

SCOTTISH BORDERS COUNCIL
LEADERDALE AND MELROSE BY-ELECTION
THURSDAY 11 March 2021

**NOTES for the Guidance of
Prospective Candidates.**

1. The following summary notes have been prepared for the guidance of prospective candidates at the Leaderdale & Melrose By-Election on **11 March 2021**. A more comprehensive Guide for Candidates and Agents has been prepared by the Electoral Commission and is available to download from <https://www.electoralcommission.org.uk/i-am-a/candidate-or-agent/council-elections-scotland>. These notes are intended to be only a very brief guide to some of the matters connected with the elections; they are not in any way exhaustive or of any legal effect. Any person wishing further information should consult the statutory documents mentioned below, an independent legal adviser, or the Elections Office.

STATUTORY PROVISIONS

2. The statutory provisions relating to local government elections and any by-elections are contained in:-
 - Local Government (Scotland) Act 1973
 - Representation of the People Act 1983
 - Local Government and Housing Act 1989
 - Political Parties, Elections & Referendums Act 2000
 - Ethical Standards in Public Life etc. (Scotland) Act 2000
 - Local Governance (Scotland) Act 2004
 - Electoral Administration Act 2006
 - Local Electoral Administration and Registration Services (Scotland) Act 2006
 - Representation of the People (Postal Voting for Local Government Elections (Scotland) Regulations 2007
 - Representation of the People (Postal Voting at Local Government Elections) Amendment Regulations 2009
 - Local Electoral Administration (Scotland) Act 2011
 - The Scottish Local Government Elections Order 2011
 - The Scottish Local Government Elections Amendment Order 2016
 - The Scottish Local Government Elections Amendment (No. 2) Order 2016

RETURNING OFFICER

3. The Acting Returning Officer and Depute Returning Officers appointed to conduct the By-Election are

Acting Returning Officer	- Rob Dickson, Executive Director Scottish Borders Council, Council Headquarters, Newtown St. Boswells.
Depute Returning Officers	- Jenny Wilkinson, Clerk to the Council Louise McGeoch, Democratic Services Team Leader Nuala McKinlay, Chief Legal Officer Hannah MacLeod, Principal Solicitor

For enquiries in respect of election matters please contact Louise McGeoch (01835 825005) or email elections@scotborders.gov.uk

PROGRAMME

4. The principal dates in the Election Programme are as detailed in the Timetable.

NOMINATION PAPERS

5. The Nomination Paper and other relevant documents are contained within this pack. If you require a paper copy of the pack please either email elections@scotborders.gov.uk or telephone 01835 825005 and arrangements will be made to post a set to you. Due to current Covid restrictions completed nomination papers must be returned, **by appointment only**, to the Elections Office no later than **4 p.m. on Monday, 8 February 2021**

Candidates are requested to consider lodging their nomination paper at the earliest possible date and must telephone in advance to make an appointment. If possible, the nomination paper and other documents should be emailed to the Elections mailbox in advance for checking so there is minimum contact time in the office when handing over the original signed copy.

6. Should a candidate wish to withdraw their nomination they must complete a Notice of Withdrawal of Nomination and return it to the Returning Officer no later than **4 p.m. on Monday, 8 February 2021**
7. The qualifications for being nominated as a candidate for the Council are that the candidate
- must have attained the age of 18 at the day of nomination
 - You must be a British citizen, qualifying Commonwealth citizen or a qualifying foreign national and not require leave to remain in the United Kingdom, and
 - must not be subject to any legal incapacity.

They should not be disqualified from being nominated as a candidate –

- by reason of any of the disqualifications set out in Section 31(1), (2), and (3) of the Local Government (Scotland) Act 1973
- by reason of holding a politically restricted post (within the meaning of Part I of the Local Government and Housing Act 1989)
- by reason of Section 12 of the Local Governance (Scotland) Act 2004 or
- by reason of Section 19 of the Ethical Standards in Public Life etc. (Scotland) Act 2000

It is a criminal offence if you make a statement as to your qualification as a candidate which you know to be false.

