

# Politically Restricted Posts Policy and Guidance

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## Change History

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1.0	2008	Original guidance to comply with legislation	
2.0	October 2016	Fully updated guidance in line with 2010 changes to remove salary level restriction on political activity	

## Related Documents

Reference	Title	Tier



# Contents

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1.	Purpose .....	3
2.	Applicability.....	3
3.	Which posts are politically restricted? .....	3
4.	Political restrictions.....	4
5.	Appeals .....	5
6.	Consequences of undertaking prohibited activity .....	6
7.	Employees wishing to stand as candidate for election .....	6
8.	Restrictions on holding office or employment under the Local Government Act 1972 .....	6
	List of politically restricted posts .....	7
	Specified posts: .....	7
	Sensitive Posts:.....	10

## **1. Purpose**

- 1.1. This policy and guidance sets out the political restrictions that apply to certain posts within local authorities and what the restrictions mean for employees holding these roles in West Berkshire Council.
- 1.2. It also sets out a list of those posts which West Berkshire Council has determined are subject to political restriction.

## **2. Applicability**

- 2.1. Under the Local Government and Housing Act 1989, as amended by the Local Democracy, Economic Development and Construction Act 2009, local authority employees in politically restricted roles are prevented from having any active political role either in or outside the workplace and are prohibited from acting in a way that could bring their political impartiality into question.
- 2.2. The main provisions regarding politically restricted posts (PoRPs) are set out in the Local Government and Housing Act 1989 (the Act). Further details are contained in the Local Government (Political Restrictions) Regulations 1990 as amended (the Regulations). The Local Democracy, Economic Development and Construction Act 2009 removed the previous restriction on certain officers based on salary level, and required local authorities to review these posts to determine whether they should be politically restricted by reason of the duties that they perform.
- 2.3. The legislation relating to PoRPs applies to all local government employees, including part time employees. Further details of which posts are politically restricted in West Berkshire Council can be found in appendix one below. There are also restrictions on elected members holding paid employment within the authority (see section 8 below)
- 2.4. When advertising a politically restricted post, the criteria must be used to determine whether a post is politically restricted and on what grounds it is restricted. If the post is politically restricted this must be included in the job description and in the employee's contract of employment. Recruiting managers must ensure that they specify to HR at the outset of recruitment where a role is politically restricted.

## **3. Which posts are politically restricted?**

- 3.1. Political restriction aims to ensure political neutrality and to prevent advice and decisions from being improperly influenced by separate political loyalties.
- 3.2. With effect from 12<sup>th</sup> January 2010 politically restricted posts fall into two categories; 'specified posts' and 'sensitive posts'.<sup>1</sup>
- 3.3. Specified posts are set out in the Act:
  - The Head of Paid Service
  - Statutory Chief Officers (including the Director of Children's Services, The Director of Adult Social Services, The Chief Education Officer, the Director of Public Health and the Chief Finance Officer)

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<sup>1</sup> From 12<sup>th</sup> January 2010 salary level no longer determines whether a role is politically restricted. Political restriction depends upon the duties the post holder is required to perform.

- Non-statutory Chief Officers (i.e. Officers reporting to the Head of Paid Service, excluding secretarial/clerical support staff)
- Deputy Chief Officers (i.e. Officers reporting to a Chief Officer excluding secretarial/clerical support staff)
- The Monitoring Officer
- Officers exercising delegated powers
- Assistants to political groups

All these post holders are automatically politically restricted **without** right of appeal to the local authority's Governance and Ethics committee.

3.4.A 'sensitive post' is one which meets one or both of the following duty related criteria:

3.4.1. 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 where the authority is operating executive arrangements, to the executive of the authority; to any committee of that executive; or to any member of that executive who is also a member of the authority.

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

These post holders can appeal to the local authority Governance and Ethics Committee on the grounds that the authority has wrongly applied the criteria

3.5. Teachers, head teachers and lecturers are all exempt from political restrictions under s2 (10) the Act and will not be regarded as holding a politically restricted post whatever their role or remuneration level.

3.6. The Council is obliged to draw up a list of politically restricted posts. This list can be found in appendix one of this document.

3.7. Managers must inform HR where an existing post is changed in a way that means it will become politically restricted.

#### **4. Political restrictions**

4.1. Employees in politically restricted posts are prevented from having any politically active role either in or outside the workplace.

