

## Council elections in Scotland

# Guidance for candidates and agents

## Part 2a of 6 – Standing as an independent candidate

December 2016

This document applies to the May 2017 council elections in Scotland. Our guidance and resources for other elections can be accessed from our website at: [www.electoralcommission.org.uk/guidance/resources-for-those-we-regulate/candidates-and-agents](http://www.electoralcommission.org.uk/guidance/resources-for-those-we-regulate/candidates-and-agents).

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# 2

## Essential information

This section of the document contains our guidance on standing as an independent candidate at the May 2017 council elections in Scotland.

Supplementary information, which may only be relevant to some 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.

We are here to help, so please contact us if you have any questions. See our [Overview document](#) for contact details.

In this document, we use 'you' to refer to the candidate. 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.

We have included relevant deadlines throughout this document, but you can also find a separate [election timetable](#) setting out all the key dates on our website.

## Completing your nomination form

1.1 To become nominated as a candidate at a local council election in Scotland, you need to submit a completed nomination form to the place fixed by the Returning Officer by 4pm on 29 March 2017 (i.e. by 4pm on the 23<sup>rd</sup> working day before the poll). This deadline is set out in law and cannot be changed for any reason.

1.2 You can deliver your nomination form until 4pm on any working day after the notice of election is published up until the deadline for nominations. The Electoral Management Board for Scotland has directed that the notice of election be published by all Returning Officers on 13 March 2017. The notice of election will set out the times and place for delivery.

1.3 You must submit a nomination form, which includes your consent to nomination, for your nomination to be valid.

1.4 You can obtain a nomination form from the local elections office. Addresses and telephone numbers can be found on our [website](#). Alternatively, the Commission has produced a [nomination form](#) that you could use.

1.5 If you, your agent or someone you trust are unable to complete the nomination form, the Returning Officer can help by preparing the form for your signature.

1.6 The Returning Officer may also be able to offer informal checks of your completed nomination form before you submit it. You should find out from the Returning Officer whether they plan to offer informal checks.

1.7 Note that any information you provide on your nomination form must be true to the best of your knowledge. It is an offence to provide a false statement on your nomination form. Providing a false statement could invalidate your election, and is also punishable by a maximum fine of £10,000 (or an unlimited fine if convicted on indictment) and/or imprisonment.

The notice of election must be published not earlier than 13 March 2017 and not later than 22 March 2017 (i.e. not earlier than thirty-five days and not later than twenty-eight days before the poll).

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## The nomination form

1.8 The [nomination form](#) must be completed in English. The form must contain:

- **Your full name.** This means your surname and other names in full. Using initials only could lead to your nomination form being rejected. Also, do not use prefixes such as Mr, Mrs, Dr or Cllr as part of your name. The same applies to suffixes. However, if you have a title, you can use this as your full name. For example, if your actual name is Joseph Smith but your hereditary title is Joseph Avon, you can use the name Joseph Avon as your full name.
- **Your full home address.** Your home address:
  - must be completed in full
  - must not contain abbreviations
  - must be your current home address
  - must not be a business address (unless you run a business from your home)

Unless you are relying on the qualification of having lived in the area for the whole of the last 12 months or on being registered as an elector in the local council area, your home address does not need to be in the council area in which you wish to stand.

- **Your consent to nomination.** On the [nomination form](#) you will be asked to state that you are qualified and not disqualified from standing.

You must meet at least one of the qualifications to stand for election, as explained in [Part 1: Can you stand for election?](#) On the nomination form you should state as many of the qualifications as apply.

- **Subscription of the nomination paper.** You are not allowed to sign (subscribe) the nomination form giving your consent to nomination earlier than 1 March 2017 (i.e. not earlier than one calendar month before the deadline

For details on descriptions that candidates standing on behalf of a registered party can use, see [Part 2b: Standing as a party candidate](#).

