

Politically Restricted Posts

HR Service Effective from May 2013

1. Introduction

The Council is under a duty to draw-up and regularly update a list of those posts which are politically restricted.

With effect from 12 January 2010 the Local Democracy, Economic Development and Construction Act 2009 changed the approach to identifying posts which are politically restricted under Section 2 of the Local Government and Housing Act 1989 (LGHA).

2. Who is affected?

Politically restricted posts fall into two broad categories

Specified posts specified in Part 1, Section 2 (1) of LGHA 1989

- the Head of the Paid Service (Part 1, s2 (1) (a) and s4 LGHA)
- statutory chief officers (Part 1, s2 (1) (b) and s2(6) LGHA)
- non-statutory chief officers (Part 1, s2 (1) (c) and s2(7) LGHA)
- deputy chief officers (Part 1 s2 (1) (d) and s2(8) LGHA)
- the monitoring officer (Part 1, s2 (1)(e) and s5 LGHA)
- the chief finance officer (s151 Local Government Act 1972) (Part 1, s2(6)(d) 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 S100G(2) of the Local Government Act 1972 (Part 1, s2 (1) (g) LGHA)
- assistants to political groups (Part 1, s2 (1) (f) and s9 LGHA)

All these post holders are politically restricted without rights of appeal for exemption to the local authority's standards committee.

'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 the authority itself, 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

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

Teachers, Head teachers and lecturers are all exempt from political restrictions under Part 1, s2 (10) LGHA, and will not be regarded as holding 'politically restricted posts' whatever their role or remuneration level.

3. Procedure on appeal against being included in the list of sensitive posts

Granting exemptions from political restriction rests with local authority Standards Committees. The Secretary of State may also provide advice on relevant matters.

Employees included in the lists compiled by local authorities on duties-related grounds can appeal against their inclusion, if they feel that they cannot influence policy, or that the local authority has incorrectly applied the duties-related criteria.

All such appeals require a letter from the applicant formally seeking exemption and a full job description of the post.

4. Further Information

If you have any queries about the content of these pages or the provisions of the Act please contact your HR Adviser.

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