their activities, although they will have their own policies in relation to political activity and conduct. Sponsor Directorates should ensure that public bodies are aware of this guidance and that the sponsor team is consulted in cases of doubt. Sponsor teams should feel free to refer any queries to Cabinet Secretariat.

34. Further, separate, guidance for NHS bodies and Integration Joint Boards is being made available (contact: Robert Kirkwood).

## **Further advice**

35. If you have any queries about the application of this guidance, please get in touch with Cabinet Secretariat:

- ◆ E-mail: Election Guidance Mailbox (Cabinet Secretariat)



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