For information on how to register a political party, see our website at [www.electoralcommission.org.uk/guidance/resources-for-those-we-regulate/register-a-new-party](http://www.electoralcommission.org.uk/guidance/resources-for-those-we-regulate/register-a-new-party)

for submitting your nomination form). Your signature must be witnessed, and the witness must sign the form and give their full name and address. There are no restrictions on who can be a witness.

1.9 The following is optional:

- **A commonly used name** – if you use a name that is different, or partly different, from your actual name and you wish this to appear on the ballot paper, you need to state this on the nomination form. More details are provided in paragraph **1.50**.
- **A description** – if you want the word ‘Independent’ to appear on the ballot paper underneath your name, you need to state this on the nomination form. No other descriptions are allowed for candidates who are not standing on behalf of a registered political party. Alternatively, you may choose not to have a description at all by leaving this part of the form blank.

## Submitting your nomination form

1.10 Your nomination form must be delivered to the place specified on the notice of election by 4pm on 29 March 2017 (i.e. by 4pm on the 23<sup>rd</sup> working day before the poll). It is your responsibility to ensure that your nomination form is delivered in the correct manner and by the required deadline. We recommend that you, your agent, or someone you trust delivers it, so you can be sure it is delivered to the Returning Officer in time.

1.11 The nomination form must be delivered by hand and cannot be submitted by post, fax, e-mail or other electronic means.

1.12 The **original version** of the form must be submitted. A nomination form which has been sent as an attachment to an email to be printed out, for example, would make it a ‘copy document’ and not the original document.

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1.13 You should submit your nomination form as early as possible to give the Returning Officer an opportunity to conduct an informal check and to give you sufficient time to submit a new nomination form should your first contain any errors.

1.14 The Convener of the Electoral Management Board for Scotland has directed that the notice of election be published by all Returning Officers on 13 March 2017. Nomination forms can be delivered until 4pm on any working day after the notice of election is published until 4pm on 29 March 2017 (i.e. until 4pm on the 23<sup>rd</sup> working day before the poll). In most cases, the notice of election will be published on the council's website.

1.15 The Returning Officer will confirm the exact details of when and where nomination forms can be delivered on the notice of election.

1.16 You should contact the Returning Officer as soon as possible to find out what arrangements are in place for submitting the nomination form. You will be able to contact the Returning Officer via your local elections office. Addresses and telephone numbers can be found on our [website](#).

1.17 After you have submitted your nomination form you will be sent a notice by the Returning Officer to let you know whether or not your nomination is valid.

1.18 If, after you have submitted your nomination form you change your mind and no longer want to stand for election, you can withdraw, provided you do so by 4pm on 29 March 2017 (i.e. by 4pm on the 23<sup>rd</sup> working day before the poll).

## Withdrawing

1.19 You may withdraw as a candidate by signing and submitting a withdrawal notice, which must be witnessed by one other person. There are no restrictions on who may submit the notice, but it must be delivered by hand. Your witness must also sign the notice. [A notice of withdrawal](#) can be obtained from the Returning Officer or downloaded from our website.

1.20 The withdrawal notice must be submitted by the last time for withdrawals, 4pm on 29 March 2017 (i.e. by 4pm on the 23<sup>rd</sup> working day before the poll). After the withdrawal deadline it is not possible to withdraw from the election, and your name will appear on the ballot paper. If the election is uncontested, you will be declared elected.

## What happens after the close of nominations?

1.21 The Returning Officer will publish a notice of poll as soon as practicable after 4pm on 29 March 2017 (i.e. as soon as practicable after 4pm on the 23<sup>rd</sup> working day before the poll). The notice will include:

- the full or commonly used names, as the case may be, of all candidates validly nominated
- the address of each candidate
- each candidate's description (if any)

### Being validly nominated in more than one ward

1.22 If you are validly nominated in more than one ward within the same council area, you must withdraw from all wards but one before the deadline for withdrawals, 4pm on 29 March 2017 (i.e. by 4pm on the 23<sup>rd</sup> working day before the poll). If you do not withdraw from all but one ward, you will be deemed to have withdrawn from all of the wards.

