



POLITICALLY RESTRICTED POST GUIDANCE

Introduction

Under the provisions of the Local Government and Housing Act 1989 (as amended) certain posts within local authorities are subject to restrictions on political activities, which, post holders are able to undertake.

The Council is required to produce and regularly review a list of politically restricted posts.

Politically restricted posts fall into two broad categories; and are either specified posts or posts with defined duties (known as 'sensitive posts').

Specified posts

The 2010 Local Democracy, Economic Development and Construction Act 2009 specified certain posts. The following posts at Halton Borough Council fall into the scope of the definition;

- The Chief Executive (Head of Paid Service) (s4 LGHA)
- Non-statutory chief officers (officers reporting to the Chief Executive (Head of Paid Service), [excluding secretarial/clerical support staff] (s7 LGHA)
- Operational Director Legal & Democratic Services (The Monitoring Officer) (s5 LGHA)
- Operational Director Finance (The Chief Finance Officer) (Section 151 Officer) (s151 LGA 1972)
- Officers reporting directly to Statutory & Non Statutory Chief Officers (s8 LGHA)
- Officers exercising delegated powers, i.e. persons whose posts are for the time being specified by the authority in a list maintained in accordance with s 100G(2) of the LGA 1972
- Assistants to political groups

Sensitive posts

A sensitive post is one which meets one or both of the following duties related criteria:

- Giving advice on a regular basis to Council, the Executive Board, a Committee, Sub-Committee, or any joint Committee the Council is represented at;
- Those who speak on behalf of the authority on a regular basis to journalists and broadcasters.

These post holders can appeal to the local standards committee (in England) or the Independent Adjudicator to Local Authorities in Wales to be exempted from the list, on the grounds that the authority has wrongly applied the criteria.

Where advice is purely factual information, employees are not covered by political restrictions.

The legislation does not provide a definition of “regular”. However, the use of the word “regular” would suggest that something more than an occasional attendance to present a formal report to a committee is needed to establish that advice is given on a regular basis. In determining whether an employee’s post falls within the definition, consideration should be given to the following:

1. the number of times over the previous 12 months that the post holder either attended or provided a report for, those groups described above
2. the number of times over, for example, the previous 12 months that the post holder has provided a report to an individual member of the Executive

The restrictions

Employees in politically restricted posts are effectively prevented from having an active political life either inside or outside the workplace. Employees in politically restricted posts are automatically disqualified from standing for or holding elected office as:-

- Local Councillor
- MP
- MEPs
- Members of the Welsh Assembly
- Members of the Scottish Parliament

They are also restricted from:

- Participating in political activities, publicly expressing support for a political party or undertaking other activities on behalf of a political party or someone seeking to be a candidate. This includes canvassing.
- Being an officer of a political party (or any branch of a party); or becoming a member of any committee or sub-committee where the duties might require (a) to participation in the general management of the party or the branch; or (b) to act on behalf of the party or branch in dealing with people other than members of the party or members of another associated political party.
- Speaking to the public at large or publishing any written or artistic work that could give the impression that they are advocating support for a political party or someone seeking to be a candidate; where the intention is to affect public support for a political party. This includes giving an interview that is likely to result in the publication of statements made or opinions expressed.

The effect of these restrictions is to prevent politics from coming into play where an employee is in a politically influential position. This could arise where an employee implements the Council’s policies, gives advice to the Council, or speaks on behalf of the Council.

Identifying politically restricted positions

Whenever a role is created and job description drafted, the nature of the job needs to be considered and political restrictions identified at that stage. Where a position is politically restricted then this will be clearly explained at the outset of any recruitment campaign. The political restriction will be noted on the new employee's personal file. Where a role is not politically restricted no further action is required.

Appeals

- **Specified posts** – there is no right of appeal for a post to not be designated as specified.
- **Sensitive posts** – the Chief Executive (as Head of Paid Service) has the authority to grant exemptions from political restrictions. Employees wishing to appeal should write to the Operational Director, Legal & Democratic Services setting out the reasons they feel their post should not be politically restricted and provide a copy of their job description. The Operational Director, Legal & Democratic Services will then provide a view on the request to the Chief Executive for consideration.

Restrictions on members becoming officers

A local authority cannot appoint as an employee in any capacity, any Councillor who is currently a member of that authority or who had been a member in the previous 12 months (s.116 LGA 1972)

Restrictions on officers becoming members

No employee, regardless of whether they are in a politically restricted post or not, may be elected or hold office as a member of the local authority by which they are employed, as set out within the Local Government Act 1972.

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