4.2. Holders of politically restricted posts are automatically disqualified from standing for or holding elected office as:

- Local Councillors
- MPs
- MEPs
- Members of the Welsh Assembly
- Members of the Scottish Parliament

4.3. They are also prevented from:

- 4.3.1. Being an officer of a political party or branch of a political party, or a member of a committee or sub-committee of a political party or branch where it would be likely to require him/her to:
- Participate in the general management of the party or the branch or
  - Act on behalf of the party or branch in dealings with people other than members of the party or members of another political party associated with the party.
- 4.3.2. Acting as an election agent or sub-agent for a candidate standing for election as a member of a body mentioned in section 4.2 above.
- 4.3.3. Canvassing on behalf of a political party or person who is or proposes to be a candidate
- 4.3.4. Speaking to the public at large (i.e. the general public) or to a section of the public with the apparent intention of affecting public support for the party
- 4.3.5. Publishing to the public at large or a section of the public any written or artistic work of which he/she is the author, one of the authors or editor that could give the impression that he/she is advocating support for a political party or cause, authorise or permit anyone else to publish such a work or collection.
- 4.4. An employee in a politically restricted post **is** allowed to display a poster or other document on property that he/she lives in, or on a vehicle or article used by him/her.
- 4.5. Nothing in section 4 of this document precludes the employee from engaging in activities to such an extent as is necessary for the proper performance of his/her employment with West Berkshire Council.
- 4.6. Employees in politically restricted roles should ensure that their use of social media does not contravene this and be aware that even if they have set privacy settings on social media to 'friends' only, comments and postings may become visible to others, if friends comment on or share them.
- 4.7. In effect, these restrictions limit holders of politically restricted posts to bare membership of political parties, with no active participation within the party.
- 4.8. Where an employee, employed within a politically restricted post, is in any doubt about whether he/she is permitted to undertake any activity he/she should seek advice from his or her line manager before undertaking the activity.
- 4.9. The line manager may seek advice from HR and/or Legal Services if it is not clear whether either the post is restricted, or the activity is prescribed.

## **5. Appeals**

- 5.1. Employees in 'sensitive' posts can appeal to be exempted from the list of politically restricted posts if they feel that the criteria have been wrongly applied to their post

5.2. An employee in a 'sensitive' post who wishes to appeal should submit his/her appeal in writing to the Head of Strategic Support; stating the grounds for the appeal

5.3. The appeal will then be considered by the Governance and Ethics Committee who will make a final determination on the matter.

5.4. Employees in 'specified' posts have no right of appeal.

## **6. Consequences of undertaking prohibited activity**

6.1. The Council's Disciplinary Procedure will be invoked where an employee in a politically restricted post undertakes prohibited activity.

## **7. Employees wishing to stand as candidate for election**

7.1. An employee who wishes to stand as a candidate for election to one of the bodies listed in 4.2 above must have given his/her manager written notice of resignation and must have served his/her notice period before the date that he/she must submit his/her nomination as a candidate in an election.

7.2. There is no restriction on an employee who resigned a post and is unsuccessful in seeking political office from applying for the post they used to hold once it is advertised outside the Council. Jobs will not be held open pending the outcome of an election and reappointment would be subject to normal selection procedures. Continuous service may not apply.

## **8. Restrictions on holding office or employment under the Local Government Act 1972**

8.1. A local authority cannot appoint as an employee in any capacity, any councillor who is currently a member of that authority or who has been a member in the previous 12 months.

8.2. However, in an authority operating executive arrangements under the Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments and other Provisions) (England) Order 200, a Councillor is not precluded from being appointed or elected to a position on the executive which may be described as paid office.

8.3. No employee of the Council, regardless of whether his/her role is politically restricted or not, can be elected or hold office as a member of West Berkshire Council. An individual is also disqualified from standing or holding office with the Council if he/she holds any paid office or employment with a local or joint authority on which West Berkshire Council is represented.

West Berkshire Council employees in politically restricted posts cannot stand for election as a councillor in **any** Council.

## Appendix 1

### List of politically restricted posts

#### Specified posts:

Specified posts are set out in the Act:

- The Head of Paid Service
- Statutory Chief Officers (including the Director of Children’s Services, The Director of Adult Social Services, The Chief Education Officer, the Director of Public Health and the Chief Finance Officer)
- Non-statutory Chief Officers (i.e. Officers reporting to the Head of Paid Service, excluding secretarial/clerical support staff)
- Deputy Chief Officers (i.e. Officers reporting to a Chief Officer excluding secretarial/clerical support staff)
- The Monitoring Officer
- Officers exercising delegated powers
- Assistants to political groups

All these post holders are automatically politically restricted without right of appeal to the local authority’s Governance and Ethics committee.

