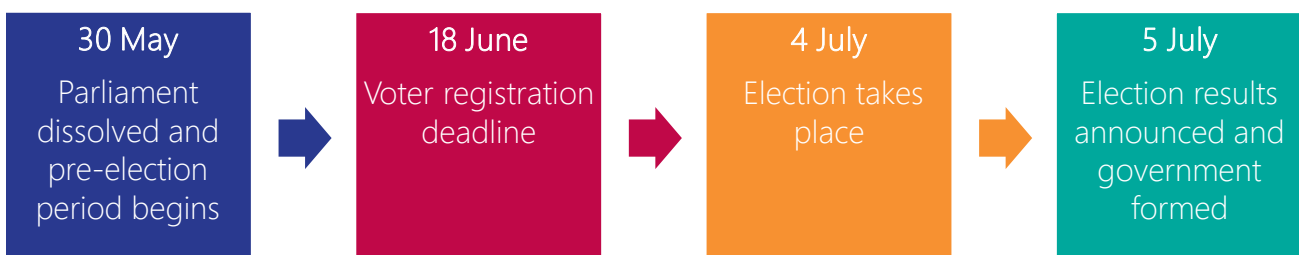


# The 2024 general election: pre-election period considerations for NHS trusts and foundation trusts

This briefing sets out considerations for NHS trusts and foundation trusts in the pre-election period leading up to the UK general election on 4 July. It highlights the practical implications around providers' activities, including in relation to integrated care systems (ICSs), and with regard to communication during this period. It also covers the requirements on government, the civil service and arm's length bodies during the pre-election period to maintain political impartiality in carrying out their public duties and ensuring that public resources are not used for the purposes of political parties or campaign groups.

Please contact Izzy Allen ([izzy.allen@nhsproviders.org](mailto:izzy.allen@nhsproviders.org)) with any queries relating to organisational governance or foundation trust governors, or David Evans ([david.evans@nhsproviders.org](mailto:david.evans@nhsproviders.org)) for all other queries.

## 1. Election timetable



## 2. What is the pre-election period?

The term 'pre-election period' is used across central and local government to describe the period of time immediately before elections or a referendum when specific restrictions on the activity of civil servants and officials, where appropriate, are in place. These restrictions prevent announcements from, and activities by, public bodies which could influence or be seen to influence the election. The term 'purdah' is also sometimes used to describe this period.

### 3. When does the pre-election period start?

The pre-election period for the general election begins on **30 May 2024**. The period officially applies until the day following the general election, but also effectively applies during any period of negotiation following the election around the formation of a government. So, if no party wins an overall majority, restrictions remain in place until a government is formed.

### 4. Rules and regulations during the pre-election period

#### For the government

The Cabinet Office issues guidance for civil servants in UK departments on their role and conduct during election campaigns. The 2024 guidance is expected to be available shortly on the Cabinet Office website, but the 2019 guidance<sup>1</sup> sets out general principles:

“During the election period, the government retains its responsibility to govern, and ministers remain in charge of their departments. Essential business (which includes routine business necessary to ensure the continued smooth functioning of government and public services) must be allowed to continue. However, it is customary for ministers to observe discretion in initiating any new action of a continuing or long-term character.”

“Decisions on matters of policy on which a new government might be expected to want the opportunity to take a different view from the present government should be postponed until after the election, provided that such postponement would not be detrimental to the national interest or wasteful of public money.”

Civil servants should answer constituency correspondence from former MPs, avoiding individual cases becoming party political issues.

Special advisers who will be involved in the campaign must first resign their appointments.

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<sup>1</sup> <https://www.gov.uk/government/publications/election-guidance-for-civil-servants/general-election-guidance-2019-guidance-for-civil-servants>

## How does the NHS fit into these elections?

There has been no recent official guidance for the NHS from the Department of Health and Social Care, however 2024 local election guidance from NHS England<sup>2</sup> may be useful, as the same principles will apply. The NHS is central to a general election campaign, and this means it will be essential for trusts to adopt the customs and practices of the pre-election period to avoid any impression of influencing the election or its outcomes.

In addition, the Lobbying Act 2014<sup>3</sup> sets out rules for how charities and other civil society organisations can campaign in the lead up to national elections. These are designed to avoid campaign activity influencing voters, directly or indirectly. If a political party adopts policies that an organisation is already campaigning for, the organisation should not publicise the party's or candidate's support and should not alter or increase its campaigning activity as a result of that support.

