

Midlothian Council by-election

Thursday 25 March

Ward 5 – Midlothian East

Nomination pack

You must print off the forms in this pack before submitting them

The following forms must be delivered by hand:

- 1: Nomination form, including consent to nomination
- 2: Home address form (part 1 and part 2)

The following papers can be delivered by hand or by post:

- 3: Certificate of authorisation (party candidates only)
- 4: Request for a party emblem (party candidates only)
- 5: Notification of election agent

Ensure that where signatures are required, you submit the **original signed version** of each completed paper. Documents without original signatures cannot be accepted.

The *Notice of Election* (published on 15 March 2021) by the Returning Officer specifies that the Nomination papers must be delivered to the Election Office, Midlothian House, 40-46 Buccleuch Street, Dalkeith, EH22 1DN **not later than 4pm on Monday 22 February 2021.**

Please note that the Election Office is open for the delivery of Nomination Papers on weekdays from 10am to 4pm from Tuesday 16 February 2021 **but due to the current restrictions an appointment must be made by telephoning 0131 271 3365 or emailing Gill.smith@midlothian.gov.uk**

The Electoral Commission has developed a set of election objectives with the UK's governments, political parties and electoral administrators, to ensure the elections can be delivered safely and successfully. This has been done with the input of all political parties and governing bodies. The assessment of risk in relation to the coronavirus pandemic is an ongoing process and the position will be kept under review in accordance with the latest national and local guidance in relation to Covid-19 restrictions and public health guidance.

Should the Returning Officer (or a Depute) become concerned that an activity is not being carried out in a way compliant with public health, that activity will be suspended until the situation is resolved

General Data Protection Regulation (GDPR)

Data protection legislation applies to the processing of all personal data. Please contact the [Information Commissioner's Office](#) for further information about how the legislation affects you.

The lawful basis to collect the information in these forms is that it is necessary for the performance of a task carried out in the public interest and exercise of official authority as set out in the Representation of the People Act 1983 and associated regulations.

The information will be processed by the Returning Officer. For further information on data protection and data processing, you should refer to the Returning Officer's privacy notice on their website.

This checklist below is designed to assist candidates standing in a council election in Scotland in preparing to submit their nomination, and should be read alongside the Electoral Commission's [Guidance for candidates and agents](#).

Task	Tick
Nomination form	
If not pre-printed, add the name of the electoral ward and day and date of the election you are standing in	
Add your full name – surname in the first box and all other names in the second	
Optional - Use the commonly used name(s) boxes if you are commonly known by a name other than your full name and want it to be used instead of your full name	
Description – Party candidates can use a party name or description registered with the Electoral Commission and supported by a certificate of authorisation from that party; others can use 'Independent' or leave this blank	
You must be a British citizen, qualifying Commonwealth citizen or a qualifying foreign national and not require leave to remain in the United Kingdom, or have indefinite leave to remain, or (in the case of foreign nationals) have pre-settled status. You must also be 18 years old or older on the date you sign this form.	
You must declare that you meet at least one of the listed qualifications (a, b, c or d) and should cross through any that do not apply. Those left should match the qualification(s) given on your home address form.	
You must not sign the form if you are disqualified to stand. Make sure that you read the Electoral Commission guidance on standing for election as well as the legislation listed. If you are not sure if you are able to stand you should contact the Electoral Commission or take your own legal advice.	
Sign and date the document in the presence of another person	
Get the other person to complete and sign the witness section	
Method of submitting the nomination form (which must include all pages of legislation) to the RO: by hand (it cannot be submitted by post, fax, e-mail or other electronic means), by any person	
Candidate's home address form (all candidates)	
Add your full name	
Add your home address in full	
Add your qualifying address, or qualifying addresses, to each of the relevant qualifications	
Add the full name and home address in full of the person who will witness your consent to nomination	

