



North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

**Guidance to Council Employees and Elected Members
on Conduct during the forthcoming
Local Government By-election
(Ward 6 - Kilwinning)
on Thursday 9 May 2024**

**This Guidance applies from:
Friday 22 March 2024 (at 9am) to
Thursday 9 May 2024 (at 10pm)**

Issued on behalf of Craig Hatton, Chief Executive and Returning Officer
The Election Office, Cunninghame House, Irvine, KA12 8EE
Tel: (01294) 324729
Email: elections@north-ayrshire.gov.uk

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1. Introduction from the Returning Officer

- 1.1 This document has been prepared to provide guidance to Council employees and Elected Members on standards of conduct and behaviour to ensure that the integrity of the By-election is maintained.
- 1.2 A By-election to fill one seat in Ward 6 Kilwinning, will be held on Thursday 9 May 2024 with the electronic verification and counting of votes taking place on Friday 10 May 2024 commencing at 9am.
- 1.3 The 'pre-election' period formally commences with the publication of the Notice of Election on Friday 22 March (at 9.00am) and runs until close of Poll at 10pm on Election Day on Thursday 9 May 2024.
- 1.4 Ensuring that the By-election is conducted in a professional, open and transparent manner is central to our approach. All **Council employees** have a duty to ensure that they act in an impartial and non-political manner during their day-to-day duties. This will be particularly important during the pre-election period, and running up to the day of the Poll, when political sensitivities may be heightened.
- 1.5 **Elected Members** also have a duty to ensure that they do nothing to compel or influence Council employees to act in a politically partial manner, or to carry out acts which could be deemed to be political.
- 1.6 The aim of the pre-election period is to avoid active engagement on politically sensitive matters in the run up to the By-election. This avoids a governing party using its power for potentially unfair electoral advantage, or to commit its successor to significant decisions that it would not wish to implement. This needs to be balanced against the need to continue to deliver services as 'business as normal', and that this is a By-election in a single Ward where no sitting Councillors are Candidates.
- 1.7 Any questions regarding the guidance offered within this document should be directed to the Election Office on 01294 324729 or elections@north-ayrshire.gov.uk



Craig Hatton
Chief Executive and Returning Officer

2. Duty of Council Employees to Be Politically Neutral

Key Points

- 2.1 The main significance of the pre-election period is a need for heightened sensitivity to ensure that public resources are not used in any way that might prejudice the result of the By-election. While there are some specific areas that require detailed advice, the essence of this guidance is:-
- The pre-election period to which this guidance relates runs from 9am on Friday 22 March 2024 to Thursday 9 May 2024 at 10pm
 - Council employees must by law, act in a politically neutral way at all times.
 - Particular care needs to be taken to ensure that any events, publicity or other communications, particularly those which are either within Ward 6 or primarily impact on it (even the background to your virtual/virtual/online meetings) are politically neutral during the pre-election period.
 - Council facilities and resources must not be used in support of a political party or By-election candidate.
 - Unless otherwise stated, it should be assumed that normal Council business will continue. Of necessity, committee and other meetings will continue to take place in the run up to Polling Day.
 - While in general it is permissible to continue with Council-wide business as normal, care should still be taken to ensure that events do not influence the By-election. Considerations include the extent to which there will be events or localised publicity in the Kilwinning Ward or Locality, whether the event is politically controversial (i.e. represents the position of one Political Party but not another), or whether it can take place outwith the pre-election period. If this is the case it is better that the event takes place outwith the pre-election period. If in doubt contact the Election Office.
 - Unless otherwise covered by this guidance, employees should continue to respond positively to requests for information or advice from parties or candidates.
- 2.2 All Council employees have a duty at all times to carry out their everyday roles and responsibilities in a non-partisan and politically neutral manner. In a pre-election period, however, it is more important than ever that employees of the Council who are involved with Ward 6 issues avoid acting in a manner that could be perceived as being politically partial.
- 2.3 The Chief Executive, Executive Directors and Heads of Service will continue to have ultimate responsibility for ensuring that the policies of the Council are implemented. All Council employees must implement these policies of the Council irrespective of their personal political views.

- 2.4 If a Council employee is asked by a sitting Councillor, a candidate/agent in the By-election, or other person, to provide assistance with a matter which is clearly party political in nature (or which does not have a clear link with the work of the Council), they should politely refuse and inform the Councillor, candidate/agent or other person, that they are referring the matter to their line manager.

Employee Candidature

- 2.5 If a Council employee in a **politically restricted post** wishes to stand for election to the Council, they must resign their post. HR holds a list of politically restricted posts.
- 2.6 Other employees – if the “holder of any paid office or employment or other place of profit in the gift or disposal” of North Ayrshire Council wishes to stand as a Candidate, they can do so but if elected, they need to resign by Monday 13 May 2024, being the first working day after they are elected.