In terms of Section 29(1) of the 1973 Act, a person can be nominated as a candidate for election as a member of a local authority if:-

- (a) he/she is, on the day on which he/she is nominated as a candidate, a local government elector for the area of the local authority; or
- (b) he/she has, during the whole of the twelve months preceding the day on which he/she is nominated as a candidate, occupied as owner or tenant any land or other premises in the area of the local authority; or
- (c) his/her principal or only place of work in the twelve months preceding the day on which he/she is nominated as a candidate has been in the area of the local authority; or
- (d) he/she has, during the whole of the twelve months preceding the day on which he/she is nominated as a candidate, resided in the area of the local authority.

8. Persons who have been sequestered, or convicted of any offence within the past 5 years resulting in a prison sentence of not less than 3 months, or convicted of a corrupt or illegal practice under the Representation of the People Act 1983, are disqualified from membership of a Scottish Council.

9. Details of the qualifications and disqualifications are set out in more detail on the Nomination Paper.
10. The Nomination Paper requires to be signed by the candidate and one witness.

11. **Candidates' Descriptions**

In terms of the Political Parties, Elections and Referendums Act 2000, only the following persons can be nominated for a Council election;

- A person standing in the name of a qualifying registered party i.e. a party which has registered with the Electoral Commission and has registered in respect of elections in Scotland; or
- A person who does not purport to represent any party and does not wish to use any description other than the word 'Independent' on the ballot paper

(a) Political Party Candidates

Candidates are only allowed to use a description which associates them with a registered political party if they obtain a Certificate of Authorisation from the registered political party.

The Certificate should be in the style attached and must be delivered to the Returning Officer by **4pm on Monday, 8 February 2021**. Failure to do so will result in the nomination being ruled as invalid. If the registered political party has its own style of certificate, the information provided **must** contain the same details as the style attached.

It is possible for a candidate who has received a Certificate of Authorisation from a registered political party to ask that one of the party's registered **emblems** be put on the ballot paper alongside his/her name.

This request must be made in writing by the candidate **by 4pm on Monday, 8 February 2021** and must indicate which of the emblems has to be put on the ballot paper alongside his/her name.

The use of emblems applies only to candidates from registered political parties. No other candidates are allowed to have emblems on the ballot paper.

(b) Independents

A person does not claim to represent any party if either

- the description of the candidate given in his nomination paper, is "Independent" or
- no description is given in the nomination paper

ELECTION AGENTS

12. Every candidate should appoint an election agent, though the candidate may act as his or her own agent. The appointment of an election agent must be in writing, must be accepted in writing by the election agent and must be delivered to the Returning Officer no later than **4 p.m. on Monday, 8 February 2021**. A form of appointment is enclosed and this also requires to be signed by the election agent accepting the appointment. If an election agent is not appointed by **4 p.m. on Monday, 8 February 2021**, the candidate will be deemed to have appointed himself or herself. The election agent must have an "office" within the Council area. The house of the candidate or of the election agent may competently be declared to be his or her "office".

ELECTORAL REGISTERS

13. In terms of Regulation 107 of the Representation of the People (Scotland) Regulations 2001 (as amended), a candidate is entitled to one free copy of the Register of Electors for the electoral ward for which he/she has been nominated. This can be obtained by completing the enclosed form and returning it by email to ero@scotborders.gov.uk or by post to the **Electoral Registration Office, Scott House, Sprouston Road, Newtown St. Boswells, TD6 0QS**. Unless a specific request for a paper copy is made, the information will be supplied in electronic format.

Please note that Regulation 107(5) states that no candidate to whom a copy of the electoral register has been supplied may:

- (a) supply a copy of the full register to any person;
- (b) disclose any information contained in it (that is not contained in the edited register) or
- (c) make use of any such information,

except for electoral purposes.

While it is a matter for each candidate to take advice on their own behalf about the implications of this Regulation, candidates should note that using information or copying or disclosing the information (so far as not included in the edited register) for any other purpose than that described above is a criminal offence.