Please also complete part 2 of the form, this part must be submitted as part of your nomination papers. Part 2 includes a statement to be completed if you wish for your home address to be made public.	
Certificate of authorisation (party candidates only)	
Ensure the certificate contains the candidate's full name	
Check the certificate allows the registered party name or description given on the nomination form to be used (or allows the candidate to choose to use the party name or any registered description)	
Ensure it is issued by the party Nominating Officer (or someone that they have authorised to issue it on their behalf)	
Method of submitting the certificate of authorisation to the RO: by hand (by any person) or by post (it cannot be submitted by fax, e-mail or other electronic means)	
Request for party emblem (party candidates only)	
Write the name or description of an emblem registered by the party and published on the Electoral Commission's website	
Ensure the request is made by the candidate	
Method of submitting the emblem request to the RO: by hand (by any person) or by post (it cannot be submitted by fax, e-mail or other electronic means)	
Notification of appointment of an election agent	
Give the name, address and office address of the appointed election agent	
Give your name and signature (or the signature of a person authorised to act on your behalf)	
Ensure the appointed agent signs the form showing their acceptance (you do not need to sign the form again if you are appointing yourself as the election agent)	
Method of submitting the notification of election agent to the RO: by hand or by post (it cannot be submitted by fax, e-mail or other electronic means)	

Office Use only	Date received	Time received	Initials	No.

1	Midlothian Council By-Election	Nomination form
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ELECTION OF A COUNCILLOR for the	
electoral ward:	Ward 5 – Midlothian East
of Midlothian	Council
Day and date of election	Thursday 25 March 2021

I, the undersigned, am hereby nominated as a candidate at the said election.	
Candidate's Details	
Candidate's surname	
Other names in full	
Commonly used surname (if any) (see Note 3 below)	
Commonly used forenames (if any) (see Note 3 below)	
Description (if any) (see Note 6 below)	

I, the nominee for election, consent to being nominated as a candidate for the	
electoral ward:	
of	Council
I declare that I am qualified to be elected, that I have attained the age of 18 years and am a qualifying Commonwealth citizen, a citizen of the Irish Republic or a qualifying foreign national; that I am not subject to any legal incapacity; and that in terms of Section 29 of the Local Government (Scotland) Act 1973:	
*a. I am registered as a local government elector for the local government area named above as in the register of electors	
and my electoral number (see Note 5 below) is:	
and / or	*b. I have during the whole of the 12 months preceding the day of nomination occupied as owner or tenant land or premises in the area named above:
and / or	*c. I have during the 12 months preceding the day of my nomination had my principal or only place of work in the area named above;

and / or	*d. I have during the whole of the 12 months preceding my nomination resided in the area named above.
*Delete qualifications that are not applicable	
<p>I declare that</p> <p>a. I am not disqualified from being nominated as a candidate for election as a local government councillor by reason of any of the disqualifications in Section 31 of the Local Government (Scotland) Act 1973, a copy of which is printed overleaf;</p> <p>b. I am not disqualified for election by reason of holding a politically restricted post in terms of Section 1(1) of the Local Government and Housing Act 1989, under a local authority within the meaning of Part 1 of that Act; and</p> <p>c. I am not disqualified from being nominated as a candidate for election as a local government councillor by reason of any sanction imposed by the Standards Commission for Scotland in terms of Section 19(1)(d) of the Ethical Standards in Public Life etc. (Scotland) Act 2000</p>	
Candidate's signature	
Date	
Witness: I confirm the above-mentioned candidate signed the declaration in my presence.	
Signature of witness:	
Witness (name in full):	
Date	

This form must be delivered to the Returning Officer by no later than 4pm on the last day for delivery of nomination papers.

A candidate who is qualified by more than one qualification should complete all of those that apply.

Notes

1. The attention of candidates and local government electors is drawn to the rules for completing nomination papers and other provisions relating to the nominations contained in the local government election rules contained in Schedule 1 to the Scottish Local Government Elections Order 2011.
2. Where a candidate is commonly known by some title they may be described by their title as if it were their surname.
3. If a candidate's nomination form gives a commonly used surname or forename in addition to or instead of another name the nomination form may state the commonly used forename or surname in addition to or instead of the other name.
4. But in terms of rule 14(7) and (8) the ballot paper will not show the other name if the Returning Officer thinks:
 - (a) that the use of the commonly used name may be likely to mislead or confuse electors; or
 - (b) that the commonly used name is obscene or offensive.
5. A person's electoral number consists of the distinctive letter or letters (or number or numbers) of the polling district in which the candidate is registered together with the number in the register to be used at the election, except that before publication of the register the distinctive letter or letters (or number or numbers) of the polling district in which the candidate is entitled to be registered together with the number (if any) in the electors lists for that register shall be used instead.
6. Description (if any) and commonly used surname / forename (if any) must be read in terms of rule 4 of the election rules. See the Electoral Commission's [Guidance for candidates and agents](#) for full details.