Employees - Political Activity

- 2.7 Employees in politically restricted posts should not undertake any political activity at any time.
- 2.8 Employees in posts that are not politically restricted may carry out political activity in their own time. However, if they are a witness for any By-election related documents or otherwise personally involved in support for a particular party or candidate, by law they must not be involved with polling or counting duties.

3. Support to Councillors During the Pre-Election Period

- 3.1 The day-to-day activities of Councillors continue regardless of the By-election.
- 3.2 Members’ Services will continue to provide Councillors with administrative support and other services during the pre-election period. These support services are provided to Councillors to assist them in the discharge of their role and can only be used for Council business.
- 3.3 The services provided by Members’ Services may not be used for campaigning activity (or for private purposes). Members’ Services employees will politely refuse any request for assistance which may be deemed to be party political.
- 3.4 Public notification of Councillors’ surgeries will continue to be given. The placing of a surgery notice on notice boards in Council buildings, the Council’s website and social media accounts is therefore permissible provided that the usual Notices are used. Party political or campaigning material, however, should not be placed on notice boards or displayed anywhere in Council buildings, the Council’s website, social media accounts or on Council property.
- 3.5 Employees within services of the Council should continue to deal with Councillors as they would at any other time.

4. Use of Council Resources

- 4.1 Employees and Elected Members must at all times observe the Council's existing policies in respect of the proper use of Council resources.
- 4.2 Council resources must never be used by Council employees or Elected Members, or any other person, for party political/campaigning activity (or indeed for any private purposes), except under the specific circumstances detailed in paragraphs 4.4 – 4.7 below.
- 4.3 "Resources" include stationery, notice boards, typing facilities, printing facilities, photocopying facilities, telephones, faxes, e-mail/internet facilities, social media accounts and sites facilitated/maintained by the Council, street-furniture, transport or premises. Council "premises" can include schools, offices, depots, stores, and care homes where access is generally controlled or limited.
- 4.4 Communications by Elected Members to their constituents come within the definition of publicity, except where they are in response to particular issues initiated by constituents themselves. Use of Council facilities for unsolicited mailings to the Ward 6 area during this period should be made with **extreme caution**. To avoid any suggestion that actions may be motivated by the forthcoming elections, Elected Members should not issue communications to Ward 6 constituents in a form or style which they have not used before.
- 4.5 Political groups comprising existing Councillors often meet in Council buildings, sometimes with external members or observers. This may include attendance at group meetings of candidates/agents who are not Councillors. In principle, this is acceptable as long as the candidate/agent is accompanied at all times by the Councillor, in the same manner as they would accompany a member of the public. However, it is important that a candidate/agent who is not an existing Councillor does not use any Council facilities, such as telephone, computer, photocopier, etc. Unlike an existing Councillor, they do not have any Council duties and therefore cannot justify use of such facilities. This would amount to unlawful assistance to a candidate/agent. It is also important that no personal or constituent data is shared with the candidate/agent in breach of the Data Protection Act.

Use of Rooms in Halls and Schools

- 4.6 Under specific statutory provisions, candidates in a By-election may request to have the use of specified Council halls and rooms in schools within Ward 6 free of charge for the purpose of holding election meetings. The Council is entitled, however, to be reimbursed for heating, lighting and other utilities, as well as for any damage caused to a room by the let.
- 4.7 The Executive Director (Place) is required to maintain a list of such premises. Any enquiry from a candidate/agent for the use of a hall or room in a school for the purpose of holding a By-election meeting should be directed to the **Senior Manager (Business Development)**. Other premises owned by the Council within Ward 6 which are not on this list but are normally available for let, can be let to candidates/agents and parties for political events, providing the let is on full commercial terms which do not subsidise the let.

- 4.8 If the Council is concerned that during a meeting on Council premises a candidate's words or actions might give rise to racist or other discriminatory incidents, incite racial/religious hatred or other criminal activity, then the Police should be informed. The Police may have the power to restrict the activities of the candidate and any followers, but the local authority cannot prevent the meeting or refuse to provide the premises.
- 4.9 The Electoral Commission is responsible for issuing guidance to Candidates and Election Agents in relation to campaigning. Information for Candidates and Agents can be viewed [here](#).

Letting of Vacant Premises

- 4.10 The Council also has a policy in place for the temporary letting of vacant Council property (e.g. shops and offices) by political parties for By-election purposes. This is done on a strictly first come first served basis and a fee will apply. Any enquiry in this regard should be directed to the **Senior Manager (Business Development)**. Outwith the pre-election period, premises may be let to political parties providing no assistance is afforded. In other words, such premises should be let on normal commercial terms. Provision will require to be made in any such lease which is likely to extend into the pre-election period to ensure that during the pre-election period, the rules and rental detailed in the Council's policy will apply.