### Inspecting other candidates' nomination forms

1.23 After 4pm on 30 March 2017 (i.e. after 4pm on the day after the deadline for nominations) until the day before the poll, nomination forms that have been delivered are open to inspection during normal office hours, and anyone can take a copy of them.

### Will the election be contested or uncontested?

1.24 After the close of nominations, the Returning Officer will establish whether or not there is a need to hold a poll in the

If elected at an uncontested election, candidates must still make a declaration as to their election spending.

See [Part 3: Spending](#) for further details.

Further information on taking up office is included in [Part 6: After the declaration of result](#).

ward. If there are more candidates than there are seats in the ward after the deadline for withdrawals, there will be a poll.

1.25 If, however, after the deadline for withdrawals the number of validly nominated candidates in a ward is less than or equal to the number of seats to be filled, those candidates are declared to be elected.

1.26 In this case, the Returning Officer will declare those candidates to be elected to the council by 11am on the day the election would have been held and will give public notice of the names of those declared elected.

## Appointing your election agent and other agents

1.27 The election agent is the person responsible for the proper management of your election campaign and, in particular, for its financial management. You must have an election agent. If you do not appoint an agent, you will become your own agent by default.

1.28 Once appointed, payments for election expenses can only be made by or through the election agent.

1.29 You can also appoint other agents to observe the following electoral processes, which both you and your election agent are also entitled to observe:

- the opening of postal votes
- the poll
- the count

### Who can be an election agent?

1.30 There are no particular qualifications needed to be an election agent and you can be your own agent if you wish.

1.31 However, the following people are not allowed to be election agents:

- the Returning Officer or a member of their staff

For more information about candidate spending see: [Part 3: Spending](#)

- a partner or clerk of the Returning Officer or a member of their staff
- anyone not entitled to vote at the election as a result of the report of an election court or a conviction for a corrupt or illegal practice under the Representation of the People Act 1983

## Appointing an election agent

1.32 Because of the responsibilities attached to the role of an election agent you should consider carefully who you are going to appoint and make sure that they understand their obligations. You can be your own agent if you wish.

1.33 You, or someone on your behalf, must declare in writing the name, address and office address of your election agent to the Returning Officer by 4pm on 29 March 2017 (i.e. by 4pm on the 23<sup>rd</sup> working day before the poll). You should also sign the declaration. The declaration must also be signed by the agent or be accompanied by a written declaration by the agent to show their acceptance of the appointment. If you are appointing yourself as the agent, you do not need to sign or provide a separate declaration showing the acceptance of your own appointment.

1.34 The Returning Officer may provide a declaration form, or you could use the [form produced by the Commission](#). If you do not appoint someone else as your agent by the deadline, you will automatically become your own agent.

1.35 Your agent must have an office address to which any legal notices can be delivered and therefore must be a physical address – PO boxes or similar mailboxes cannot be used.

1.36 Your agent's office address must be:

- within the same local council area where the election is being held, or
- within the UK Parliamentary constituency or constituencies that are partially or wholly included in the local council area, or
- within a district in England which adjoins the local council area

It is helpful to also provide a contact telephone number and email address for your election agent so that the Returning Officer can easily contact them.

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1.37 The agent's office address will often be their home address, but it could be an office set up for the election. If you act as your own election agent, the office address is deemed to be the address you provided on your nomination form.

## Revoking an election agent's appointment

1.38 You can revoke the appointment of your election agent at any time, including after polling day, and a new appointment can be made in the same manner as outlined above. If you revoke your election agent's appointment and do not appoint anyone else, you will be deemed to be your own election agent.

1.39 If you are acting as your own agent you can revoke your own appointment and appoint someone else as your agent.

1.40 Once an agent has accepted their appointment, they cannot resign and must fulfil the duties required of them unless you revoke their appointment.

