

## **POLITICALLY RESTRICTED POSTS – GUIDANCE NOTE**

### **Introduction**

The main legal provisions regarding politically restricted posts are contained in Part I of the Local Government and Housing Act 1989, supported by regulations within the Local Government (Political Restrictions) Regulations 1990.

The principal effect of including a local authority post on the list of 'politically restricted posts' is to prevent any individual holding such a post from having any active political role either in or outside the workplace.

### **Politically restricted posts**

The posts which are deemed to be politically restricted are as defined in Section 2 of the 1989 Act, and fall into two categories: it should be noted that while this document and the Council's overall Policy use the term "Chief Officer" to ensure consistency with the wording of the legislation, under the Council's flat management structure relevant staff do have the benefit of the terms and conditions negotiated by the Joint National Committee for Chief Officers of local authorities.

#### ***Specified posts***

- The Head of Paid Service
- The statutory chief officers
- Any non statutory chief officer
- Any assistant to a political group at an authority

#### ***Sensitive posts***

Any post identified on a list maintained by the authority under Section 2(3) which list is required to include posts whose duties include

- the giving of advice on a regular basis to the authority or any of its committees or sub committee and
- speaking on behalf of the authority on a regular basis to journalists or broadcasters

### **Terms and conditions of employment applicable to politically restricted posts**

There is no restriction on holding membership of a political party, but holders of politically restricted posts may not engage in active participation in the ways outlined in the Schedule of the 1990 Regulations.

By virtue of Regulation 3 and Schedule 1 of the 1990 Regulations, the terms and conditions of employment of any person holding a politically restricted post at a local authority are deemed to include the following:

- Standing as a candidate for election to a local authority or to the House of Commons (or the Scottish Parliament, the Welsh assembly or the European Parliament)

- Acting as a political agent (as defined by Sections 67 and 68 of the Representation of the People Act 1983) for any candidate for election
- Acting as an officer or committee/subcommittee member of a political party (including any branch of a political party) if the duties would involve participation in the general management of the party/branch or otherwise dealing with persons other than party members
- Canvassing on behalf of a political party or on behalf of any candidate standing for election to a local authority or to the House of Commons (or the Scottish Parliament, the Welsh assembly or the European Parliament)
- [\*] Speaking to the public (or a section of the public) for the purpose of affecting support for a political party
- [\*] Publishing or writing – or being involved in the publication or writing of – any artistic work which appears to have the purpose of affecting public support for a political party

***Note – those terms and conditions marked [\*] do not apply to officers who are acting as an assistant to a political group at an authority.***

These provisions affect the Council as follows.

- In terms of recruitment and appointment, when an appointment is made to such a post, the appointee will be informed in writing that the political restrictions apply and these will be deemed to be incorporated into that employee's terms and conditions of employment.
- Under Sections 2 and 3 of the 1989 Act, the Council is under a duty to draw up and regularly update a list of those posts which are deemed to be "sensitive posts" as described above.
- Any employee of an authority who has been advised that he/she holds a politically restricted post may appeal to the independent adjudicator to be exempted from the list, on the ground that the authority has wrongly applied the criteria.

Reviewed: March 2017

Next review due: March 2019