Temporary or Occasional Lets of Halls and other Council Premises

- 4.11 It is possible that political parties or others may seek occasional lets of Council owned halls or other premises for purposes relating to the By-election. At all times, whether before, during or after the pre-election period, the Council cannot provide assistance for political purposes. During the pre-election period there are stricter rules and the following applies:-
- Other premises owned by the Council which are not contained on the list mentioned in paragraph 4.7 above but which are normally available for let, can be let to candidates/agents and parties for political events, providing the let is on full commercial terms which do not subsidise the let.
 - Hustings - all candidates should be invited to any debate or husting to be held in Council owned premises.
 - Media presence in Council premises - the Council has terms and conditions which require to be agreed prior to filming in Council owned premises. These include provision for the person filming to have appropriate third-party insurance and to obtain the consent of those being filmed or recorded.
 - During the pre-election period in relation to Ward 6, the Council will only allow media which is unbiased to film or record on Council owned premises. The only exception is where the entire event is to be shown without commentary or editing. No Council assistance, including IT assistance shall be provided to media who are unlikely to be unbiased.

Use of Council Owned Street Furniture

- 4.12 The Council has a policy of not allowing candidates to affix or display campaign posters on lamp-posts, street furniture and other Council owned property. Accordingly, no campaign materials should be affixed or displayed on any property under the Council's control. This includes any area adopted by the Council as Roads Authority and any street furniture thereon, whether installed by the Council or other bodies. Campaigning materials on telecommunications or power poles or apparatus or bus shelters or trees or other vegetation situated on road verges or other areas owned or adopted by the Council are not permitted. Campaigning materials are not permitted in parks, or in Council buildings, regardless of whether these are owned, leased or adopted by the Council. However, this prohibition does not apply to campaigning materials which Council tenants choose to put up on the windows of homes which they lease from the Council.

Should North Ayrshire Council require to remove campaign material a levy of £30 per hour, or per item, will be charged to the political party or candidate at fault.

- 4.13 It should also be noted that the Trunk Road Authority do not permit campaigning materials to be affixed to trunk road verges, lamp-posts or any street furniture.
- 4.14 The fixing of campaigning materials to any part of the Polling Place i.e. walls, railings, etc., is not allowed.

5. Council Publicity

The Rules

- 5.1 The Council is prohibited by legislation (**The Local Government Act 1986**, ("the 1986 Act")) from publishing any material which in whole or in part, appears to be designed to effect political support for a political party. The Act makes it clear that the timing and circumstances of publicity is a key factor in deciding if it is politically partial. Other factors which will be considered will include:-
- The content and style of the material.
 - The likely effect on those to whom it is directed.
 - Where the material promotes or opposes a view on a question of political controversy which is specifically identifiable as the view of one political party but not another.
 - References to political parties or persons identified with a political party.
 - When material is part of a campaign, the effect that the campaign is designed to achieve.
 - The extent to which any activity is 'business as usual' or where the timing might be beyond the reasonable control of the authority.
- 5.2 The key test is whether a particular act can be perceived as seeking to influence public

opinion in Ward 6 or to promote the public image of a particular candidate, or group of candidates.

Guidance on Council Publicity

5.3 Examples of the types of publicity generated by the Council where particular care needs to be taken are as follows:-

- Council publications including the website.
- Use of photographs of persons who are/will be candidates at forthcoming elections.
- Virtual/online Council or committee meetings which are webcast or subsequently published by the Council. While it is acceptable for Elected Members to wear a small party badge (2cm diameter maximum) or lanyard to identify their membership of a party, otherwise they should not wear material (e.g. rosette) or have in the background any material which is designed to promote a political party or a candidate or a group of candidates of the same party, or to reduce support for any party or its candidates. For the avoidance of doubt, having a Union Jack or Saltire in the background is not viewed as political publicity.
- Council events e.g. project launches, opening of buildings, or ground-breaking ceremonies.
- Use of Council social media sites to retweet, favourite, @mention, like and share any local/national politicians, people aligned to political parties or people whose avatars have a clear political bias such as party-political logos.
- Useful information about the use of social media can be found [here](#).
- Mailshots by services to sections of the local community, or each household in Ward 6, e.g. the Council tax leaflet. (Note – mailshots by Councillors to some or all of the residents in their ward using Council resources are not permissible.)

5.4 **At any time**, all such publicity must be designed so that it does not appear to persons outside the Council to be designed to promote a political party or a candidate or a group of candidates of the same party, or to reduce support for any party or its candidates.