<b>Specified post set out in the Act</b>	<b>WBC job title</b>
<b>Head of Paid Service</b>	Chief Executive
<b>Statutory Chief Officers</b>	
<b>Director of Children’s Services</b>	Corporate Director Communities
<b>Director of Adult Services</b>	
<b>Chief Education Officer</b>	Head of Education Services
<b>Director of Public Health</b>	N/A
<b>Chief Finance Officer</b>	Head of Finance
<b>Non statutory Chief Officers – Officers reporting to the Head of Paid Service (excluding secretarial/clerical staff)</b>	
	Corporate Director Environment
	Head of ICT and Corporate Support
	Head of Finance
	Head of Strategic Support

	Head of Human Resources
	Head of Public Health and Wellbeing
<b>Monitoring Officer</b>	Head of Legal Services
	Head of Customer Services
	Head of Corporate Programme Management
<b>Deputy Chief Officers – Officers reporting to a Chief Officer (excluding secretarial/clerical staff)</b>	
<b>Reporting to Director of Environment</b>	Head of Highways and Transport
	Head of Planning and Countryside
	Head of Culture and Environmental Protection
<b>Reporting to the Director of Communities</b>	Head of Prevention and Developing Community Resilience
	Head of Education Services
	Head of Children and Family Services
	Head of Care Commissioning, Housing and Safeguarding
	Head of Adult Social Care
<b>Reporting to the Head of ICT and Corporate Support</b>	IT Project Manager
	Education IT and ICT Customer Services Manager
	ICT Operations Manager
	Telecommunications Manager
	Applications Development Manager
	Superfast Berkshire Project Manager
<b>Reporting to the Head of Finance</b>	Chief Accountant (Strategy)
	Waste PFI Accountant
	Chief Internal Auditor
	Chief Accountant Operations
<b>Reporting to the Head of Strategic Support</b>	Civil Contingencies Manager



	Communications Manager
	Safer Communities Partnership Team Manager
	Performance, Research and Consultation Manager
	Democratic and Electoral Services Manager
	Scrutiny and Partnership Manager
	Policy Officer
	LGA Peer Review
<b>Reporting to the Head of Human Resources</b>	HR Manager
<b>Reporting to the Head of Legal Services</b>	Legal Services Manager
<b>Reporting to the Head of Customer Services</b>	Revenues and Benefits Manager
	Superintendent Registrar
	Customer Services Manager
	Exchequer Services Manager
<b>Reporting to the Head of Public Health and Wellbeing</b>	Programme Manager
	Public Health Project Manager
	Public Health Trainee
<b>Reporting to the Head of Education Services</b>	Service Manager
	Principal School Improvement Adviser
	School Improvement Adviser (ICT and Assessment)
<b>Reporting to the Head of Programme Management</b>	Corporate Programme Management Manager

### **Sensitive Posts:**

A 'sensitive post' is one which meets one or both of the following duty 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 where the authority is operating executive arrangements, to the executive of the authority; to any committee of that executive; or to any member of that executive who is also a member of the authority.
- Speaking on behalf of the authority on a regular basis to journalists or broadcasters.

These post holders can appeal to the local authority Governance and Ethics Committee on the grounds that the authority has wrongly applied the criteria.

Note that many posts which may be deemed 'sensitive' are already restricted by virtue of being 'specified' posts. These are not repeated below.

<b>Posts giving advice as specified above</b>	
<b>Service</b>	<b>WBC job title</b>
Legal Services	Principal Lawyer
Legal Services	Solicitor
Legal Services	Chartered Legal Executive
Legal Services	Legal Services Manager (G&E) & (C&C)
Adult Social Care	Service Manager - Care Quality and Safeguarding
Adult Social Care	Service Manager - Contracts Commissioning and Systems
Adult Social Care	Service Manager - Client Financial Services
Adult Social Care	Service Manager - Housing Strategy and Operations
Planning and Countryside	Development Control Manager
Planning and Countryside	Planning and Transport Manager
Planning and Countryside	Countryside Manager
Planning and Countryside	Development Control Team Leader
Planning and Countryside	Principal Planning Officers
Planning and Countryside	Planning Policy Team Leader
Planning and Countryside	Principal Policy Officer
Planning and Countryside	Minerals and Waste Team Leader
Planning and Countryside	Grounds Maintenance Manager
Planning and Countryside	Transport Policy Team Leader
Planning and Countryside	Principal Transport Policy Officer
Care Commissioning, Housing and Safeguarding	Service Manager – Care Quality and Safeguarding
	Service Manager – Contracts, Commissioning and Systems
	Service Manager – Client Financial Services
	Service Manager – Housing Strategy and Operations
ICT and Corporate Support	Information Security Officer
Highways and Transport	Traffic Services Manager
	Transport Services Manager
	Highway Manager
	Projects Manager

Education	Service Manager – Early Years and SIA
	School Improvement Adviser – post 16
	Local Authority Designated Officer (LADO)
Culture and Environmental Protection	Library Manager
	Environmental Health and Licensing Manager
	Culture Manager
	Trading Standards Manager
	Sports and Leisure Manager
	Waste Manager
Finance	Schools Finance Manager
	Finance Manager Capital, VAT and Treasury
Children and Family Services	Local Authority Designated Officer (LADO)

<b>Posts speaking on behalf of the authority on a regular basis to journalists or broadcasters</b>	
<b>Service</b>	<b>WBC job title</b>
Strategic Support	Press and PR Officer
	Press and PR Assistant