

Guidance

Political Restriction

1. Introduction

Certain posts in the Council are 'politically restricted' which means that staff employed in these posts may not undertake political activities.

2. Aims of the Policy

To provide guidance for employees who hold relevant posts on the implications of political restriction and the limitations that apply under current legislation.

3. Scope

All employees (including part-time employees) who are employed by the Council, and its delivery partner Publica (Support) Ltd.

4. To be read in conjunction with:

Recruitment Policy

Employee / Business Code of Conduct

5. Principles

The principle of political restriction in local government is based on a long-established tradition that officers involved in advising members of an authority should be seen to observe a policy of political neutrality.

This principle is fundamental to a fair and democratic system to ensure:

- Elected members should receive impartial advice from officers
- Officers should not be influenced by any political party in the implementation of the policy

The Local Government and Housing Act 1989 (as amended by the Local Government Officers [Political Restriction] Regulations 1990) sets out the legal basis for political restriction. Posts are politically restricted either because the particular post is listed in the legislation or because of the responsibilities of the post.

Policy

Political Restriction

6. What does political restriction mean?

Certain posts in the Council are 'politically restricted' which means that staff employed in these posts may not undertake political activities either in or outside the workplace. Politically restricted employees will automatically be disqualified from standing for, or holding office, and these restrictions are incorporated as terms in an employee's contract of employment under the legislation.

Employees who are politically restricted are barred from standing for office as any of the following:

- Local councillors
 - Members of Parliament
 - Members of the European Parliament
 - Members of the Welsh Parliament
 - Members of the Scottish Parliament
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- are restricted from canvassing on behalf of a political party or a person who is or seeks to be a candidate
 - cannot speak to the public at large or publish any written or artistic work that could give the impression that they are advocating support for a political party.

The cumulative effect of these restrictions is to limit the holders of politically restricted posts to bare membership of political parties, with no active participation within the party permitted.

7. Further restrictions within the Council

The Local Government Act 1972, which first introduced legislation for political impartiality, enforces further restrictions:

- **Restrictions on members becoming officers:**

The Council cannot appoint as an employee in any capacity, any councillor who is currently a member of that Council or who had been a member in the previous 12 months.

- **Restrictions on officers becoming members:**

An employee will be disqualified from being elected or holding office as a member of the same local authority. This principle also applies more widely to employment with certain bodies over which that authority has influence. Therefore, an individual employee would also be disqualified from standing or holding office with that specific authority if he holds any paid office or employment with a local or joint authority on which the authority is represented.

8. Which posts are politically restricted?

Posts will only be considered to be politically restricted if they fall into two broad categories known as **specified** and **sensitive** posts:

- The Head of Paid Service / Chief Executive
- The statutory Chief Officers including Finance Officer / S151 and Monitoring Officer
- Officers exercising delegated powers, i.e. persons whose posts are for the time being specified by the authority in a list maintained in accordance with the provisions of the Local Government Act 1972
- Assistants to political groups
- Non-Statutory Chief Officers
- Deputy Chief Officers (officers reporting to a chief officer, excluding secretarial/clerical support)

Sensitive posts are posts which meet one or both of the following duties-related criteria:

- giving advice on a regular basis to one or more of the following
- the authority itself, i.e. full Council
- any committee or sub-committee of the authority or to any joint committee on which the authority are represented

and where the authority are operating executive arrangements to one of more of the following:

- the executive of the authority i.e. the Cabinet
- any committee of that executive; or to any member of that executive who is also a member of the authority
- overview and scrutiny committees (and their sub-committees)
- speaking on behalf of the authority on a regular basis to journalists or broadcaster

9. How often is a “regular basis”?

The legislation does not provide a definition of “regular”. However, the use of the word “regular” would suggest that something more than an occasional attendance to present a formal report to a committee is needed to establish that advice is given on a regular basis. In determining whether an employee’s post falls within the definition, consideration should be given to the following:

- the number of times over the previous 12 months that the postholder either attended or provided a report for, those groups described above
- the number of times over, for example, the previous 12 months that the postholder has provided a report to an individual member of the executive

It should be noted that giving advice to elected members on a regular basis does not automatically mean that a post should be politically restricted.