5.5 **During the pre-election period from 22 March 2024 to 9 May 2024** the key principles are:-

- Normal Council business can continue in the run up to Polling Day, **but** references in Council publicity to Councillors, parties or persons who are or will be candidates, must be carefully handled in a completely politically neutral way.
- No photographs of such candidates should appear in the publicity and any references to them should not contain wording, quotes or material that links them to the forthcoming By-election, or otherwise could appear to promote them as candidates at subsequent elections.

- Public statements, including press releases (reactive and proactive), may need to be made during a pre-election period. Great care should be taken to ensure that any content is clearly and directly relevant to the service or issue being discussed and reflects an agreed Council decision or policy.
- A local authority is also prohibited from giving assistance to third parties for the purposes of publishing political material. This includes arm's length external organisations (ALEO's) such as North Ayrshire Leisure Limited (KA Leisure) or independent bodies.

5.6 The key test is whether a particular act can be reasonably perceived as seeking to influence public opinion in Ward 6 or to promote the public image of a particular candidate, or group of candidates.

Opening ceremonies or other events (including virtual/online events or meetings)

5.7 In general, it is permissible to continue with business as normal. However, care should be taken to ensure Council-wide events do not influence the By-election. Considerations include the extent to which there will be events or localised publicity in the Kilwinning Ward or Locality, whether the event is politically controversial (i.e. represents the position of one political party but not another), or whether it can take place outwith the pre-election period. If this is the case, it is better the event takes place outwith the pre-election period. If in doubt, consult the Election Office who will seek the agreement of the Chief Executive.

5.8 In relation to Council-wide events where the considerations in 5.7 apply, or events in the Kilwinning Ward or Locality, subject to consultation with the Election Office and with the agreement of the Chief Executive, such events can be allowed if they are 'business as usual', particularly if they are not political or can be justified on the grounds of exceptional, unavoidable and/or unforeseen circumstances. Such events should be organised in a politically even-handed way, e.g. including opposition representatives as well as from the political administration.

5.9 If a candidate is invited to attend a community group in the Kilwinning Ward or Locality normally attended by Council Officers, the Council will not impede the visit in any way but will not facilitate or support the visit, either as officers or through making Council resources available. It is appreciated that some community groups (e.g. tenants and residents associations) which Council Officers attend or service, may invite candidates to speak at their meetings. It is important that officer attendance at these meetings does not imply a preference for a particular candidate or their party. Officers are accordingly requested not to share the same platform with the candidates, thus avoiding the inference that the officer is endorsing the candidate. Alternatively, the officer should request that all Council related issues are dealt with first and then politely leave before any political debate takes place.

Media requests

5.10 In general, media requests for general filming or photo opportunities around elections (whether in relation to booking accommodation, attending an event, etc.) should be treated as they would be normally. The only issue that would arise is if there is any question of the media outlet taking a particular stance that may be, or may be perceived to be, in favour of one party or candidate. In those circumstances, no assistance or support should be given to the media outlet. The possibility of Council employees or facilities featuring prominently in such opportunities should also be

taken into account, and avoided, when considering such requests.

- 5.11 Requests to organise or cover hustings events would normally be permissible if they are open to all relevant candidates. In the case of broadcasters, there are strict rules that apply to maintain political neutrality and the Council will assume that the broadcaster concerned will meet its own obligations in this regard.

6. Assistance to Candidates

- 6.1 The Council is prohibited by legislation (Schedule 2A of the Representation of the People Act 1983) from giving any assistance in cash or in kind to candidates for the purpose of meeting their election expenses.
- 6.2 The provision of free office accommodation or travel passes are examples of impermissible donations. It makes no difference whether the Council makes such facilities available to all candidates on an equal basis. This is because Schedule 2A of the 1983 Act allows only persons defined as “permissible donors” to give donations or assistance to candidates, and the Council is not listed in the Act as a permissible donor. The Council can provide office accommodation on a commercial basis to a political party in line with Council policy.
- 6.3 The [Councillors’ Code of Conduct](#) also provides that Council facilities must never be used for party political or campaigning purposes. “Council facilities” may involve access to secretarial assistance, stationery and equipment such as telephones, fax machines and computers.

7. Visits (including online or virtual visits) to Council Premises by By-election Candidates

- 7.1 As the By-election approaches, declared candidates may wish to visit Council premises or meet, either in person or virtually/online, with officers or service users e.g. to meet residents in residential homes, or to be seen within the area, or to become more familiar with Council facilities. The following procedure will apply in relation to these visits:-
- The visit to any Council facility, particularly in the Kilwinning Ward must be arranged in advance with the relevant Executive Director or Head of the Service and, through him or her, with the manager of the facility or establishment.
 - 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 at the facility.
 - If, during a visit, it becomes apparent to the manager of a facility that the visit is interfering with the running of the service, then the manager has the right to terminate the visit immediately.
- 7.2 Consent **should not** be given if:-
- It appears that the visit is to be used for political publicity or for campaigning purposes.
 - There is a significant risk that the visit might be used to promote some sort of association or link between the candidate or their views and the event, Council Officers or Council premises.

