

Political Activity Guidance

Version 2
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1. Political Restriction

Certain posts within the Council are designated as Politically Restricted Posts in terms of the Local Government and Housing Act 1989, as amended by the Local Governance (Scotland) Act 2004, and by the Local Government Officers (Political Restrictions) Regulations 1990. This means that postholders in such posts are prevented from becoming or remaining a member of a local authority or from engaging in any political activity.

There are 2 categories of politically restricted posts which can be described as follows:

Category 1 Posts:

- The Head of the Paid Service (Chief Executive);
- Statutory Chief Officers (Director of Education; Director of Social Work; Director of Finance);
- Non-Statutory Chief Officers (all other Directors);
- The Monitoring Officer (Assistant Chief Executive);
- Deputy Chief Officers (any officer who reports directly to one of the above).

Category 2 Posts:

Any post, the duties of which are deemed by the Council to involve the postholder in:

- Directly giving regular advice to the Council, Committees, Sub-Committees or Joint Committees;
- Speaking on behalf of the Council on a regular basis to journalists or other media.

Services should ensure that posts which fall into either category are clearly identified as Politically Restricted Posts. In particular, the job specification should contain the following clause:

The post is defined as being politically restricted and will, therefore, be restricted in terms of the Local Government and Housing Act 1989, as amended by the Local Governance (Scotland) Act 2004, and by the Local Government Officers (Political Restrictions) Regulations 1990.

At interview, applicants should be advised that the post is designated as a Politically Restricted Post and the successful applicant should receive a contract containing the following clause:

As indicated to you at your interview, your post is designated as a Politically Restricted Post in accordance with the provisions of the Local Government and Housing Act 1989, as amended by the Local Governance (Scotland) Act 2004, and by the Local Government Officers (Political Restrictions) Regulations 1990.

Services must also maintain a list of all category 2 posts and must ensure that the list is updated on a regular basis.

Employees in posts designated by the Council as category 2 Politically Restricted Posts are entitled to appeal against this designation to the Local Government Adjudicator for Scotland. In such circumstances the matter should be referred to the Assistant Chief Executive and advice must be sought from Personnel Services.

2.

Membership of a Local Authority

Any employee of the Council who is elected a member of the Council must resign their employment with the Council not later than the day after they have been declared as elected as a member of the Council. Such resignations have immediate effect and the normal contractual requirement to give notice of resignation does not apply.

It is no longer a requirement to resign employment immediately upon announcing candidacy for election to the Council.

3.

Appointment of Former Members of a Local Authority

A person who has been elected as a member of a Council but who ceases to be an Elected Member cannot take up employment with the Council for a period of:

- 3 months from the point at which they cease to be an Elected Member in the case of posts that are not Politically Restricted;

- 12 months from the point at which they cease to be an Elected Member in the case of Politically Restricted Posts.

In addition, if a person who was an Elected Member of the Council is directly involved in the appointment of an employee to a category 1 Politically Restricted Post during the 12 month period immediately prior to ceasing to be an Elected Member, they are disqualified for 12 months from taking up employment with the Council. This disqualification commences from the day on which they cease to be an Elected Member.