

POLITICALLY RESTRICTED POSTS LOCAL GOVERNMENT AND HOUSING ACT 1989

Under Section 1 of the Act, no holder of a politically restricted post can become (whether by election or otherwise) or remain a member of any authority to which the provisions apply (ie County Councils, District Councils, London boroughs) nor can the employees concerned become a Member of the House of Commons or of the European Parliament. This disqualification does not apply to membership of a town, parish or community council. Prohibition from engaging in other political activities came into effect on 1 May 1990 with the Local Government Officers (Political Restrictions) Regulations 1990.

The Regulations require specific terms of appointment and conditions of employment.

The terms and conditions of employment of holders of politically restricted posts are regarded as automatically incorporating the provision.

The employees to whom the restrictions apply are those holding what are described in the Act as 'politically restricted' posts, and so far as this authority are concerned, they are as follows:

- a) Directors and their Deputies (including Head of Service and any person who, although not given the title of Deputy, is required to report directly, or is directly accountable for, all or most of the duties of their post, to one or more of the Directors).
- b) Any other officers shown in the scheme of delegation as exercising delegated powers.
- c) Post other than those in a) and b) above which are listed by the Council -
 - i) at or above a specified salary level, except where the Independent Adjudicator (see below) has directed that the post should be exempt;
 - ii) below the specified salary level, but which the Council considers fall within certain criteria (see paragraphs 1 and 2 below), except where the Adjudicator has allowed an appeal against the authority's judgement on the question.

Other Restrictions:

The terms and conditions are divided into two main sections. The first part deals with the prohibited elected positions. Postholders are prohibited from announcing (or authorising or permitting anyone else to announce) their candidature for election to a local authority, the House of Commons or the European Parliament. Procedures for reinstatement of those who had resigned their local authority appointment and had fought and lost an election are left for negotiation between each employer and their staff.

The regulations also prohibit politically restricted postholders from being an officer of a political party or any of its branches or a member of any of its committees or sub-committees where the duties would be likely to require:

- i) participation in the general management of the party or branch; or
- ii) acting on behalf of the party or the branch in dealing with non-party members.

The term 'political party' is not given a definition within the regulations. Politically restricted postholders are restricted from canvassing on behalf of a political party or for a person who is, or seeks to be, a candidate for election to a local authority, the House of Commons, or the European Parliament. The restriction on canvassing is not limited to activities in the area of the local authority employing the politically restricted postholder. The prohibition includes acting as an election agent or sub-agent on the basis that the term 'canvassing' includes acting in such a capacity.

Restrictions on Speaking and Writing in Public

The second part of the regulations addresses the postholder's conduct outside his/her employment in far wider terms. Postholders are not permitted to speak in public where there is an apparent intention to affect public support for a political party. Similarly, such postholders are not permitted to publish any written or artistic work whether as author or editor, nor can they authorise or permit another person to publish such work if the work appears to be intended to affect public support for a political party.

However, this prohibition does not preclude the display of a poster or other document at the postholder's home or on his or her car or other personal possessions. These restrictions are to be interpreted so as not to prevent the officer from carrying out their official duties.

The List of Politically Restricted Posts

It is the Council's duty to prepare and maintain the list of politically restricted posts mentioned in c) above. This list will be held by the proper Officer, ie the Chief Executive, and is open to inspection. A copy of the list is held at the Town Hall, Romford.

The list does not include the posts mentioned in a) and b) because the restrictions apply directly to these posts, nor have any posts of Head Teacher, Principal, Teacher or Lecturer been included.

Politically 'Sensitive' Posts

Two criteria for politically sensitive posts (Section (c)(ii)) are specified in the Act; these are posts whose duties consist in, or involve,

- 1) giving advice on a regular basis to the authority themselves, or to a committee, sub-committee or joint committee (the Government have indicated that they do not consider the mere provision of purely factual information constitutes giving advice).
- 2) speaking on behalf of the authority on a regular basis to journalists or broadcasters.

The salary level for the purpose of inclusion in the list (so far as Havering is concerned) is equivalent to APT&C Spinal Point 44 for full time posts and the equivalent pro rata rate for part-time posts.

If your post has been included in the list, it is because -

- i) You are paid a salary at or above the statutory level indicated.
- ii) Your salary and salary scale maximum are below the statutory level, but you are nevertheless considered to satisfy one or both of the criteria mentioned previously in paragraphs 1 and 2.

If you are an employee falling within category (i) you have the right if you so wish, to apply for exemption from this list, and to exercise this right, you must first write to me asking for a Certificate of Opinion by the Council as to whether the post is politically sensitive. You should send this certificate, when issued to you, together with your written application for exemption, to the Independent Adjudicator, whose address is as follows:

Office for the Independent Adjudicator
2 Marsham Street
London SW1P 3EB
(Tel: 0207 276 5610 or 5642)

If you are an employee falling within category (ii) you are entitled to appeal direct to the Independent Adjudicator for a direction as to whether the post is politically sensitive.

It should be mentioned that it is open to any person to complain to the Adjudicator that a post has been wrongly omitted from the list, and if the Adjudicator considers that the post meets the criteria for inclusion, he may direct the authority to add the post to the list. The authority must so advise the holder of the post concerned.

These rights of appeal or application for exemption are not available to persons treated as Directors or Heads of Service (see Section (a) above) for the purpose of the Act.

Any questions as to the application of these arrangements should be addressed to your Executive Director in the first instance at the Town Hall, Romford, Essex.