7.3 Consent **should** be given to the visit if:-

- The purpose of the visit is to learn about Council services or to meet Council Officers or Members.
- There is no risk of the visit being used for publicity or campaigning purposes.

7.4 In considering requests, Officers should remain impartial regardless of which candidate or party is making the request.

7.5 If it is intended that the media be involved in a visit, then this must be notified to the Executive Director or Head of Service when the visit is being arranged. Permission will only be given for media to visit the premises if the Executive Director or Head of Service considers that it is reasonable in all the circumstances to do so. The prior approval of the Chief Executive and Head of Democratic Services must also be obtained. This will be applied equally to all parties.

7.6 If the media is involved in a visit, employees of the Council should not be photographed/recorded/televised with prospective candidates. Similarly, filming, photography and recording of children will not be permitted within establishment grounds or premises without parental consent.

7.7 Any individual who lives in a Council home or hostel normally has a right as an elector to invite candidates and media into their own room to be photographed, recorded or televised with prospective candidates.

7.8 The procedure set out above will not apply in relation to participation by By-election candidates – at the request of a Head Teacher – in curriculum related activities such as debates or mock hustings. Head Teachers considering organising such an event within Ward 6 should discuss this in advance with the Executive Director/Head of Service. All candidates who represent areas covered by the school's catchment must be given the opportunity to be represented at any mock hustings meeting. Otherwise it is not appropriate to allow only one candidate to meet pupils.

7.9 Council premises should not be used for the filming of party-political broadcasts.

8. Visits (including virtual/online visits) to Council Premises by Other Elected Representatives

8.1 It may be permissible for a sitting politician, who is not affected by a forthcoming By-election, to visit Council premises in the Kilwinning Ward and seek publicity for this during a pre-election period. Such visits are to be discouraged but may be approved by the relevant Executive Director or Head of Service if there are exceptional individual circumstances. However, no candidates standing in the By-election should have a formal role in such events, and no Council employees should facilitate any publicity involving them.

8.2 The key tests under the rules on Council publicity for determining whether any proposed visit should be allowed are:-

- Whether it is likely to give rise to references to a political party or persons

identified with a political party.

- Whether the event is likely to generate publicity directed at the public or a section of the public and which promotes or opposes a point of view on a question of political controversy which is identifiable as the view of one political party and not of another.
- Where the event is likely to appear to be part of a campaign, the effect which the campaign appears to be designed to achieve.

8.3 The first step is to assess whether the proposed visit would contravene any of those tests. To do so, it is essential to ascertain what the purpose of the visit is and who is initiating it, e.g. Council Officers or the elected representative.

8.4 If the event would contravene any of those tests, it is likely that the conclusion will be that the visit should not take place. Before confirming to the proposed visitors that the visit should not take place, the relevant Senior Officer, e.g. Head of Service, should be consulted along with the Head of Democratic Services.

8.5 If the visit would not contravene the statutory rules on Council publicity, the next step is to consider whether it would be appropriate for the proposed visit to take place in terms of any management rules or protocols in place regarding the delivery of service in the particular service area in question, e.g. whether the visit would disrupt normal business.

9. Requests for Information by By-election Candidates

9.1 Candidates at By-elections may request information from Council employees to assist them in their campaign for election. Any such requests should be directed to the appropriate Executive Director/Head of Service for consideration and a response. Subject to the provisions of the Freedom of Information (Scotland) Act 2002, whether or not the information is to be provided will be determined by the Executive Director/Head of Service concerned. For further information on the Freedom of Information (Scotland) Act, contact: FreedomOfInformation@north-ayrshire.gov.uk

9.2 Issues to be taken into account in reaching a decision are:-

- Whether the amount of time or effort which it would take to provide the necessary information can be justified.
- Whether it is competent to release the information having regard to the provisions of Freedom of Information, Data Protection and other legislation.
- Whether the provision of the information could affect an employee's obligation to carry out their duties in a politically neutral way (e.g. if an officer, in providing information, is being asked to express an opinion on a matter of political controversy).

9.3 Where a candidate asks for information on behalf of a constituent, that information should be passed direct to the constituent, or the candidate should be asked to get the constituent to contact the appropriate employee direct. Assistance should not be provided directly to the candidate. If the candidate is a sitting elected representative (MP/MSP) and the information sought on behalf of a constituent is non-political and 'business as normal' then it may be provided in the normal manner to the candidate as the constituent's representative.

9.4 Executive Directors/Heads of Service will also decide whether information which is being made available to one candidate must be issued equally to all candidates.