Local Government (Scotland) Act 1973: Disqualifications

31 – Disqualifications for nomination, election and holding office as member of local authority

(1) Subject to subsections (2) and (3) below, a person shall be disqualified for being nominated as a candidate for elections as, or for being elected, or for being a member of a local authority if –

- (a) *[This has been removed and no longer applies]*
- (b) he is a person whose estate has been sequestrated by a court in Scotland or who has been adjudged bankrupt elsewhere than in Scotland; or
- (ba) he is subject to a bankruptcy restrictions order;
- (c) he has, within five years before the day of nomination, or election or since his election, as the case may be, been convicted in the United Kingdom, the Channel Islands, the Isle of Man or the Irish Republic of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine; or
- (d) he is disqualified for being elected or for being a member of that authority under Part III of the Representation of the People Act 1983.

(1A) A person is disqualified for being a member of a joint board if he or a partner of his holds any paid office or employment (other than the office of convener or depute convener of the board) or other place of profit in the gift or disposal of the board.

(2) Where a person is disqualified under subsection (1) by reason of his estate having been sequestrated, the disqualification shall cease if and when –

- (a) the sequestration of his estate is recalled or reduced; or
- (b) he is discharged under or by virtue of the Bankruptcy (Scotland) Act 2016.

(3) Where a person is disqualified under subsection (1) above by reason of having been adjudged bankrupt, then –

- (a) if the bankruptcy is annulled on the ground that he ought not to have been adjudged bankrupt or on the ground that his debts have been paid in full, the disqualification shall cease on the date of the annulment;
- (b) if he is discharged with a certificate that the bankruptcy was caused by misfortune without any misconduct on his part, the disqualification shall cease on the date of his discharge; and
- (c) if he is discharged without such a certificate, his disqualification shall cease on the expiration of five years from the date of his discharge.

(3A) A person who is for the time being an officer or employee of the Strathclyde Passenger Transport Authority or an employee of a subsidiary of that Authority shall be disqualified for being appointed or for being a member of the Strathclyde Passenger Transport Authority.

(3B) In subsection (1)(ba) above, “bankruptcy restrictions order” means –

- (a) a bankruptcy restrictions order made under section 155 of the Bankruptcy (Scotland) Act 2016;
- (b) *[This has been removed and no longer applies]*
- (c) a bankruptcy restrictions order made under paragraph 1 of Schedule 4A to the Insolvency Act 1986; or
- (d) a bankruptcy restrictions undertaking entered into under paragraph 7 of that Schedule.

[The following section refers to candidates who are elected. Holders of posts mentioned in this section, except those in subsection (6), are not disqualified from standing for election, but must resign in compliance with this section]

31A – Disqualification of officers, employees etc. from remaining members of local authority

(1) A person elected a member of a local authority who is the holder of any paid office or employment or other place of profit in the gift or disposal of the authority is disqualified from remaining a member of the authority after the relevant day unless the person complies with subsection (2) below.

(2) A person complies with this subsection by resigning, not later than the relevant day, from that office, employment or, as the case may be, other place of profit.

(3) A resignation effected in pursuance of subsection (2) above terminates the holding of the office, employment or other place of profit with immediate effect notwithstanding any contrary provision in the terms and conditions under which the office, employment or place of profit is held.

(4) In this section the “relevant day” is the day first occurring after that on which the person elected a member of the local authority was, under the local elections rules, declared to be so elected (no account being taken of a day which is a Saturday or Sunday or Christmas Eve, Easter Monday, or a bank holiday in Scotland under the Banking and Financial Dealings Act 1971 or a day appointed for public thanksgiving or mourning in Scotland).

(5) In subsection (4) above, the “local elections rules” means an order made under section 3(1) of the Local Governance (Scotland) Act 2004.

(6) This section does not affect section 1 (disqualification and political restriction of certain local government officers and staff) of the Local Government and Housing Act 1989.

Local Government and Housing Act 1989: Political restrictions of officers and staff

1 – Disqualification and political restriction of certain officers and staff

(1) A person shall be disqualified from becoming (whether by election or otherwise) or remaining a member of a local authority if he holds a politically restricted post under that local authority or any other local authority in Great Britain.

