

# East Ayrshire Council - Returning Officer

## Privacy Notice

Under the Representation of the People Act 1983 each Local Authority must by law appoint a 'Returning Officer'.

This is a personal appointment separate to East Ayrshire Council with its own statutory functions.

Returning Officers have a statutory duty to process certain personal data for the purpose of administering election and referenda; and as such, is subject to the requirements of data protection law as a 'data controller'.

This privacy notice explains what personal information is collected, what it is used for, who it is provided to and the lawful basis on which the Returning Officer does this.

### Who is responsible for your information?

The Returning Officer is personally responsible for ensuring that they comply with the requirements of data protection law.

Fiona Lees is appointed by East Ayrshire Council as the Returning Officer and is the registered 'data controller' with the Information Commissioner's Office (ICO).

It should be noted that for many of the Returning Officer 'services or functions' it will not be processing personal data on behalf of the Council. It will instead be processing personal data on behalf of one or more of the following statutory office holders :

- (a) The registration officer appointed by the Council under section 8 of the Representation of the People Act 1983;
- (b) The Acting Returning Officer for parliamentary elections for any parliamentary constituency for which the position is held under section 28 of the Representation of the People Act 1983 by the registration officer referred to at (a) above;
- (c) The Returning Officer appointed for the purpose of local elections by the Council under section 35 of the Representations of the People Act 1983;
- (d) The Counting Officer responsible for the administration, within the Council's local authority area, of any local, regional or national referendum;
- (e) Any other statutory office holder whose duties relate to administering elections or referenda and whose office is held by virtue of holding one or more of the offices described in (a) to (f) above or is otherwise required by law be held by an officer of the Council.

Although when referring to the above statutory office holders this privacy notice generally only makes reference to the "Returning Officer", the latter term should be understood as referring, insofar as is relevant in the circumstances, to any of (b) to (e) above.

**It is important to note that the Returning Officer is a separate data controller from the Council and the Electoral Registration Officer.**

### **What information do we need?**

The Returning Officer will use/process information relating to candidates, candidate's agents and individuals subscribing candidate nomination papers.

Personal data will also be processed relating to staff employed by the Returning Officer. Such staff data will include an employee's name, address, other contact details, national insurance number and bank details.

Personal data relating to individual's making enquiries to the Returning Officer or making submissions to election-related statutory consultations will also be processed.

### **What is your personal information used for?**

- If you apply to be an absent voter, the compilation and maintenance of records of absent voters
- Fulfilling obligations relating to the supply of absent voting lists
- For the administration of local and national elections and referenda, including in particular:
  - Determining which electors are entitled to be issued with ballot papers at polling stations.
  - Determining which electors are entitled to vote by way of an absent vote
  - Issuing poll cards to electors and to proxies
  - If you are a postal voter, issuing your postal vote pack and receiving your completed postal vote and postal voting statement
  - If you are a candidate at an election, processing and determining your nomination papers, publishing statutory notices containing your details, producing ballot papers and managing election processes in which you will be involved
  - If you are an election agent at an election, publishing statutory notices containing your details and managing election processes in which you will be involved.
  - If you are a counting agent, polling agent, postal vote agent, count supervisor, nominating officer or similar official, managing the election processes in which you will be involved.
  - In its capacity as custodian of the Council's copy of the electoral register, deciding how that copy may be used
  - If you make an enquiry or complaint, dealing with that enquiry or complaint.
  - If you are employed by the Service (including staff employed directly by the Returning Officer), managing that employment

Please note that the Returning Officer is legally obliged to publish certain personal information (such as that relating to election candidates and election agents) in the form of public notices.

## What is the lawful basis for processing the data?

The lawful basis for processing personal data are set out in Data Protection legislation. In this case the lawful basis for processing individuals' data are:

- (1) Legal obligation - the processing is necessary for compliance with a legal obligation to which the controller is subject
- (2) Public task - the processing is necessary to perform a task in the public interest or for official functions, and the task or function has a clear basis in law

The information is required by the Returning Officer in order to carry out duties under the following legislation:

