

Returning Officer – Privacy Notice

Under the Representation of the People Act 1983, each local authority is required by law to appoint a 'Returning & Counting Officer', often referred to simply as the Returning Officer. The Returning Officer position is a personal appointment with its own statutory functions. These are separate from those of Clackmannanshire Council. The Returning Officer has statutory duties to process certain personal data for the purpose of administering elections and referendums, and as such, is subject to the requirements of the UK General Data Protection Regulation and the Data Protection Act 2018.

To comply with data protection legislation, the Returning Officer is registered as a Data Controller with the Information Commissioner's Office (ICO). The detail of this registration can be viewed by searching the public register on the ICO website for the following registration number: Z2664579.

This privacy notice explains what personal information is collected in order for the Returning Officer to comply with their statutory duties, what that information is used for, who it is provided to, and the lawful basis on which the Returning Officer does this.

What does the Returning Officer do with your personal information?

The Returning Officer has a statutory duty to process personal information for the purpose of administering all elections, by-elections and referendums. If your personal information has to be processed for any purpose other than that for which it was collected, the Returning Officer will provide you with information about that purpose before doing so.

In general terms, the Returning Officer will process personal information relating to: -

- Candidates
- Agents (Election, Polling, Counting)
- Election Staff
- Polling Places / Stations
- Electors

It may also be necessary to process personal information in order to protect individuals from harm or injury, to prevent and detect crime, to comply with legal orders, and to provide information in accordance with a person's rights. The Returning Officer will only process your personal information when it is lawful to do so.

Who is your personal information shared with?

The Returning Officer will not give personal information about you, or any personal information you may provide about other people, to anyone else unless required by law to do so or to other bodies responsible for detecting / preventing fraud or auditing / administering public funds.

The Returning Officer may share your personal information with

- (1) Police Scotland
- (2) Electoral Commission
- (3) Electoral Registration Officer
- (4) Cabinet Office and Scottish Government
- (5) HMRC
- (6) Neighbouring local authority's Returning Officers (in the event of cross boundary elections)
- (7) Voluntary organisations and private sector service providers

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

Where staff are appointed to support the delivery of the Returning Officer's function and statutory duties, the personal information of the appointed staff will be shared with the appropriate departments within the Council, HMRC and, if necessary, with Police Scotland.

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. These organisations are selected carefully and measures are put in place to make sure that they are not allowed to do anything with your personal information which the Returning Officer could not do.

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.

Legal basis for using your personal information

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

(8) Legal obligation - the processing is necessary for compliance with a legal obligation to which the controller is subject

(9) 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 legislation, including: -

- **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) Order 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**
- **Electoral Registration and Administration Act 2013**
- **The Scottish Elections (Reduction of Voting age) Act 2015**
- **The Scottish Parliament (Elections etc.) Order 2015**
- **The Scottish Parliament Elections (Regional Returning Officers and Constituency Returning Officers) Order 2016**
- **Scottish Elections (Franchise and Representation) Act 2020**
- **The Scottish Parliament (Elections etc.) Amendment Order 2020**
- **The Scottish Parliament (Elections etc.) Amendment (No.2) Order 2020**
- **Scottish Elections Reform Act 2020**
- Any future legislation published for Elections & Referenda

Special Category Data

Data Protection legislation defines Special Category Data as 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 the exercise of a function conferred on a person by an enactment or rule of law

(2) 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.

The relevant legislation in both cases is as mentioned in the previous section.

How long is your personal information kept for?

The Returning Officer will keep your personal information for the minimum period necessary. The information outlined in this privacy notice will be kept in accordance with the retention period(s) referred to in the Retention Scheme and as required by statute unless exceptional circumstances require longer retention e.g. pending legal action. All information will be held safely and disposed of securely.

Your rights

The personal information that the Returning Officer holds about you is your information and the law gives you a number of rights in relation to that information: -

- you have the right to be informed about the information held about you and how it is processed
- you have the right to access all the information held about you as prescribed by the data protection legislation
- you have the right to require any errors in the information held about you are rectified
- you can ask for your personal information to be deleted under certain circumstances, but it can't be deleted when the Returning Officer is required to, or is permitted to, have it by law
- you have the right to ask for your information to be restricted from being processed under certain circumstances

Complaints

The Returning Officer aims to resolve all complaints about how your personal data has been handled as soon as possible.

In the event you have any concerns about how the Returning Officer has processed your personal information, you should contact Clackmannanshire Council's Data

Protection Officer -

Data Protection Officer

Clackmannanshire Council

Kilncraigs

Alloa

FK10 1EB

DPO@clacks.gov.uk