Ethical Standards in Public Life etc. (Scotland) Act 2000: Enforcement

19 – Action on finding of contravention

- (1) Where the members of the Commission conducting a hearing find that a councillor has contravened the councillors' code or a member of a devolved public body the members' code, they shall impose one of the following sanctions—
 - (a) censuring, but otherwise taking no action against, the councillor or member;
 - (b) suspending, for a period not exceeding one year, the councillor's or member's entitlement to attend one or more but not all of the following—
 - (i) all meetings of the council or body;
 - (ii) all meetings of one or more committees or sub-committees of the council or body;
 - (iii) all meetings of any other body on which the councillor or member is a representative or nominee of the council or body;
 - (c) suspending, for a period not exceeding one year, the councillor's or member's entitlement to attend meetings of the council or body and of any committee or sub-committee thereof and of any other body on which the councillor or member is a representative or nominee of the council or body;
 - (d) in the case of a councillor, disqualifying the councillor for a period not exceeding five years, from being, or from being nominated for election as, or from being elected, a councillor;
 - (e) in the case of a member of a devolved public body, removing the member from membership of the body and disqualifying the member, for a period not exceeding five years, from membership of the body.
- (2) A period of suspension imposed under subsection (1)(b) or (c) above which would continue until or after the day of the next following ordinary election of councillors shall end at the beginning of that day.
- (3) Disqualification imposed under subsection (1)(d) above—
 - (a) has the effect of vacating the councillor's office; and
 - (b) extends to the councillor's membership of committees and sub-committees of the council of which the councillor was a member and any joint committee, joint board or other body on which the councillor is a representative or nominee of the council.
- (4) Where the members of the Commission disqualify, under subsection (1)(d) above, a councillor who is also a member of a devolved public body otherwise than as a representative or nominee of the council, they may also, in respect of that membership, remove and disqualify that person under subsection (1)(e) above.
- (5) The members of the Commission, on removing and disqualifying a member of a devolved public body under subsection (1)(e) above, may—
 - (a) where the member is a councillor, disqualify that person under subsection (1)(d) above; or
 - (b) direct that the removal from membership and disqualification apply also in respect of any other devolved public body of which the member is a member.
- (6) The members of the Commission may, on imposing a suspension under subsection (1)(b) or (c) above on a member of a devolved public body, direct that any remuneration or allowance deriving from membership of the body that would be payable to the member be not paid or be reduced as they direct.
- (7) The powers to remove and disqualify a person from membership of a devolved public body under subsections (4) and (5)(b) above are exercisable as respects that body only after the members' code applicable to that body first has effect.

- (8) The Commission shall, after consulting such association of local authorities and any such other bodies or persons as it thinks fit, issue guidance to councils on the extent to which a councillor should engage in activities (other than those mentioned in subsection (1)(c) above) which are, or may be perceived to be, the activities of a councillor during a period of suspension.

Home address form		Office use only			
Local government elections in Scotland		Date received	Time received	Initials	No
ELECTION OF A COUNCILLOR for the					
Ward 5 – Midlothian East		electoral ward of the			
LOCAL GOVERNMENT AREA of: MIDLOTHIAN					
Date of election: 25 March 2021					

You must complete Part 1 and Part 2. Only sign Part 2 if you wish for your home address to be made public.

Part 1:	
Full name of candidate	
Home address (in full)	
Qualifying address: Add your qualifying address, or qualifying addresses (in full) to each of the relevant qualifications below (you can complete more than one qualification).	
Qualifications that apply	Address
(a) I am registered as a local government elector for the area of local government named above	
(b) I have during the whole of the preceding 12 months occupied as owner or tenant land or other premises in the local government area named above	
(c) my principal or only place of work during the preceding 12 months has been in the local government area named above	
(d) I have during the whole of the preceding 12 months resided in the local government area named above	
Witness details	
Full name of the person who will witness the candidate's consent to nomination form	
Full home address of the person who will witness the candidate's consent to nomination form	

Part 2:

Note: This part (part 2) of the home address form must be submitted as part of your nomination papers

If you DO NOT wish for your home address to be made public you MUST indicate in which relevant area your home address is situated, but do not need to sign this form. The name of the relevant area in which your home address is situated (or country, if outside the UK), as explained below, will appear on the notice of poll and the ballot paper, but your home address will not.

The relevant area my home address is situated in:

(insert name of relevant area)¹

OR

My home address is situated outside the UK. My home address is situated in:

(insert name of country)

OR; you can request that your home address is made public; your address will then appear on the notice of poll and the ballot paper.

