

## Guidance on politically restricted posts

This guidance note sets out the restrictions on the political activity of local government staff and the procedure for employees to apply for their post to be exempt from the classification as a politically restricted post.

### 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 in the staff structure which fall within section 2(3) of the Act, i.e. they appear to consist of or involve one or both of the following:

- Giving advice on a regular basis to the authority<sup>1</sup> 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.

### 2. Restrictions on Public Political Activity

The Act and Government Regulations<sup>2</sup> set out the specific restrictions that apply to holders of politically restricted posts.

Politically restricted post holders may not:

- (1) Be elected or appointed as a member of their own or another “local authority” as defined under the Act in Great Britain<sup>3</sup> (does not apply to parish councils).
- (2) Announce or allow anyone else to announce their candidature for election as a member of the House of Commons, European Parliament, Scottish Parliament, Welsh Assembly or a such local authority (other than parish councils) as listed in (1) above.
- (3) Continue in the employment of the authority once notice of resignation has been given to stand as a candidate for the House of Commons (only).
- (4) Act as an election agent or sub-agent for a candidate for election (where applicable) to one of the bodies in (1) or (2) above.
- (5) Be an officer of a 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: participation in the general management of the party or branch;

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

<sup>2</sup> The Local Government Officers (Political Restrictions) Regulations 1990/ 851 (as amended)

<sup>3</sup> In London these are: the Mayor and London Assembly, LFEPA, MOPAC, a Mayoral development corporation, TfL, the City Corporation and the 32 London boroughs. Outside London they include district and county councils.

acting 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 political party or on behalf of a candidate for election to any of the bodies in (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 political party.
- (8) Publish any written or artistic work 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 political party. Specifically excluded from this restriction is the display by a politically restricted post holder of a poster or other document on property occupied as a home or on a vehicle or article used by the post holder.

The Regulations specifically state that nothing in (7) and (8) above shall preclude the postholder from engaging in activities to such an extent as is necessary for the proper performance of official duties.<sup>4</sup>

### **3. Restrictions on membership of “local authorities”**

In the London context the effect of (1) above is that a politically restricted post holder at the GLA cannot be elected as the Mayor of London or a London Assembly member or a borough councillor (including an elected borough Mayor) or to the City of London Corporation. It also means (with one exception<sup>5</sup>), they cannot be a member of the board of a Mayoral development corporation (LLDC or OPDC), LFEPA or TfL, or be appointed as Deputy Mayor for Policing and Crime (this bar also applies to all GLA staff including those not politically restricted).

### **4. Political restrictions: 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 restrictions in paragraphs (2) to (8) above are therefore incorporated in to a politically restricted post holder's terms and conditions of employment.

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<sup>4</sup> Slightly different rules apply under (7) and (8) to the two members of staff appointed by the Mayor under s 67(1)(a) of the GLA Act. They may undertake those activities, with the 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.)

<sup>5</sup> The sole exception applies to the ten members of GLA staff the Mayor can appoint under section 67(1)(b) of the GLA Act 1999 who may be unpaid members of another “local authority”.

## **5. How to apply for an exemption**

For the Head of Paid Service, the Statutory Officers, the Mayor's Chief of Staff and Mayoral Directors, Directors, Assistant Directors, and Heads of Service who report directly to Directors or the Head of Paid Service, there is no ability to apply for exemption from political restriction.

All other individual postholders can apply for exemption. The procedure is as follows:

- (1) You should submit your request in writing to the Assistant Director of Human Resources and Organisational Development, outlining why you believe your post should not be politically restricted.
- (2) The Assistant Director HR and OD 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 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 political restricted posts and the postholder will be formally informed of this.
- (5) The Head of Paid Service will make his decision based on a review of written documentation from the postholder and the Assistant Director of HR and OD.
- (6) The decision of the Head of Paid Service is final and there is no right of appeal.

