**Politically Restricted Posts**

**Procedure for assessment and exemption**

**1 Introduction**

1.1 As a result of provisions introduced under the Local Government and Housing Act 1989, to ensure the political impartiality of local government employees, some employees’ posts are subject to political restriction as these could conflict with their responsibilities at work. This document provides guidance on the implications of working in a politically restricted post, which posts are restricted and the process for appealing against a decision that a post is restricted.

**2 Implications of holding a politically restricted post**

2.1 Any post on the Council’s establishment can be designated as politically restricted if it meets the criteria set out at section 3. Where the post is politically restricted the postholder (whether an employee, agency worker, consultant, or any other incumbent) will be subject to the political restrictions set out in this guide and in legislation.

2.2 Under the Local Government and Housing Act 1989, an employee in a politically restricted post must not:

* + - * Stand for office as
* Local councillors
* MPs
* MEPs
* Members of the Welsh Assembly
* Members of the Scottish Parliament
* Canvass on behalf of a political party or a person who seeks to be a candidate
* Speak to the public at large or publish any written or artistic work that could give the impression they are advocating support for a political party.

2.3 The effect of these restrictions is, in essence, to limit the holder of a politically restricted post to bare membership of a political party though no active participation within the party is permitted.

**3 Which posts are politically restricted?**

3.1 Politically restricted posts fall into two broad categories: specified posts and sensitive posts.

Specified posts

3.2 These are particular posts, defined in statute, which are politically restricted. All postholders of specified posts are politically restricted and there is no right of appeal against this determination (see paragraph 5.1).

3.3 The specified posts are as follows

* Head of Paid Service (the Chief Executive)
* Statutory Chief Officers, which includes the Director of Children’s and Adults’ services, the Director of Public Health and the chief finance officer also known as the s151 officer)
* Non-Statutory chief officers – officers reporting to the Chief Executive, excluding administrative support staff
* Deputy chief officers – officers reporting to a chief officer, excluding administrative support staff
* Monitoring officer, under section 5 of the LGHA
* Officers exercising delegated powers, ie persons whose posts are for the time being specified by the authority in a list maintained in accordance with s 100G of the LGA 1972
* Political assistants

Sensitive posts

3.4 A sensitive post is one which meets one or both of the following duties-related criteria:

* Giving advice on a regular basis to the authority itself, any committee / sub-committee / joint committee on which authority is represented
* Speaking on behalf of the authority on a regular basis to the media

**4 Process for determining political restriction of a post**

4.1 HR teams will compile a list of politically restricted posts within their directorates, seeking input from line managers where necessary.

4.2 Whenever a new job is created, the line manager and HR will consider whether or not the post should be politically restricted and ensure this is included on the job description where necessary.

4.3 The Head of Human Resources (HoHR) will approve the list of politically restricted posts for the council and arrange for it to be published on the council’s website.

**5 Exemption from political restriction**

5.1 Employees in sensitive posts can apply for exemption from political restriction. Employees in specified posts cannot apply for their post to be exempt from political restriction. The application procedure is set out below.

5.2 The HoHR will complete the ‘Application for exemption from Political Restriction’ form providing the reasons for classifying the post as politically restricted. On the same form, the postholder will explain why they consider the post should not be politically restricted.

5.3 The Head of Paid Service (HoPS), in consultation with the Monitoring Officer, will consider the application for exemption and may ask to see the postholder and / or HoHR in consideration of the application.

5.4 The HoPS does not have discretion about whether or not to grant exemption. The role is purely to determine whether or not the post falls within the parameters set out in s2(3) LGHA 1989. The guidance set out at section 7 may assist in this process.

5.5 Once the HoPS has determined the outcome of the application, they will issue a Certificate of Opinion setting out whether or not the post continues to be on the list of politically restricted posts. Where the decision is that the post is not politically restricted, the Certificate of Opinion will serve as confirmation that the post should be removed from the council’s published list.

5.6 The decision of the HoPS is final and there is no right of appeal.

**6 Applications for Inclusion in the list of politically restricted posts**

6.1 The HoPS in consultation with the Monitoring Officer may, on application from any person, review any post not included in the list of politically restricted posts. If the HoPS considers that the duties of the post fall within s2(3) LGHA 1989, the HoPS will direct that the post be included in the list.

6.2 In order to provide guidance on the interpretation of a sensitive post, the council has adopted the following approach

**7 Guidance regarding interpretation of LGHA**

7.1 Although adjudication of the interpretation of s2(3) LGHA is a matter for the HoPS, the following aims to assist the HoPS in exercising this role:

‘Giving Advice to the Authority’

7.2 The fact that an officer gives advice to elected members on a regular basis does not, of itself, bring them within the scope of this definition.

7.3 An employee is considered to ‘give advice to the authority’ if they are providing advice to the authority itself (full council); to a committee, sub-committee or joint committee; to the Cabinet or to a member of the Cabinet.

7.4 ’Advice’ in this context should be taken to mean information provided with the intention that it should influence either 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.

‘On a Regular Basis’

7.5 For an employee to be giving advice ‘on a regular basis’ involves more than occasional attendance to present a formal report to a committee.

7.6 ‘Regular basis’ in this context means that the role is:

* Included in the employee’s job description
* Undertaken as an expected part of the postholder’s normal duties
* Undertaken on more than an occasional basis – the Council will consider the number of times over the past 12 months in which the postholder has provided a report to an individual cabinet member or attended a committee of the council set out in para 7.3 above in assessing this criterion.

‘Speaking’

7.7 Speaking on behalf of the authority means passing any information, whether verbally or through the written word, to a journalist or broadcaster when it is reasonable to assume that the postholder knows the information provided is likely to be issued to the public.

**8 Employees standing for election**

8.1 An employee in a politically restricted post, who is to stand for election[[1]](#footnote-1), must resign in writing before announcing their candidature. This overrides any notice period which exists in the employee’s contract of employment.

8.2 It is for the Chief Executive to determine, at his / her discretion, whether or not to reinstate an employee who resigns their post and consequently loses the election in which they stood as a candidate.

8.3 Employees, who are standing for election and wish to apply for exemption from political restriction or a direction as to whether their post is politically sensitive, are advised to make an application to the Chief Executive at least two months before they intend to stand for election.

**9 Advertised posts**

9.1 Where a post is politically restricted, this must be included on the job description / employee specification. These details must be included in the recruitment advertising for the post.

**10 New employee appointments**

10.1 Where new appointments are made to politically restricted posts, the employment offer letter and contract must refer to the fact that the post is politically restricted.

**11 Applications for exemption from individuals not yet in post**

11.1 The HoPS will only consider applications for exemption from individuals who have received formal job offers from the council.

**12 Transferring exemptions from another local authority**

12.1 An individual, who is coming to work for the Council from another local authority and who has previously been granted an exemption from political restriction, must reapply for exemption with Hounslow. The original exemption cannot be transferred from the previous employer to Hounslow Council

1. Election as a member of the House of Commons, European Parliament, Scottish Parliament, Welsh Assembly or any Local Authority (excluding parish / town councils). [↑](#footnote-ref-1)