

Guidance on Political Restriction

Purpose of Document

This guidance note explains the restrictions on the political activity of local government staff and the procedure for employees (other than senior staff) to apply for their post to be exempt from the classification as a politically restricted post.

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1. List of politically restricted posts

Section 2(2) of the Local Government and Housing Act 1989, as amended, (“the Act”) imposes on every local authority a duty to prepare and maintain a list of posts – called “politically restricted posts” - in the staff structure which fall within section 2(3) of the Act. These are posts that appear to consist of or involve one or both of the following:

- giving advice on a regular basis to the authority¹ themselves, to any committee or sub-committee of the authority or to any joint committee on which the authority is represented
- speaking on behalf of the authority on a regular basis to journalists or broadcasters.

GLA staff who are in politically restricted posts on the above grounds may apply for their post to be exempted, so that the post is no longer politically restricted and is not included in the list of politically restricted posts – see section 6 of this guidance below.

2. Senior members of staff

In addition, section 2(1) of the Act designates the following specified postholders as holding politically restricted posts:

- (a) the Head of Paid Service
- (b) the statutory Chief Officers
- (c) the non-statutory Chief Officers
- (d) the Deputy Chief Officers
- (e) the Monitoring Officer

The following GLA posts are included within (b) to (d) above:

- the section 127 Officer (this is the Executive Director, Resources)
- the Mayor’s Chief of Staff posts, the Deputy Mayors and the Mayoral Directors (normally the “2” + “11” posts)
- the Chief Officer (as the GLA’s Head of Paid Service) and Executive Directors
- senior members of staff as defined by the Mayoral Decision Making Scheme of Delegation (this is Assistant Directors and Heads of Service who report directly to Executive Directors or the Chief Officer)

This is the case regardless of whether the post holders were appointed by the Mayor alone (as in the “2 + 11” posts appointed under section 67(1) GLA Act 1999), jointly by the Mayor and the Assembly or by the Head of Paid Service alone under section 67(2).

¹ In the context of the GLA “authority” means the Mayor and the London Assembly (including its committees).

The above post holders cannot obtain exemption from the restrictions and therefore section 6 of this guidance does not apply to them.

If the Deputy Mayor for Policing & Crime is not an Assembly Member, they are a MOPAC employee. All MOPAC employees are politically restricted. MOPAC employees should seek advice on political restrictions from their Monitoring Officer who is their Chief Executive. If the Deputy Mayor for Policing & Crime is an Assembly Member, they are not politically restricted. The office of an Assembly Member is not a politically restricted post.

3. Rules restricting political activity

The Act and “1990 Regulations”² set out the specific restrictions (Rules) that apply to holders of politically restricted posts at the GLA. These Rules apply in a post holder’s private/personal time as well as during the performance of their work role (as set out in the GLA terms and conditions of employment and Code of Ethics and Standards for Staff).

Restrictions on political activities

Politically restricted post holders may not:

- 1) be elected or appointed or remain as a member of their own or another local authority (does not apply to parish councils) as defined under the Act in Great Britain (a “GB local authority”)³
- 2) announce or allow anyone else to announce their candidature for election as a member of the House of Commons, Scottish Parliament, Welsh Assembly or a GB local authority (other than parish councils) as listed in Rule (1) above
- 3) continue in the employment of the GLA once notice of resignation has been given to stand as a candidate for the House of Commons (only); the Monitoring Officer should be contacted as soon as possible if an employee intends to stand for election to the House of Commons as special rules apply regarding their continued employment with the GLA after they have announced their candidature
- 4) act as an election agent or sub-agent for a candidate for election (where applicable) to one of the bodies in Rules (1) or (2) above
- 5) be an officer of a UK political party or any branch of such a party or a member of any committee or sub-committee of such a party or branch if such duties require:

² These are the Local Government Officers (Political Restrictions) Regulations 1990/ 851 (as amended)

³ In London these are: the Mayor and London Assembly, a Mayoral development corporation, TfL, the City Corporation and the 32 London boroughs. Outside London they include combined authorities, district and county councils (but not parish councils) in England, and other types of local authorities in Wales and Scotland. See also section 4 below.

- their participation in the general management of the party or branch; or
 - them to act on behalf of the party or branch in dealings with people other than members of the party or associated political party
- 6) canvass on behalf of a UK political party or on behalf of a candidate for election to any of the bodies in Rules (1) and (2) above
- 7) speak to the public at large or to a section of the public with the apparent intention of affecting public support for a UK political party (special rules apply to the “2” – see below)
- 8) publish any written or artistic work⁴ of which the postholder is the author or co-author or any written work or collection of artistic works in which the postholder has acted in an editorial capacity or permit anyone else to publish such a work or collection if that work appears intended to affect public support for a UK political party (special rules apply to the “2” – see below)

Specifically excluded from Rule (8) is the display of a poster or other document on property occupied as a home or on a vehicle or on an article (e.g. a badge on clothing) used by the post holder.

The Deputy Mayor for Fire & Resilience (“DMFR”)

Rules 5-8 do not apply to the DMFR, only rules 1, 2-4 above apply to them.

Rule 1 only partially applies to the DMFR, in that they are disqualified from being or being elected as Mayor of London (but they are not disqualified from (i) being or being elected as a member of the London Assembly or any other GB local authority; or (ii) being or being appointed as a member of TfL or a Mayoral development corporation (LLDC or OPDC - see also section 4 below).

Rule 2 above does not fully apply to the DMFR, because they can announce their candidature to an elected GB local authority as listed in Rule 1 above (see also section 4 below).