POSTAL OR PROXY VOTING

- 14. Applications for postal votes or to change or cancel an existing postal or proxy vote must be made to the Electoral Registration Officer no later than **5 p.m. on Wednesday, 24 February 2021** if they are to be effective at this election. Applications for a new proxy vote (except in medical emergencies) must be made no later than **5 p.m. on Wednesday, 3 March 2021**
- 15. The address of the Electoral Registration Officer is:-

Electoral Registration Officer
Old School Building
Newtown St. Boswells
MELROSE
TD6 0SA
(Tel. 01835 825100)
(Fax. 01835 825101)

ELECTION EXPENSES

- 16. It is for the candidate or candidate's election agent to appoint, if considered necessary, any Polling Agent, Clerk and Messenger employed for payment and to hire any Committee Room on behalf of the candidate. Generally speaking, all election expenses are to be paid by the election agent and receipts for all payments of £20 and over should be obtained. Any money provided by any person, other than the candidate, for election expenses whether by way of gift, loan, advance or deposit should be paid to the candidate or his or her election agent.
- 17. The candidate may pay any personal expenses incurred in connection with the Election and must notify the election agent of the amount of personal expenses so paid. No expenses should be incurred by any person other than the candidate, the election agent or persons authorised in writing by the election agent on account of the holding of public meetings or issuing advertisements or circulars.
- 18. There is a statutory limit to the amount that may be spent on any election by a candidate or the election agent. The limit is £740 plus 6p for every entry in the Register of Local Government Electors for the electoral Ward concerned. The Register to be used for the calculation of expenses will be the Register of local Government electors in effect on 1 February 2021.
- 19. A candidate or the election agent is under obligation, following the election, to send to the Acting Returning Officer a return and a declaration as to election expenses within 35 calendar days of the result being declared which will be Friday, 12 March 2021 for this by-election. A form for this return will be sent to the candidates at a later date.

CANVASSERS

- 20. There is an absolute prohibition against the employment of paid canvassers.

ELECTION NOTICES

- 21. No payment can be made to an elector or a proxy for an elector for permission to exhibit any Election Notice on any house, land, building or premises.

22. Every bill, placard, poster or document issued by a candidate must bear upon the face of it, the name and address of the printer and publisher. This applies not only to printing but also to any other duplicating process, including on social media.
23. It is the policy of this Council not to allow the display of any election notices on Council owned property, lamp posts etc. Any Notices found on Council property will be removed and the cost of such removal charged to the party/person responsible.

CORRUPT PRACTICES

24. At any local government election, a person shall be guilty of a corrupt practice if he or she is guilty of bribery, treating or undue influence. A person is guilty of treating if he or she pays, either in whole or in part, the expenses of giving or providing any meal, drink, entertainment or provision to any person for the purpose of influencing that person's vote.

POSTAL VOTES

25. The issue of Postal Ballot Papers is expected to take place around 2 March 2021. There is no entitlement for candidates or their agents to be present.
26. Details of the time and location for the opening of postal votes will be provided in due course. In addition to his/her election agent each candidate may appoint one agent to attend. The appointment should be intimated in writing to the Returning Officer before the time of the first opening.

POLLING AGENTS

27. Candidates may appoint Polling Agents to attend at polling stations for the purpose of detecting personation. Any number of Agents may be appointed, but only one may be in a polling station at any time. Forms of appointment are enclosed and should be returned to the Returning Officer by **Thursday, 4 March 2021**. Polling Agents should be advised that Polling Staff have been instructed not to allow any Agent access to a polling station if they do not have with them the card issued by the Returning Officer.

HOURS OF POLL

28. The hours of poll are from **7.00 a.m. to 10.00p.m.** on **Thursday, 11 March 2021**.

CONVEYANCE OF VOTERS

29. A person must not let, lend for the conveyance of electors or their proxies to or from the Poll any public stage or hackney carriage or any carriage kept or used for the purpose of letting out for hire. Candidates or their election agents must not make any payment either before, during or after the Election, on account of the conveyance of voters or their proxies to or from the Poll whether for the hire of carriages or for 'bus fares' or otherwise. It is not necessary for a licence to be taken out in respect of any carriage used without payment or promise of a payment, for the conveyance of voters or their proxies to or from the Poll.
30. The prohibitions against the hire of a carriage do not prevent an elector, or several electors jointly from hiring any vehicle to take them to the Poll.

