

# People Team

## Guidance on Politically Restricted Posts

### 1 Introduction

- 1.1 This guidance is designed to reflect current legislative provisions in the Local Government and Housing Act 1989 (LGHA), as amended, under which certain posts are “politically restricted.” This means that employees in these posts must not undertake political activities either in or outside the workplace.
- 1.2 The legislation only applies to employees holding politically restricted posts. All employees are required to observe the Council’s Code of Conduct and Protocol on Political Neutrality which require all employees to be politically neutral in respect of their employment duties.

### 2 What does it mean to be Politically Restricted?

- 2.1 If you are employed in a role which is deemed to be ‘politically restricted’ you are prevented from:-
- Holding or standing for elected public office (except Town or Parish Councils.)  
You cannot hold or stand for any of the following positions:-
    - local councillor
    - Member of Parliament
    - Member of the European Parliament
    - Member of the Welsh Assembly
    - Member of the Scottish Parliament
  - Acting as an election agent or sub-agent for any candidate for election.
  - Canvassing on behalf of a political party or a person who is, or proposes to be, a candidate for election.
  - Speaking to the public or publishing any written or artistic work (including on social media) that could give the impression you are advocating support for a political party.

### 3 Who is affected?

- 3.1 There are two groups of politically restricted posts:
- Specified Posts
  - Sensitive Posts

## Specified Posts

3.2 Specified posts are automatically subject to restrictions on public political activity and so there is no right of appeal. The posts are as follows:-

- Head of Paid Service – Chief Executive
- Statutory Chief Officers (Chief Finance Officer, Section 151) – Head of Financial Services
- Non-statutory Chief Officers (officers who report to or are directly accountable to the Head of Paid Service, or who, as respects all or most of their duties, are required to report directly or is directly accountable to the local authority themselves or any committee or sub-committee of the authority)
- Deputy Chief Officers (officers who report to or are directly accountable to Statutory and Non-Statutory Chief Officers)
- The Monitoring Officer – Head of Law and Governance
- Officers exercising delegated powers (persons who are for the time being specified in a list maintained in accordance with S100G (2) of the Local Government Act 1972)
- Political Assistants – the Council does not have these posts

**Note:** Officers who report to a Statutory or Non-statutory Chief Officer and whose duties are secretarial, clerical or otherwise in the nature of support service are not automatically politically restricted.

## Sensitive Posts

3.3 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, to any committee or sub-committee of the authority or to any joint committee on which the authority is represented; or to the executive of the authority; or any committee of that executive; or to any member of that executive who is also a member of the authority.

'Advice' in this context may be taken to mean 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 local authority in respect of any matter properly before it or any strategic decisions made by, or on behalf of, the local authority. It does not include guidance given on the application of current legislation, regulations or procedures.

- Speaking on behalf of the authority on a regular basis to journalists or broadcasters.

'Speaking' in this context may be taken to mean communicating with a journalist or broadcaster, who is acting in that capacity, with the intention that the journalist or broadcaster may use the communication in relation to any publication or broadcast. Any person who communicates with a journalist or broadcaster in writing or some other form will be taken to be a person who 'speaks' to journalists or broadcasters.

Employees in these roles may appeal to the Chief Executive in accordance with section 7 of this guide.

#### **4 List Maintenance**

- 4.1 It is the Council's duty to maintain the list of politically restricted posts. This list will be held and maintained by the Head of Business Improvement and employees will be notified personally of any amendments that affect their post. The list is available on the intranet and website.

#### **5 Steps to take if Political Activity is to be undertaken**

- 5.1 The Local Government Officers (Political Restrictions) Regulations 1990 (as amended) incorporate a number of political restrictions into the contracts of employment of politically restricted post holders. The restrictions apply to employees at all times while they hold their appointments.
- 5.2 Any employee in a politically restricted post who wants to undertake any of the restricted activities will be required to resign from their role before taking up the activity.
- 5.3 If an employee gives written notice to the Council that they wish to resign employment because they intend to announce (or cause, authorise or permit anyone else to announce) that they are, or intend to be a candidate for election to any of the above bodies at a pending election their employment terminates immediately.
- 5.4 It is left to the discretion of the Council whether or not to reinstate an employee who resigns from their post to be a candidate in an election but is unsuccessful.

#### **6 What happens if Employees disregard these Restrictions?**

- 6.1 As restrictions on political activity are incorporated into the contracts of employment of politically restricted post holders any breach of the restrictions will be deemed to be a breach of contract which will be dealt with in accordance with the Council's disciplinary procedures.

#### **7 Can Employees Appeal Against Being Politically Restricted?**

- 7.1 Employees occupying the "specified posts" cannot appeal about their restricted status, and they remain politically restricted for so long as they occupy one of the identified posts.
- 7.2 Employees whose posts are classed as "sensitive" do have the right to seek a review of their position.
- 7.3 These reviews are carried out by the Chief Executive as Head of Paid Service. Appeals should be submitted in writing to the Head of People who will acknowledge your appeal and refer the matter to the Chief Executive.
- 7.4 Applications should include the following documentation:-
- details of the restricted activities for which the exemption is sought

- current job description/role profile

7.5 The Chief Executive will consider applications and notify applicants and the Head of People of their decision in writing. In determining an application the Chief Executive will have regard to any current advice regarding politically restricted posts. If the Chief Executive directs that the post in question is not to be regarded as a politically restricted post, it will be removed it from the maintained list.

7.6 The Chief Executive's decision is final and is not subject to appeal within Oxford City Council.

## **8 Further Information**

8.1 If you have any queries about this guidance or the provisions of the Act you should contact the People Team in the first instance.