Speaking about or publishing political opinions/ material under Rules (7) and (8)

Speaking to the public includes giving an interview which, to the knowledge of the person giving it, is likely to result in the publication (including by others) of any statements made, or opinions expressed, during the course of the interview.

In determining whether a politically restricted postholder is in breach of the above rules, the

⁴ This also covers use of personal social media accounts. Further guidance is available from the Monitoring Officer.

following will be considered:

- whether the postholder referred to a political party or to persons identified with a political party, or whether anything said by the postholder or in the written/artistic work, promotes or opposes a point of view identifiable as the view of one political party and not of another
- where the above was part of a campaign, the effect which the campaign appears to be designed to achieve.

Exclusion where necessary for the performance of work role

Nothing in Rules (7) and (8) above precludes the postholder from carrying out activities that are necessary for the proper performance of their official duties.

Political opinions/ material published by the “2”

The restrictions under Rules (7) and (8) are relaxed for the “2” staff posts (political advisors) appointed by the Mayor under s 67(1)(a) of the GLA Act.

Those two postholders are specifically allowed to undertake the activities described in Rules (7) and (8) with the explicit intention of affecting public support for a political party, provided they do not do so in circumstances or on terms which give the impression they are the authorised representative of a political party (whether or not actually authorised).

4. Restrictions on election to GLA, other local authorities and membership of the boards of TfL or Mayoral Development Corporations

The effect of Rule (1) above is that a politically restricted post holder at the GLA cannot be elected or appointed, and cannot remain (if they already do so when starting employment in their politically restricted GLA post), as:

- the Mayor of London or a member of the London Assembly⁵ (although the DMFR is not disqualified from being or being elected as an Assembly Member);
- a London borough councillor (including an elected borough Mayor) or member of the City of London Corporation or other GB local authority, with the sole exception of the DMFR (who may be elected to any of those bodies)
- a member of the boards of TfL or a Mayoral development corporation (LLDC or OPDC), unless one of the “11,” which includes the DMFR (see below).

⁵ With the exception of the DMFR, all GLA members of staff – including those not in politically restricted posts – are disqualified from being elected as the Mayor of London or an Assembly Member. The DMFR is not disqualified from being elected as an Assembly Member.

Impact on existing councillors/ local government members in London and elsewhere

This means that a person who wants to be appointed to a politically restricted post at the GLA (the positions listed in sections 1 and 2 above) cannot concurrently hold any of the following positions, and must resign from them before beginning their employment with GLA:

- a London borough councillor (including an elected borough Mayor) or member of the City of London Corporation
- a councillor in any other form of local authority in Great Britain (which covers a wide range of bodies elsewhere, except parish councils or their equivalents)
- the boards of TfL or a Mayoral development corporation (MDC⁶), unless they are one of the “11” (see below).

Only the DMFR can, while in that GLA post, also be elected (as above) or be appointed as a TfL/MDC board member; if they already held those positions at the time of becoming DMFR they can continue to do so.

Membership of TfL and Mayoral Development Corporation boards by the “11”

The only politically restricted postholders at the GLA who can be appointed to the boards of TfL or the MDCs are those who are in the “11” (including the DMFR) appointed by the Mayor under section 67(1)(b). They can be appointed to those boards but only if they perform that board role in an unpaid capacity (i.e. they are not paid extra to do so by GLA, TfL or the MDC).

5. Political restrictions: implied terms and conditions of employment

Section 1(5) of the Act states that "*the terms of appointment or conditions of employment of every person holding a politically restricted post under a local authority (including persons appointed to such posts before the coming into force of this section) shall be deemed to incorporate such requirements for restricting his political activities as may be prescribed for the purposes of this subsection by regulations made by the Secretary of State.*"

The Rules in paragraphs (2) to (8) above are therefore incorporated by law into a politically restricted post holder's GLA terms of appointment and conditions of employment.

6. How to apply for an exemption for your post (non-senior staff)

If you hold a senior staff position at the GLA, as listed in section 2 above, you have no legal ability to apply for an exemption from being in a politically restricted post.

⁶ These are the London Legacy Development Corporation (LLDC) and the Old Oak & Park Royal Development Corporation (OPDC).

All other individual postholders whose posts would be politically restricted on the basis set out in section 1 above (advice and media roles) can apply to the Head of Paid Service for the exemption of their post from being a politically restricted one.

If your post is made exempt, then it is completely exempted, and you are not subject to any of the Rules (1) to (8) in your private/personal time. However, those Rules are likely to apply and be relevant to your work role in work time, subject to GLA employment policies and procedures.

The procedure to apply for an exemption from these political restrictions is as follows:

- (1) You should submit your request in writing to the Assistant Director, People, outlining why you believe your post should not be politically restricted.
- (2) The Assistant Director, People will advise on why the post is politically restricted.
- (3) The Head of Paid Service will consider the application and decide whether the post should be exempt. The Head of Paid Service will consider whether the duties of the post are actually as described in section 2 (3) of the Local Government and Housing Act 1989 (see the advice and media role in the two bullet points in section 1 above).
- (4) If the Head of Paid Service determines the post should be exempt on the basis that its duties do not fall within the activities described in section 2(3), then the post will be removed from the list of politically restricted posts and you will be formally informed of this.
- (5) The Head of Paid Service will make their decision based on a review of the written documentation that you and the Assistant Director, People have given them.
- (6) The decision of the Head of Paid Service is final and there is no right of appeal.

Ends.