- The Local Government (Scotland) Act 1973 (as amended)
- Representation of the People Acts 1983, 1985 and 2000
- Scotland Acts 1998 and 2012
- Political Parties, Elections and Referendums Act 2000
- Representation of the People (Scotland) Regulations 2001
- Scottish Parliament (Constituencies) Act 2004
- Electoral Administration Act 2006
- The Local Electoral Administration and Registration Services (Scotland) Act 2006
- The Representation of the People (Absent Voting at Scottish Local Government Elections) Regulations 2007 and the Representation of the People (Absent Voting at Scottish Local Government Elections) Amendment Order 2009
- The Representation of the People (Postal Voting at Scottish Local Government Elections) Regulations 2007 and the Representation of the People (Postal Voting at Scottish Local Government Elections) Amendment Regulations 2009
- Political Parties and Elections Act 2009
- The Scottish Parliament (Constituencies and Regions) Orders 2010 and 2014
- Fixed Term Parliament Act 2011
- Local Electoral Administration (Scotland) Act 2011
- The Representation of the People (Post-Local Government Election Supply and Inspection of Documents) (Scotland) Regulations 2007 and the Representation of the People (Post-Local Government Elections Supply and Inspection of Documents) (Scotland) Amendment Regulations 2012
- The Absent Voting at Scottish Local Government Elections (Provision of Personal Identifiers) Regulations 2009
- The Scottish Local Government Elections Order 2011 and the Scottish Local Government Elections Amendment Order 2012
- Local Electoral Administration (Scotland) Act 2011 (Consequential Amendments) Order 2012
- The Representation of the People (Variation of Limits of Candidates' Local Government Elections Expenses) (Scotland) Order 2012
- Electoral Registration and Administration Act 2013
- The Scottish Elections (Reduction of Voting age) Act 2015
- Any future legislation published for Referendums

## Special Category Data

Data Protection legislation defines Special Category Data as data relating to the processing of personal data regarding racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership and the processing of genetic data, biometric data, data concerning health or data concerning a person's sex life or sexual orientation.

The Returning Officer will have a requirement to process some types of Special Category Data and in particular:

- Political opinions - such as information contained within subscribed nomination papers

The lawful basis for processing Special Category Data is:

- (1) The processing is necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject;

## **Who will we share your information with?**

To enable the Returning Officer to carry out its own statutory functions we may share information under our legal obligations with partner organisations, including:

### Candidates and Agents

- The Electoral Commission
- Contracted Electoral Print Suppliers
- Electoral Registration Office
- Police Scotland

For certain elections, information will be shared with other Authorities' Counting/Returning Officers.

For spending returns in certain elections, information will be shared with the Cabinet Office or Scottish Government.

### Staff

Staff data will be shared with East Ayrshire Council's internal departments where necessary and Police Scotland.

The Returning Officer will also make any disclosures required by law and may also share information with other bodies responsible for detecting/preventing fraud or auditing/administering public funds.

The Returning Officer may need to appoint other organisations to carry out some activities on its behalf. These may include, for example, the Council for payment processing, printers, delivery organisations, mailing houses and contractors or consultants providing services to the Returning Officer, where they need to be provided with personal information to allow them to provide these services. We select these organisations carefully and put measures in place to make sure that they are not allowed to do anything with your personal information which the Returning Officer could not do itself.

Where information is shared with other organisations or processed on our behalf, we will ensure adequate protection by ensuring contracts and sharing agreements are in place that define security controls around the sharing of the information.

### **How long do we keep your information?**

The Returning Officer will only keep your personal data for as long as necessary. Full details of how long it retains personal data can be found in the Returning Officer's [Retention Schedule](#). After this time personal data will be securely destroyed.

### **Automated Decision Making:**

If you are a postal voter, the Service uses your information to make decisions through automated means when it checks personal identifiers that you provide against those contained in your original postal vote application.

In any case where the automated process reports that the personal identifiers you have provided do not match those on your original postal vote application, there will be an intervention by a human being who will make a final decision (i.e. there will always be the involvement of a human decision-maker where the result of the automated process indicates the possibility of a decision to your detriment).

### **Providing accurate information**

It is important that we hold accurate and up to date information. If any details have changed, or change in the future, then individuals should ensure that they inform the Returning Officer as soon as possible so that they can update their records.

### **Individuals' data processing rights**

Under data protection legislation, individuals have the right to request access to information about them that the Returning Officer holds.

Individuals also have the right to:

- object to processing of personal data that is likely to cause, or is causing, damage or distress
- prevent processing for the purpose of direct marketing
- object to decisions being taken by automated means; and
- in certain circumstances, have inaccurate personal data rectified, blocked, erased or destroyed

- in certain circumstances, transfer their data to another organisation (data portability)

Individuals can contact the Returning Officer's office regarding their data protection rights, the processing of their data, or to request access to information the Returning Officer holds about them:

Returning Officer  
Council Headquarters  
London Road  
Kilmarnock  
KA3 7BU  
Tel No: 01563 576555  
E-mail: [electionoffice@east-ayrshire.gov.uk](mailto:electionoffice@east-ayrshire.gov.uk)

If individuals have a concern about the way the Returning Officer is collecting or using their personal data, then they should raise their concern in the first instance with the Returning Officer's office.

The Returning Officer will aim to directly resolve all complaints about how they handle personal information. However, you also have the right to lodge a complaint with the Information Commissioner's Office, who can be contacted by post at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. By phone on 0303 123 1113 (local rate) or 01625 545 745. Visit their website for more information at- <https://ico.org.uk/concerns>