## Appointing postal voting, polling and counting agents

1.41 You may also appoint other people as agents to attend postal vote openings, polling stations and the count.

1.42 Anyone, apart from those listed in paragraph **1.31**, can be appointed as a postal vote, polling or counting agent. The same person may be appointed as a polling, postal voting or counting agent for more than one candidate. Both you and your election agent can also automatically act as one of these agents without the need of an official appointment.

1.43 You can appoint any number of polling agents to attend each polling station, but only one polling agent for each candidate can be present in a polling station at any time. A polling agent can be appointed to attend multiple polling stations.

1.44 The Returning Officer will tell you the maximum number of postal voting and counting agents you can appoint. All candidates will be allowed to appoint exactly the same number.

1.45 The request to appoint these agents must be made in writing to the Returning Officer. It must contain the names and addresses of the people being appointed. The Returning Officer will provide forms you can use for this, or you can find [postal voting](#), [polling](#) and [counting](#) agent appointment forms on the Commission's website.

1.46 The deadline for appointing these agents will depend on the process they are to attend. Polling and counting agents must be appointed by 26 April 2017 (i.e. by not later than the fifth working day before the poll). However, appointment forms for postal voting agents only need to be submitted to the Returning Officer by the time fixed for the opening of postal votes they want to attend. The Returning Officer will give you at least 48 hours' notice before the scheduled start of each postal vote opening session.

1.47 If an agent dies or becomes incapable of acting, you may appoint another agent in their place by submitting the relevant appointment form to the Returning Officer. Any new appointment in these circumstances must be made without delay.

1.48 More information on what agents can and cannot do and what they can expect to see at postal vote opening sessions, polling stations and the count, can be found in [Part 5: Your right to attend key electoral events](#).

## Death of a candidate

1.49 If a candidate dies during the election period, see paragraph **1.58** for further information on how this will affect the election.

# Supplementary information

## Commonly used name(s)

1.50 If you commonly use a name that is different or partly different from your actual name, you can ask for your commonly used name(s) to be used instead of your actual name. For example, you may be known by your abbreviated name 'Andy', rather than your full first name 'Andrew'. In that case, you can write 'Andy' into the commonly used forename box on the nomination paper if you would rather that name appear on the ballot paper.

1.51 In another example, if your actual name is 'Andrew John Smith', but you are commonly known as 'John Smith', you can request that the name 'John Smith' appear on the ballot paper.

1.52 You can request to use a commonly used forename, surname or both.

1.53 You may also use initials as part of your commonly used name if you are commonly known by them.

1.54 Any commonly used name(s) would then appear on:

- the notice of poll
- the ballot papers

1.55 The Returning Officer will disallow commonly used names that are likely to mislead or confuse electors, or are obscene or offensive. If the name(s) are not permissible, the Returning Officer will write to you stating the reason for rejection. In those cases, your actual name will be used instead.

1.56 If either the commonly used forename or surname box on the nomination paper is left blank, then your actual forename

or surname, depending on which commonly used name box has been left blank, will be used.

1.57 It is an offence to give a false statement on your nomination form. Therefore if you choose to provide a commonly used name you must ensure that it is a forename or surname which you commonly use.

## Death of a candidate

1.58 The procedure to be followed if the Returning Officer is notified of a candidate's death will depend on whether or not the deceased candidate was standing on behalf of a political party.

1.59 If an independent candidate dies, i.e. a candidate using the description 'Independent' or no description at all, then the poll will continue.

1.60 If a party candidate dies, then the poll will be cancelled. A new notice of election will be published on the first working day after the end of the period of seven days starting on the day proof of death is given to the Returning Officer. Candidates already validly nominated do not have to be nominated a second time.

1.61 Should a fellow candidate die during the campaign, the Returning Officer will provide you with further guidance.

1.62 If an already elected candidate dies after the declaration of the result, a by-election would be needed to fill the vacancy.