Statement: I require my home address to be made public, I understand that the address will appear on the notice of poll and the ballot paper (put an X in the box to the right and sign in the box below)

Signature of candidate (only required where the statement above requiring home address to be made public has been completed)

Candidate's signature:

Date:

Deliver the home address form with the nomination paper to the Returning Officer by no later than **4pm on Monday 22 February 2021**

¹ the name of the "relevant area" in which your home address is situated (if your home address is in the UK)

- **For home addresses in Scotland:**
 - the local government area in which the address is situated
- **For home addresses in Northern Ireland:**
 - the local government district in which the address is situated
- **For home addresses in England:**
 - if the address is within a district for which there is a district council, that district;
 - if the address is within a county in which there are no districts with councils, that county;
 - if the address is within a London borough, that London borough;
 - if the address is within the City of London (including the Inner and Middle Temples), the City of London; and
 - if the address is within the Isles of Scilly, the Isles of Scilly
- **For home addresses in Wales:**
 - if the address is within a county, that county;
 - if the address is within a county borough, that county borough

Note: The relevant area should be given in the format described above and is not the ward or parish, nor should the local authority name be given in full

Office Use only	Date received	Time received	Initials	No.

3

Midlothian Council By-Election

Certificate of authorisation

To accompany the nomination of a candidate standing **on behalf of a registered political party**. Candidates standing on behalf of two or more parties require a certificate from each party and each must allow the registered joint description to be used.

This certificate must be authorised by the registered Nominating Officer of the party or by a person authorised to sign on their behalf.

The Nominating Officer can authorise the candidate to use either the name of the party or a particular description registered with the Electoral Commission, or to use 'any registered description or the party name as registered with the Electoral Commission'. Party names and registered descriptions are listed on the Electoral Commission website (<http://search.electoralcommission.org.uk>).

Details of candidate to be authorised and the allowed description/party name			
Council:	Midlothian	Date of election:	25 March 2021
Ward:	Ward 5 – Midlothian East		
I hereby certify that			
The candidate (name in full):			
Is authorised to stand for:	Name of political party registered with the Electoral Commission		
The candidate may include the following registered description/party name in their nomination form:			
Note: An incorrect or fraudulently completed form may lead to the rejection of the nomination form as invalid			
Signature of party's registered Nominating Officer (or person authorised by the registered Nominating Officer):			
Name of person signing this form:			
Date:			

This form must be delivered for a candidate standing on behalf of a political party to the Returning Officer by no later than 4pm on Monday 22 February 2021.

Office Use only	Date received	Time received	Initials	No.

4

Midlothian Council By-Election

Request for a party emblem

This form is for a **candidate of a political party** who has been given a certificate of authorisation and who wishes to have a party emblem printed on the ballot paper next to their name.

The registered emblems of a political party can be found on the Commission's website at <http://search.electoralcommission.org.uk>.

This form must be signed by the candidate.

Candidate's request for use of an emblem			
Council:	Midlothian	Date of election:	25 March 2021
Ward:	Ward 5 – Midlothian East		
Candidate's name in full:			
I request that the ballot paper shall contain, against my name, the following registered emblem (please identify which emblem if the party has registered more than one):			
Emblem to be used (please use name or description as on the Electoral Commission website):			
Candidate's signature:			
Date:			

This form must be delivered for a candidate standing on behalf of a political party to the Returning Officer by no later than 4pm on Monday 22 February 2021.

Candidates standing on behalf of more than one political party and using a joint description may choose one emblem from one of the parties that they are standing for. Please indicate the name of the party and the emblem name in the 'Emblem to be used' box above.

Office Use only	Date received	Time received	Initials	No.

Council:	Midlothian	Date of election:	25 March 2021
Ward:	Ward 5 – Midlothian East		

Candidate's notification of their election agent

I, (Candidate's name in full):

Hereby declare that the name and address of my election agent is

Agent's name:

Agent's address (in full):

The office address of my election agent to which all claims, notices, legal process and other documents may be sent is:

Agent's office address
in full:Candidate's signature
(or of a person authorised to
act on behalf of candidate):

Date:

Confirmation of acceptance by election agentI **[agent named above]** confirm my acceptance as the election agent for the above named candidate.

I understand that I must carry out my duties according to law. I understand that there are penalties if I fail to fulfil my duties according to law.

Agent's signature:

Date:

Agent's other details in case of query (Optional will not be published)

Home telephone:

Work
telephone:

Mobile telephone:

Email address:	
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This form must be delivered to the Returning Officer by no later than **4pm on Monday 22 February 2021**