10. Handling Postal Vote Applications and Postal Packs

10.1 Political parties, candidates and canvassers are required to adhere to the Electoral Commission's [Code of Conduct on the Handling of Postal Vote Applications and Postal Packs](#). In so doing they are required to observe the following two key principles i.e.:-

- Candidates and supporters should assist in the efficient and secure administration of By-elections and uphold the secrecy of the ballot.
- No candidate or supporter should place themselves in a situation where their honesty or integrity – or that of their party or candidate – can be questioned.
- The Electoral Commission is responsible for issuing guidance to Candidates and Election Agents in relation to campaigning. Information for Candidates and Agents can be viewed [here](#).

10.2 Council employees are asked to observe these same principles.

10.3 Any voter attempting to hand in a postal pack at a Council office should be directed to hand it in to Cunninghame House. Any voter should be advised to phone the Election Office on **01294 324729** to agree a suitable time for delivery. Where a voter insists on leaving a postal pack in an outlying Council office then the envelope should be placed in a lockable drawer and a receipt provided to the voter. This will also apply to any postal pack received through the external mail.

10.4 Any employee who receives a postal voting pack in the manner indicated **should immediately contact the Election Office on 01294 324729** and arrangements will be made to collect the envelope. **NEVER put a postal voting pack in the internal mail.**

11. Guidance Regarding Activities of Officers

Employees in Politically Restricted Posts

11.1 Some Officers are in politically restricted posts as detailed in their contract of employment. The activities which such post-holders cannot undertake are:-

- Announce, or cause, authorise or permit anyone else to announce that they are, or intend to be a candidate for election as a member of the House of Commons, the Scottish Parliament or a local authority.
- Act as an election agent or sub-agent for a candidate for election to the House of Commons, the Scottish Parliament or a local authority.

- Be an officer of a political party or a committee or sub-committee member of a party or branch, if this entails involvement in the general management of, or acting on behalf of, the party or branch.
- Canvass on behalf of a political party or on behalf of a person who is or proposes to be a candidate for election.
- Speak to the public at large or to a section of it with the apparent intention of affecting public support for a political party.
- Publish any written or artistic work if it appears to be intended to affect public support for a political party, as opposed to, for example, displaying a poster on their private property or vehicle.

11.2 Nothing in the above prohibitions prevents an employee from engaging in such activities to such an extent as is necessary for the proper performance of their official duties.

All Employees

11.3 The restrictions on the use of Council facilities for political purposes, and on the Council issuing political publicity, also apply to all officers.

Thus, Officers should not:-

- Undertake any political activities during working hours.
- Use any Council facilities, including email, for political activities.
- Display any political material (i.e. referring to a party or regarding an issue identifiable with one party rather than another) during working hours, when dealing with members of the public while on Council duties or in any Council premises. This includes political badges, including badges on cars in a Council office car park. It also includes virtual/online meetings. Everyone involved in such meetings should consider what is on view in the background. Employees need to ensure there is nothing which could imply a lack of political impartiality. This is necessary because, in addition to the legal restrictions, many officers regularly meet members of the public.
- If they are a witness for any election-related documents or 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 Employees and Elected Members

11.4 Some employees may have a close working relationship with Elected Members. It is important that this close working relationship is not compromised in any way. If an employee is asked by an Elected Member to provide assistance with a matter which 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 Elected Member that they are referring the matter to their line manager for guidance. This rule also applies if an Elected Member

seeks assistance on behalf of a candidate in a particular election. This applies at any time, not just during the pre-election period.

Time Off Work for Council Employees

For Electoral Purposes

- 11.5 It is the practice of the Council to give paid leave of absence to any Council employees employed by the Returning Officer as polling, postal or count staff to carry out such duties. (Managers should grant Special Leave for Election duties).
- 11.6 This reflects the statutory duty of the Council under Section 25 of the Representation of the People Act 1983, to place at the disposal of the Returning Officer the services of officers employed by the Council to assist in the conduct of the poll and the counting of the votes.

For Electioneering

- 11.7 Any employee who is not in a politically restricted post should not be granted paid leave of absence for the purpose of electioneering or otherwise assisting the campaign of any candidate since that would mean the Council providing facilities to promote the support of a political party. Leave of absence without pay for a period not exceeding four weeks at the time of the election shall be granted to employees who are candidates or election agents within North Ayrshire Council subject to the exigencies of the Services.

12. Queries

- 12.1 Queries about this guidance should be directed to the Election Office in the first instance. Contact details appear below.

Contacts Name	Designation	Tel No	Email
Aileen Craig	Head of Democratic Services	01294 324125	acraig@north-ayrshire.gov.uk
Tracy O'Hara	Elections Lead Officer (Corporate Policy, Performance and Elections)	01294 324042	tracyohara@north-ayrshire.gov.uk
Matt Strachan	Senior Manager (Business Development)	01294 310658	mattstrachan@north-ayrshire.gov.uk
Emma Mulholland (Estates Issues)	Team Manager (Estates)	01294 310500	emmamulholland@north-ayrshire.gov.uk



Frequently Asked Questions

The following are examples of issues which can arise. It must be remembered that the final advice will reflect the exact circumstances and these FAQs are given only to provide an indication of the type of issues which should be considered. They are not a substitute for specific, detailed advice.