## 5. Practical considerations for NHS trusts and foundation trusts during the pre-election period

### a. Key principles

- **No activity should be undertaken which could be considered politically controversial or influential**, which could compete for public attention, or which could be identified with a party/candidate/designated campaign group.
- **Would you do the same for everyone?** NHS trusts have discretion in their approach, but must be able to demonstrate the same approach for every political party, official candidate, and designated campaign groups in order to:
  - Avoid allegations of bias or pre-judging the outcome of the election.
  - Ensure you will be able to form a constructive relationship with whoever wins the seat.
- **The NHS may be under the media spotlight, locally and nationally.** It is advisable to have a plan in place for:
  - How the organisation will manage the pre-election period (with both its risks and its opportunities).
  - The potential for the organisation or its partners to be singled out in the media.

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<sup>2</sup> <https://www.england.nhs.uk/long-read/pre-election-guidance-for-nhs-organisations-spring-2024/>

<sup>3</sup> <https://www.legislation.gov.uk/ukpga/2014/4/contents/enacted>

## b. Board meetings and normal regulation

Normal business and regulation need to continue during the pre-election period. NHS England, for example, is not expected to alter the dates on which it expects information from providers. Where the CQC has planned an inspection or to publish an inspection report, this is likely to go ahead (though providers may wish to check with their CQC contact).

Where a board discussion or sign off is required, there is no problem with holding a board meeting.

Where a board meeting needs to take place, the agenda should be confined to those matters that need a board decision or require board oversight. Matters of future strategy or the future deployment of resources may be construed as favouring one party over another and should be avoided.

Use of the confidential part or part two of the agenda to discuss matters that may be politically controversial is not recommended. Such matters should be deferred until after the pre-election period.

## c. Publishing information and making announcements

Care should be taken not to comment on the policies of political parties or campaign groups, and websites should not be updated with any information that may be considered politically influential. The rule of thumb should be that communications activities necessary for patient safety, quality and operational delivery purposes should continue as normal, but any other activity beyond that and not required in the pre-election period should wait until after the election.

Wherever possible, information to be published about the organisation should be factual and released in advance of the pre-election period commencing. After the pre-election period begins, requests for new information are best handled by applying freedom of information (FOI) rules.

**Organisations should not start long-term initiatives or undertake major publicity campaigns unless time critical** (such as a public health emergency) and should instead wait until after the election.

**Public consultations should not be launched during the pre-election period.** Those already in progress should continue, but it is advisable to extend the period to take account of the pre-election period and avoid public meetings and publicity. Responses received should not be commented on and no announcements should be made until after the election. Service change consultations may

become politically sensitive, and pausing or extending a consultation and resuming it after the election may be an appropriate course of action.

We would only expect the Department of Health and Social Care and arm's length bodies to release data (such as the regulator publishing trusts' financial returns) when a precise publication date has been pre-announced.

#### **d. Individual NHS providers under the media spotlight**

The profile of the NHS – already under intense scrutiny – will increase further as an issue of public, political and media debate during the pre-election period. Each political party will be keen to demonstrate its support for the NHS, and the threat posed by its opponents. At times during local and national campaigning, the NHS will become the issue of the day – the focus may be on a particular issue, place, policy, individual or incident. In this context, it is likely that specific local examples will be used to illustrate an issue facing the NHS nationally.

Any issues that can be predicted to be of interest during the campaign should be prepared for, with relevant information available and agreed spokespeople and lines. Where possible, it is usually easiest to use information for public comment that is already publicly available and can be readily referred to.

Where affected, we would advise that trusts remain neutral, refraining from any commentary and providing only factual information where necessary. Normal patient confidentiality rules apply. It is also worth considering which local and national stakeholders it would be helpful to share information with (both in advance and in the event of any issues arising) in the local system and other NHS and regulatory organisations.

#### **e. Political visits and engagement**

Official support must not be given to visits and events with a party political or campaigning purpose.

**Use of NHS property** for 'electioneering purposes' is a decision for the relevant NHS body to make, "but should visits be permitted to, for example, hospitals, it should be on the basis that there is no disruption to services and that the same facilities are available to all candidates. Care should also be taken to avoid any intrusion into the lives of individuals using the services."

