

Election candidates must comply with the data protection legislation as they use information about individuals (personal data) living in their constituency for canvassing. Guidance on all aspects of the data protection legislation is on the website: <https://www.inforights.im/>

The election candidate is described as the “*controller*” in the data protection legislation.

Controllers must only use personal data in accordance with the data protection principles.

The principles can be found in Article 5 of the Applied GDPR and are:

1. Lawfulness, fairness and transparency
2. Purpose limitation
3. Data minimisation
4. Accuracy
5. Storage limitation
6. Integrity and confidentiality

There is an overarching principle of accountability, and controllers must be able to demonstrate how they comply with the principles.

Controllers must put appropriate measures in place to ensure the security of personal data.

Information about political opinions (as well as about health, sexual orientation, racial or ethnic origin) is known as “special category data” and requires a greater level of protection.

Controllers must comply with the rights of individuals.

The rights can be found in Articles 13 - 22 of the Applied GDPR and include the right to:

1. To know the name of the controller and why the controller is processing their personal data;
2. Ask the controller for a copy of their personal data;
3. Object to processing, including for direct marketing purposes;
4. Ask the controller to stop processing their personal data;
5. Ask the controller to rectify or erase their personal data.

Complaints to the Commissioner

Individuals may make a complaint to the Commissioner about the processing of their personal data by election candidates. Election candidates are required to cooperate in any investigation.

Powers of the Commissioner

The Commissioner monitors and enforces compliance with the data protection legislation (such as principles and rights) and has corrective and enforcement powers, including the power to impose a monetary penalty.

Controllers must register with the Commissioner

An election candidate must have a register entry in their own name if they, or a third party acting on their behalf, process personal data for the purpose of the election using electronic equipment. This includes the use of any computing equipment to canvass constituents and record their views, for example, the generation of personalised letters, email, sms messaging etc., whether sent by, or on behalf of, the election candidate.

The election candidate's details will be included in the public register maintained by the Commissioner. No fee is payable for registration is required. Failure to register is an offence.

Methods of canvassing

UK case law has established that political canvassing is a form of **direct marketing**. Constituents have the right to object to receiving personally addressed letters from the election candidate. If a constituent does object, then the candidate must not send any further material to that constituent. The constituent can object verbally or in writing.

Letters addressed to "The Owner/Occupier", or leaflet drops, are not personal data and the above right does not apply.

Under the **Unsolicited Communications Regulations 2005**, election candidates cannot send emails or sms messages to a constituent to canvass support unless that constituent has previously agreed to receive such messages. Similarly, election candidates may not telephone a constituent to canvass support if that constituent's telephone number is registered with the Telephone Preference Service, unless that constituent has previously agreed to the election candidate doing so.

Use of the Full Electoral Register

An election candidate is entitled to a copy of the Full Register for the electoral area in which they are standing, either in hard copy, or in electronic format, for the purpose of canvassing. The supply and use of the Full Register is regulated by the Registration of Electors Act 2006 and associated Regulations. The Full Register contains the personal data of all constituents who have registered as being entitled to vote in a particular electoral area, including name, address and, in certain cases, date of birth.

However, many constituents request that their details are not included on the Edited Register; i.e. they do not consent to the use of their personal details for any other purpose(s).

The Full Register therefore contains personal data that many constituents expect to remain confidential. It is the election candidate's responsibility to ensure that these personal data are not used for any other purpose and failure to do so could result in a fine.

An election candidate may provide a copy of the Full Register to appointed polling agents and counting agents or to a processor for the purposes of processing the information for the election campaign e.g. to a company printing a personalised mail drop. The third party must not use the copy of the Full Register for any other purpose and election candidates must ensure that any copies they supply are returned to them or securely destroyed.

Successful election candidates

Successful election candidates may retain their copy of the Full Register and personal data relating to the election campaign such as names, addresses, contact details, opinions etc. Their register entry will continue in force after election and must be renewed annually whilst they hold office.

Unsuccessful election candidates

Unsuccessful election candidates will have no lawful purpose to continue processing any personal data relating to the election campaign, including that in the copy of the Full Register, and must securely delete all that personal data. They should also cancel their register entry following the outcome of the election.