1. How long do these restrictions apply for?

From 9am on Friday 22 March to 10pm (close of Poll) on Thursday 9 May 2024.

2. What about events or actions which relate to the Council as a whole and do not primarily relate to Ward 6 - Kilwinning? Are these covered by these pre-election restrictions?

While in general it is permissible to continue with business as normal, care should be taken to ensure that Council-wide events do not influence the By-election. Considerations include the extent to which there will be events or localised publicity in the Kilwinning Ward or Locality, whether the event is politically controversial (i.e. represents the position of one political party but not another), or whether it can take place outwith the pre-election period. If this is the case, it is better the event takes place outwith the pre-election period. If in any doubt contact the Election Office for further guidance.

If the event takes place, it should always be borne in mind that the Council is prohibited from issuing political publicity or using Council resources for political purposes, regardless of whether there is a By-election or not.

3. A Council service proposes to hold a public meeting in Ward 6 - Kilwinning in the pre-election period to discuss a matter of particular concern to that community. It is likely to attract interest from local politicians. Should the meeting be postponed?

Generally, where the subject matter of the meeting is controversial, it would not be appropriate to hold such a meeting in the pre-election period, nor immediately before it officially begins. Officers and Elected Members are asked to be aware of the heightened political sensitivity during this period. If in doubt, the Chief Executive will decide whether the meeting can proceed.

In particular the following events and consultations which were either underway or planned prior to the By-election will still proceed as business as normal:-

- Council and committee meetings
- Locality Partnerships
- Statutory consultations on new or replacement school provision

If an event goes ahead, it should be organised in a politically even-handed way, e.g. including opposition representatives as well as from the political administration.

4. What if the public meeting is one of a number occurring in all Localities and relates to a matter of general concern to the whole community, rather than relating primarily to Ward 6 - Kilwinning?

If the matter is of general concern to the whole community, rather than relating primarily to Ward 6 - Kilwinning, while it is permissible to continue with business as normal, care should still be taken to ensure that Council-wide events do not influence the By-election. Considerations include whether the event is politically controversial (i.e. represents the position of one Political Party but not another), or whether it can take place outwith the pre-election period. If this is the case it is better the meeting takes place outwith the pre-election period. If in doubt, contact the Election Office for advice. Ultimately the Chief Executive will decide whether the meeting can proceed.

5. What if the public meeting is one of a number occurring in the Kilwinning Locality and relates to a matter of general concern to that community, rather than relating primarily to Ward 6 - Kilwinning?

Treat it the same way as Question 3.

6. A controversial item is on the agenda for a meeting of the Council or a committee which will be held during the pre-election period. Should consideration of the item be postponed until after the election?

As a general rule, the work of the Council should continue and the item should be considered, unless controversial. However, the Chief Executive or his representative may consider there is too great a risk in considering an item primarily relating to Ward 6 prior to the By-election and it may be postponed as a result. unless urgent from a service delivery perspective.

7. A school whose catchment includes pupils from Ward 6 - Kilwinning has been approached by an elected representative 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?

You must show even-handedness towards all candidates. It would therefore be acceptable to invite all candidates to meet the pupils, e.g. by holding a mock hustings meeting, but it would not be appropriate to allow only one candidate to meet the pupils.

8. Officers have been asked to attend an event in Ward 6 - Kilwinning to give advice on Council services. Is this okay?

The issue is whether or not it would be appropriate for officers to attend in terms of the statutory rules on Council publicity. It would also depend on whether it is being held in Ward 6, the nature of the event, who was running it and when it was being held. If the event is associated with a particular political party and is being held during or immediately before the beginning of the pre-election period, then officers should not attend. If it is being held outwith this period or outwith Ward 6, then a decision would have to be made on whether or not the event appears to be designed to affect public support for a political party. If so, then again officers should not attend.

9. Is it okay for a campaigner to take photographs outside a Council office or facility?

The taking of photographs by campaigners, political party officials and other employees of any part of any Council building, should be discouraged, and not facilitated by Council employees. Campaigners and officials should be aware that photography in and around schools is strictly prohibited.

10. What do I do if a campaigner/political party refuses to accept my decision?

Contact the Head of Democratic Services or the Lead Officer (Elections), who can discuss the issues raised with the Chief Executive as appropriate and let you and the candidate/party know the outcome of these discussions.

11. A campaigner turns up to a school on an arranged visit as part of their campaign but there are media following them. Should they be allowed in?