COUNTING OF VOTES

31. The counting of the ballot papers will take place on **Friday, 12 March 2021 commencing at 10.00 a.m.** and further information regarding the location of the count will be provided once this has been confirmed. The votes will be counted electronically and further information regarding this process will be issued in due course.
32. Candidates may appoint Counting Agents to attend the counting of votes, but this will be subject to a maximum for each candidate which will be determined by the Returning Officer, having regard to the number of candidates and the current Covid19 regulations, including social distancing. Forms of appointment for Counting Agents will be issued in due course.

POLLING PROCEDURES – GENERAL

33. (a) For the purposes of these notes:-

“polling place” = any school, hall or other building used for polling, the grounds of and any buildings ancillary to such school, hall or other building, and the walls, railings or fences surrounding such school, hall or other building.

“polling station” = the room or hall in a polling place where polling takes place.

- (b) In terms of Rule 28 of the Scottish Local Government Elections Rules 2011, only the following may be admitted to a polling station:-
- (i) voters;
 - (ii) persons under the age of 16 who accompany voters to the polling station;
 - (iii) the candidates and their election agents;
 - (iv) the polling agents appointed to attend at the polling station;
 - (v) the police officers on duty;
 - (vi) the companions of voters with disabilities;
 - (vii) the Returning Officer and the Returning Officer’s staff; and
 - (viii) persons entitled to attend in accordance with Sections 6A to 6D of the Political Parties, Elections and Referendums Act 2000.

Please note that the number of people in a polling place at any one time will be limited in terms of the current guidance relating to Covid-19 restrictions

- (c) Election Agents and Polling Agents are reminded that they must have the appropriate admission card, otherwise admission will not be granted.
- (i) The offering of literature or any attempt by whatever means to influence voters as to how they cast their votes **WITHIN A POLLING PLACE IS STRICTLY FORBIDDEN.**
 - (ii) Poll cards are the property of voters. They are not required to surrender them to agents and must not be pressurised to do so. On this occasion, no poll cards will be retained by Presiding Officers in the Polling Stations for future destruction.
- (d) Tellers
- (i) Tellers must not give the impression that they are employed by the Returning Officer. They should concern themselves **ONLY** with checking who has voted. **THEY MUST NOT ASK VOTERS WHO THEY INTEND TO VOTE FOR OR HOW THEY HAVE VOTED.**
 - (ii) **VOTERS MUST NOT BE APPROACHED UNTIL AFTER THEY HAVE LEFT THE POLLING STATION.**
 - (iii) The usual means of telling is to ask voters for the poll card. If a voter does not have a poll card and does not know his or her electoral number, tellers may ask the voter’s name and address but must not give the impression that the information must be provided for official purposes; **IF THE VOTER REFUSES HE OR SHE MUST NOT BE PRESSED.** Voters must not be asked to re-enter the polling station to ascertain their electoral number. **TELLERS MUST NOT IN ANY WAY IMPEDE OR OBSTRUCT VOTERS ON THEIR WAY INTO OR OUT OF THE POLLING STATION OR THE BUILDING IN WHICH IT IS SITUATED.**
 - (iv) Tellers will not be permitted inside a building in which a polling station is situated.
- (f) The fixing of bills to any part of a polling place, i.e. walls, railings, fences, etc. is not allowed. Bills will normally be allowed on the pavements outside a polling place provided that they are positioned so as not to cause any obstruction to pedestrian or vehicular traffic. Any question of obstructions will be wholly within the jurisdiction of the Police.

- (g) Rosettes may be worn within a polling place provided they are discreet.
- (h) Cars displaying election material are not normally allowed within the polling place grounds. Such cars, however, which bring disabled or infirm persons to the poll, may, where local conditions permit, be allowed to bring those persons to the door of the polling place. In such circumstances the cars should not wait in a conspicuous place while the persons are voting and should leave the polling place without delay as soon as the persons have voted.
- (i) While there is no specific entitlement to Candidates or Agents being informed of the number of persons who have voted, it will normally be possible for Presiding Officers to give Candidates or Agents a note of the actual number of persons who have voted from time to time throughout the day. Information as to whether or not a particular person has or has not voted shall not be given. The Presiding Officers shall ensure that meeting these requests does not interfere with their official duties.

FURTHER INFORMATION

35. The Acting Returning Officer will be pleased to provide any further information required by the candidates.

Rob Dickson
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