Political restriction based on grade or salary level was removed in 2010 under the Local Democracy, Economic Development and Construction Act 2009.

10. How do I know if a post is politically restricted?

The Council maintains a list of those posts (see appendix 1) which have been defined as politically restricted in accordance with the legislation; this list includes both specified and sensitive posts. This list is reviewed on a regular basis, normally at the start of each financial year. Job descriptions will also confirm whether a post is politically restricted.

11. New Job Descriptions

New, or amended, job descriptions will need to be assessed, using the criteria above, to determine whether the post should be politically restricted.

12. Is there a right of appeal for political restriction?

An employee whose post has been determined to be sensitive under the legislation, and is therefore politically restricted, can appeal to Head of Paid Service or Managing Director of the Council you are employed by on the grounds that the criteria has been wrongly applied. A decision will be made on whether to uphold the employee's appeal or not.

However, the holder of a specified post under the legislation has no right of appeal.

13. Resigning to take up political activities

Employees can resign their post to take up political activities. It is left to the discretion of the Council as whether or not to reinstate an employee who resigns their post. The Council is not obliged to keep a post open or to give preferential treatment when applying for a post.

APPENDIX I

POLITICALLY RESTRICTED POSTS

This list covers Cotswold District Council, Forest of Dean District Council and West Oxfordshire District Council, and Publica group (support) Ltd, a wholly owned company Teckal trading company.

Service Area	Job Title
Specified Posts	Head of Paid Services / Chief Executive Chief Finance Officer / S151 Monitoring Officer / Deputy Monitoring Officer Executive Assistant to the Leader of the Council
Sensitive Posts	
Publica Executive Team	Managing Director Group Finance Director
Business Services	Assistant Director, Business Services
Finance	Business Manager - Finance Chief Accountant Technical Chief Accountant Treasury Accountant
ICT	Chief Technology Officer (CTO)
Flood Risk	Shared Lead Flood Risk Management Officer
Communities	Assistant Director, Communities
Localities	Business Manager - Localities Community Engagement Manager Economic Development Lead Regeneration Manager
Leisure and Wellbeing	Head of Leisure and Wellbeing Community Wellbeing Manager
Commercial Development	Assistant Director, Commercial Development
Democratic Services	Business Manager – Democratic Services Democratic Services Manager Senior Democratic Services Officer Democratic Services Officer Democratic Services Assistant Electoral Services Manager Senior Electoral Services Officer Elections and Democratic Services Support Assistant
Communications	Business Manager - Communications & Marketing Marketing and Communications Manager Communications Specialist (Waste & Climate Change) Digital Communications Specialist

Resources, Data & Growth	Business Manager - Resources, Data & Growth
Contract Management	Head of Environmental Services Strategic Support Officer
Organisational Effectiveness	Assistant Director, Organisational Effectiveness Business Manager - Business Continuity, Governance and Risk Emergency Planning Manager Business Manager - People
Planning and Sustainability Development Services	Assistant Director, Planning and Sustainability Business Manager - Development & Sustainability Development Manager Major Development Programme Manager Principal Planner for Enforcement and Appeals Heritage and Design Manager Development Control Manager Principal Enforcement Officer Forward Planning Manager Planning Policy Manager
Property and Regeneration	Assistant Director, Property and Regeneration Business Manager - Assets & Council Priorities Asset Manager
Resident Services	Assistant Director, Resident Services
Housing	Business Manager - Housing Strategic Housing Manager
	Business Manager - Environmental, Welfare & Revenue Services Business Manager - Support and Advice Business Manager - Customer Experience & Resources Customer Enabling Manager
Legal Services	Head of Legal Services
Counter Fraud and Enforcement Unit (CFEU)	Head of Service Investigation and Enforcement Manager
Internal Audit (SWAP)	Assistant Director