No. 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 senior Council Officer.

12. A public consultation meeting is scheduled during the pre-election period as part of the formal process for a new school. Can it go ahead?

Yes. This is both normal business and there are significant costs attached to any delay.

13. A campaigner or political party wants to use a Council-managed public space for their campaign launch. Should it be allowed?

There is a convention that certain public spaces are used for campaign activity. It is generally acceptable for these to take place so long as the events are limited, e.g. around one hour and that there is equal opportunity for all parties or candidates to use them. The Council resource/effort in facilitating these should also be minimal, e.g. enabling access to a space.

14. An Elected Member wants to give their view on a matter debated at committee to the media. Is this allowed?

Any Elected Member at any time is at liberty to do this. However, in doing so, they must not use Council facilities for party political or campaigning purposes.

15. A charity which receives funding from the Council has taken an advert in a political party's newsletter. Is this allowed?

There are two relevant issues here: 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 so 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.

16. There is an event scheduled for the launch of a new service. Can Elected Members be invited? And what about other politicians?

The first question is whether this is specific to Ward 6 - Kilwinning. While, in general, it is permissible to continue with Council-wide events, care should be taken to ensure they do not influence the By-election. Considerations include the extent to which there will be events or localised publicity in the Kilwinning Ward, whether the event is politically controversial (i.e. represents the position of one political party but not another), or whether it can take place outwith the pre-election period. If this is the case, it is better the event takes place outwith the pre-election period.

If the event takes place, it should always be borne in mind that the Council is prohibited from issuing political publicity or using Council resources for political purposes, regardless of whether there is an election or not.

17. We want to highlight a new initiative. Can the relevant Committee Chair/Convener be involved?

Assuming the initiative is not particularly politically divisive or controversial, and there are genuine reasons why it is taking place during the pre-election period, then it is probably okay to go ahead with some publicity. However, it would be advisable to promote the service through a service user or manager in any publicity. If the relevant Committee Chair/Convener attends and then is photographed or interviewed by someone from the media without Council involvement, a Council officer cannot (and should not) intervene.

18. Are there any Council halls which candidates can book?

Certain halls are made available free of cost to candidates. The Executive Director of Communities and Education is required to maintain a list of such premises. Any enquiry from a candidate for the use of a hall or room in a school for the purpose of holding an By-election meeting should be directed to the Head of Service (Connected Communities), by email to dmorrison@north-ayrshire.gov.uk or by telephone on 01294 324408. The only charge which can be made is in respect of Council outlays, such as the cost of overtime for a caretaker, cost of heating or electricity, etc. These halls must be made available equally to all candidates, albeit will be leased on a first come, first served basis. If candidates wish to hire a hall not on this list they can do so providing this is done on normal commercial terms. In other words they are charged the same as any other tenant.

19. What if a candidate who has booked a hall wishes to film the event?

The Council's Communications section requires all persons who wish to film on Council property to sign an undertaking. This is designed to protect the Council and contains conditions including:-

- a. Provision that the person filming should get consent of those who are to be filmed.
- b. The person filming is required to indemnify the Council for any claims and hold their own insurance.

20. What if the candidate hiring the hall wants other facilities, such as WiFi, etc?

This can be provided on normal commercial terms. In other words, it should not be provided for free.

21. What if the candidate wishes to advertise a forthcoming event in Council premises?

As long as the main purpose is to advertise the forthcoming event, this is allowable. On the other hand, if the main purpose appears to be as political publicity or campaigning material then it is not allowable. If in any doubt contact the Head of Democratic Services or the Lead Officer (Elections).

22. What about support or assistance for election events where the organiser is impartial and not linked to any campaign?

For certain events, such as hustings, where all candidates are invited to speak and where the organiser is clearly impartial, it is allowable for the Council to provide support and assistance. Otherwise they must be on commercial terms.

23. What if Ministers, MPs or other Politicians want to attend an event in Council premises within Ward 6 and significant media presence is expected?

The Council venue should not be used to facilitate media coverage for such an event within Ward 6. This would not be permitted.

24. Local Festivals occurring during the Pre-Election Period

Festivals are 'business as usual' and should continue to take place. While they may be organised by an independent events committee, it is best to check if the Council contributes financially to these events. It is important therefore that Council funding is not used for anything relating to any campaign. If candidates try to use these events to assist their campaigns, Council Officers should make every effort to distance themselves from these activities. (e.g. avoid being photographed with campaigners).

25. What do I do if a candidate or political party refuses to accept my decision?

Contact the Election Office in the first instance, whose details appear below.

Contacts Name	Designation	Tel No	Email
Tracy O'Hara	Lead Officer (Elections)	01294 324729	tracyohara@north-ayrshire.gov.uk



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Comhairle Siorrachd Àir a Tuath