As such, an NHS provider has the discretion to decide whether or not to allow visits by politicians during an election campaign. When considering whether to host a visit, **safety and operational**

**considerations must come first** and guidance states that campaign visits should not disrupt services or care.<sup>4</sup>

In addition, **the same approach must be applied to all requests from all official candidates and political parties, irrespective of their size**. All requests from candidates to visit may be declined, but if they are allowed, then all requests should be accepted. If you do not plan to permit any campaign visits, it is worth considering formally advising all candidates and campaign groups in advance at the same time to ensure clear and consistent understanding.

Organisations may wish to engage with the prospective MPs while care should be taken to ensure that incumbent candidates are not treated any differently. Again, we would recommend that all candidates and campaign groups are treated in the same way and any invitations or opportunities for engagement are extended to all parties. For example, if one party or campaign group makes an announcement on site, it would be advisable to ensure that all parties do so.

## **f. Foundation trust governor elections**

In law, there is nothing to prevent foundation trust governor elections from taking place during the pre-election period. In practice however, **it is best to avoid holding governor elections during this period**.

Providers should avoid activities that may be seen to favour any given political party and given that foundation trusts have no control over what governors may say in their election statements, at hustings or elsewhere, they cannot guarantee a politically neutral outcome. What might be deemed to be party political can be quite broad – a particular position on outsourcing, for example, might be associated more with one party than with others. Similarly, while governor elections have for the most part not become party political events there is nothing in law to prevent them from becoming so.

Our best advice therefore is not to hold governor elections during the pre-election period. However, if elections are already underway and there is no sensible opportunity to put the election 'on hold' we would suggest that they continue. In those circumstances organisations will need to seek to ensure that candidates do nothing that could be construed as politically biased.

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<sup>4</sup> Cabinet Office: Election guidance for civil servants <https://www.gov.uk/government/publications/election-guidance-for-civil-servants/may-2023-elections-guidance-on-conduct-for-civil-servants>

For further information relating to governor elections please contact Izzy Allen, senior policy advisor (governance): [izzy.allen@nhsproviders.org](mailto:izzy.allen@nhsproviders.org).

### **g. Activism onsite or by individual staff or governors**

NHS employees and foundation trust governors are free to undertake political activism and public debate in a personal capacity. They should, however, avoid involving their organisation or creating any impression of their organisation's involvement. They are not permitted to use any official premises, equipment (including uniforms) or information they would only have access to through their work and which is not publicly available. Naturally, patient confidentiality must be preserved at all times and normal professional conduct and contractual rules apply as usual in this respect.

Especially given the prevalence of social media and the balancing act people perform in presenting their personal and professional lives and views, it becomes easier to blur or mistake the capacity within which individuals are contributing online. At all times every effort should be made to preserve public professional neutrality while not inhibiting personal activity.

### **h. Voter ID, voter registration, postal votes and proxy votes**

Since October 2023, voters in England have been required to show photo ID in order to vote at polling stations in UK general elections.

Those without an accepted form of photo ID, can apply for a free voter ID document, which is known as a **Voter Authority Certificate**. Those voting by post will not need ID to do so.

It might be helpful to advise staff on the trust's provisions for postal and proxy voting to support those – whether staff, patients, service users and their families – who may not be able to go to their polling station on the day. National advice is available here: <https://www.gov.uk/register-to-vote>.

If someone nominates a proxy, the nominee will need to show their own photo ID to cast the vote. They will not need to show the voter's ID.

We would advise that **NHS staff and trusts should not undertake any voter registration or proxy or postal voting activity for those in their care** to avoid any possible concern being raised about inappropriate influence.

A lack of mental capacity is not a legal incapacity to vote. Those who meet the other registration qualifications are eligible for registration regardless of their mental capacity. An inpatient at a mental health hospital or similar place can register at the hospital address if they have spent sufficient time there to be regarded as a resident. Short admissions can register to vote at the address where they would be living if not in hospital. The Electoral Commission provides guidance for patients in a mental health hospital here: <https://www.electoralcommission.org.uk/voting-and-elections/who-can-vote/other-registration-options/a-patient-a-mental-health-hospital>

### **i. Trade union activities and engagement**

Trade unions may be active during the election campaigning on issues concerning their members. All trusts will have existing relationships, channels and protocols for working effectively with trade unions and these should be used as normal. Nevertheless, given the importance of NHS organisations preserving their neutrality, it is worth considering **itemising the election for discussion at an imminent meeting**.

## **6. Sharing this briefing within your organisation**

We suggest trusts share this briefing and/or its specific pre-election planning with all staff and stakeholders who might find it useful to be aware of the steps you are taking.