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## Politically Restricted Posts

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## **1. POLITICAL RESTRICTIONS**

- 1.1. Certain posts are 'politically restricted', which means that while individuals who hold them may belong to a political party, they are prevented from having any active political role either in or outside the workplace.
- 1.2. Holders of politically restricted posts will be subject to the restrictions outlined in The Local Government Officers (Political Restrictions) Regulations 1990. A copy of these can be found in **Appendix 1**.

## **2. LEGISLATION UPDATE**

- 2.1. In 2009 an amendment to the Local Government and Housing Act 1989, changed the approach to identifying posts which are politically restricted.
- 2.2. Previously, salary was a criteria used in determining whether posts were politically restricted. Section 30 (2) of the Local Democracy, Economic Development and Construction Act 2009 removed this criteria.
- 2.3. Posts are now deemed to be politically restricted if they fall into one of the two categories below: specified or sensitive.

## **3. POLITICALLY RESTRICTED POSTS**

### **3.1. Specified posts**

- 3.1.1. Specified posts are outlined in the legislation. Post holders of the roles listed below are politically restricted without rights of appeal for exemption.
- 3.1.2. The legislation identifies the following as specified posts:
  - Head of the Paid Service
  - Statutory Chief Officers, (including the Director of Children's Services and Director of Adult Social Services in England, the Director of Public Health, the Chief Finance Officer)
  - The Monitoring Officer
  - Non-statutory Chief Officers (officers reporting to the Head of Paid Service excluding secretarial/clerical support staff)
  - Deputy Chief Officers (officers reporting to a Chief Officer excluding secretarial/clerical support staff)
  - Officers exercising delegated powers
  - Assistants for political groups

### **3.2. SENSITIVE POSTS**

- 3.2.1. A sensitive post is one which involves one or more of the following:
  - Giving advice on a regular basis to the authority themselves, to any committee or sub-committee of the authority or to any joint committee on which the authority are represented, or, where the authority are 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.
- 3.2.2. It is the organisation's duty to prepare and maintain a list of politically restricted posts in the sensitive category, and notify affected employees accordingly.

#### **4. RECRUITING TO A POLITICALLY RESTRICTED POST**

- 4.1. When recruiting to a new post, the criteria in sections 3.1.2 and 3.2.1 must be used to determine whether the post is politically restricted and on what grounds it is restricted.
- 4.2. If the post is politically restricted, this will be included in recruitment documentation and be stated in the employee's contract of employment and job description.

#### **5. APPEALS**

- 5.1. Appeals can only be made for posts classified as 'sensitive'.
- 5.2. In accordance with Section 3A of the Local Government and Housing Act 1989, and as amended by the Localism Act 2011, the Chief Executive (Head of Paid Service) will consider any application for exemption from political restriction.
- 5.3. If the Chief Executive is satisfied that the duties of the post do not require it to be deemed 'sensitive', the post will not be regarded as politically restricted.
- 5.4. In order to apply for a political restriction exemption, employees should submit a request in writing to the Chief Executive explaining the reasons why they believe the post should not be politically restricted.

#### **6. EXEMPTIONS**

- 6.1. It is important to note that teachers and head teachers are exempt from political restrictions and will not be regarded as holding politically restricted posts whatever their role or remuneration level. It is not expected that employees in support roles in school will be politically restricted.

# APPENDIX 1

Extract from the schedule contained within The Local Government Officers (Political Restrictions) Regulations 1990 (amended 2012). This sets out the specific restrictions that apply where a post is politically restricted as determined in the Local Government and Housing Act 1989.

Please note:

- Part I applies to all politically restricted posts.
- Part II applies to all politically restricted posts, excluding assistants to political groups.
- Part III applies to assistants for political groups.

## SCHEDULE TERMS OF APPOINTMENT AND CONDITIONS OF EMPLOYMENT PART I GENERAL

1. The appointee shall not announce or cause, authorise or permit anyone else to announce that he is, or intends to be, a candidate for election as a member of—

- (a) the House of Commons;
- (b) the European Parliament; or
- (c) a local authority within the meaning of section 21(1) or (2) of the Act.

2.—(1) Notwithstanding any contrary provision in his terms of appointment or his contract of employment, upon the appointee giving notice in writing to the local authority under which he holds his appointment that he wishes to resign his appointment because he intends to announce or cause, authorise or permit anyone else to announce that he is, or intends to be, a candidate for election to the House of Commons at a pending election, his appointment shall terminate forthwith.

(2) For the purposes of this paragraph an election shall be taken to be pending—

- (a) in the case of a general election, if the date proposed for the dissolution of Parliament preceding that election has been officially announced;
- (b) in the case of a by-election, if the vacancy giving rise to that election has occurred.

3. The appointee shall not act as an election agent or sub-agent within the meaning of section 67 or section 68 of the Representation of the People Act 1983(1) for a candidate for election as a member of a body mentioned in paragraph 1.

4. The appointee shall not be an officer of a political party or of any branch of such a party or a member of any committee or sub-committee of such a party or branch if his duties as such an officer or member would be likely to require him—

- (a) to participate in the general management of the party or the branch; or
- (b) to act on behalf of the party or branch in dealings with persons other than members of the party or members of another political party associated with the party.

5. The appointee shall not canvass on behalf of a political party or on behalf of a person who is, or proposes to be, a candidate for election to any of the bodies mentioned in paragraph 1.

## PART II ADDITIONAL TERMS AND CONDITIONS IN THE CASE OF OFFICERS NOT APPOINTED UNDER SECTION 9 OF THE ACT

6. The appointee shall not speak to the public at large or to a section of the public with the apparent intention of affecting public support for a political party.

**7.—(1)** The appointee shall not—

(a) publish any written or artistic work of which he is the author (or one of the authors) or any written work or collection of artistic works in relation to which he has acted in an editorial capacity; or  
(b) cause, authorise or permit any other person to publish such a work or collection, if the work appears to be intended to affect public support for a political party.

(2) Sub-paragraph (1) only applies to publication to the public at large or to a section of the public; and nothing in that sub-paragraph shall preclude the display of a poster or other document on property occupied by the appointee as his dwelling or on a vehicle or article used by him.

**8.** Nothing in paragraph 6 or 7 shall be construed as precluding the appointee from engaging in the activities there mentioned to such extent as is necessary for the proper performance of his official duties.

### PART III

#### FURTHER TERMS AND CONDITIONS IN THE CASE OF OFFICERS APPOINTED UNDER SECTION 9 OF THE ACT

**9.** The appointee shall not speak to the public at large or to a section of the public in circumstances or terms which are likely to create the impression that he is speaking as an authorised representative of a political party, whether he is so authorised or not.

**10.** The appointee shall not publish any written or artistic work of which he is the author (or one of the authors) or any written work or collection of artistic works in relation to which he has acted in an editorial capacity or cause, authorise or permit any other person to publish such a work or collection in circumstances which are likely to create the impression that the publication is authorised by a political party, whether or not it is so authorised.