



Guidance Notes on Politically Restricted Posts

1. Introduction

The Local Government and Housing Act 1989 (LGHA) identifies a number of politically restricted posts within the Council. It further identifies certain categories of post deemed to be politically restricted on the basis of one or more defined characteristics and introduces the requirement for every Council to prepare and maintain a list of such posts

Details of the restrictions placed on post holders are provided at Section 2 and the types of post which are considered to be politically restricted are described at Section 3.

Section 4 details the types of post which are excluded by statute from political restrictions and the criteria for inclusion on the List is explained at Section 5

Section 6 provides information on the appeals process for post holders who are dissatisfied with the decision to categorise their post as politically restricted

2. Restrictions Applying to Politically Restricted Posts

The Local Government Officers (Political Restrictions) Regulations 1990 (as amended) define the political restrictions placed upon the holders of such posts. These restrictions are as follows:

A. A post holder may not announce himself or herself, or allow himself or herself to be announced by another, as a candidate for election as a member of:

- the House of Commons
- the Scottish Parliament
- the European Parliament;
- any Local Authority

In the event that the post holder notifies the Council in writing of his or her intention to resign in order to become a candidate for election as a member of the House of Commons or the Scottish Parliament, his or her appointment shall terminate forthwith.

B. The appointee shall not act as an election agent or sub-agent for any candidate for election as a member of the Houses of Commons, the Scottish Parliament, the European Parliament or any local authority

C. The appointee shall not be an officer of any political party or of any branch of such a party if his/her duties as such an officer include branch management or acting on behalf of the party or the branch; or to act on behalf of the party in dealings with people outside the party or its associated parties..

D. The appointee shall not canvass on behalf of a political party or on behalf of a candidate for election as a member of the Houses of Commons, the Scottish Parliament, the European Parliament or any local authority.

If a post holder wishes to canvass for a particular outcome in a referendum, and as it is probable that political parties will have their own views on the outcome, he or she should exercise caution in undertaking any canvassing activity that might reasonably be taken to amount to support for a political party. Such activity might include mentioning a political party when speaking to voters, wearing party material such as T-shirts or caps, distributing material which bears the name or logo of a party, assisting a party with postal or doorstep campaigns in any way, providing material to a party for its use in campaigning, or taking part in any radio, press or TV campaign organised by a party.

E. The post holder shall not speak to the public with the apparent intention of affecting public support for a political party.

F. The appointee shall not publish, or have published by another, any written or art work of which he or she is the author in whole or in part or the editor, if the work appears to be intended to affect public support for a political party. This does not preclude the display by the post holder of a poster on his or her house or car.

3. Identification of Politically Restricted Posts

There are four categories of politically restricted posts:

Category A – Statutory Posts:

- i) The Chief Executive;
- ii) Chief Social Work Officer; and
Chief Finance Officer;
- iii) Monitoring Officer

Category B – Posts defined in terms of their relationship to others:

- (i) Non-statutory Chief Officers., i.e.
 - o a person for whom the Chief Executive is directly responsible; or
 - o a person who, as regards all or most of his or her duties, reports directly to, or is directly accountable to, the Chief Executive or the Council or any committee or sub-committee of the Council
- (ii) Deputy Chief Officers i.e.
 - o A person who, as regards all or most of his or her duties, reports directly to, or is directly accountable to, one or more of the Chief Officers.

Category C – Posts identified by the characteristics of their duties:

- (i) Posts involving the provision of advice to the Council
 - o A person who, on a regular basis, gives advice to the Council or to any committee or sub-committee of the Council, or to any joint committee on which the Council is represented.
- (ii) Posts involving contact with the media
 - o A person who, on a regular basis, communicates on behalf of the Council with journalists or broadcasters.

NOTE

'Advice' means information provided either verbally, in writing or in graphical form with the intention that it should inform, guide or influence:

- The policy adopted by the Council in respect of any matter before it; or
- Any strategic decisions made by or on behalf of the Council.

This does not include guidance given on the application of current legislation, regulations or procedures.

'Regular' means that giving advice to the Council or speaking to journalists or broadcasters of the Council is:

- Incorporated in the job description for the post; or
- Undertaken as part of the post holder's normal duties; or
- Undertaken on more than an occasional basis, though not necessarily frequently.

'Communicating' means any form of contact with a journalist or broadcaster with the intention that the journalist or broadcaster may use the communication in relation to any publication or broadcast.

Category D – Posts included by virtue of delegation:

This means that employees who are not normally politically restricted but who, for a period of at least 6 months, exercise powers normally exercised by the holder of a politically restricted post will be regarded as being in a politically restricted post for the duration of the delegation.

4. Statutory Exemptions from Political Restriction

There are two exemptions from political restriction provided by statute:

- (a) The holders of teaching posts (head teachers, principals, teachers and lecturers) are not to be regarded as being in politically restricted posts, even if, in other respects, their posts would appear to be included in one of the groups above. They, therefore, do not have to be included in the list of such posts maintained by the Council.
- (b) Secretarial, clerical and support staff, even if they report to the Chief Executive or to a Chief Officer, are not regarded as Chief or Deputy Chief Officers for the purposes of political restriction.

5. List of Politically Restricted Posts

It is the duty of every Council to prepare and maintain a list of posts which are deemed to be politically restricted by virtue of categories C(a) and C(b) above. All such posts should be included in this list, even if they are also deemed to be politically restricted by virtue of other categories.

Therefore there is no requirement to keep a list of those posts deemed to be politically restricted by categories A, B or D only.

However, in practical terms, the best way for the Council to maintain clarity in respect of politically restricted posts is to prepare a list of all politically restricted posts and annotate the relevant category or categories.

The Council must also notify holders of posts which are subject to political restrictions, of the restrictions. .

6. Applications for Exemption

Employees in posts which are politically restricted in terms of categories A, B and D have no right to appeal against their inclusion.

Employees in posts which are politically restricted in terms of categories C(i) and/or C(ii) who wish the political restrictions to be lifted from their post may apply through the Council's Monitoring Officer, or directly, to the:

Local Government Political Restrictions Exemptions Adjudicator for Scotland
P.O. Box 13173
DUNS TD11 3WS

Further guidance on Politically Restricted Posts is available at [Local Government Political Restrictions Exemptions Adjudicator for Scotland](#).