

# **LOCAL GOVERNMENT OFFICERS (POLITICAL RESTRICTIONS) AMENDMENT REGULATIONS 1998 (AS AMENDED)**

## ***INTRODUCTION***

The Local Government Officers (Political Restrictions) Amendment Regulations 1998 (as amended) impose restrictions on public political activity by employees who hold certain posts within the Council. This guidance details what these restrictions are and to whom they apply.

## ***POLITICALLY RESTRICTED POSTS***

The following four categories of posts are considered to be politically restricted:

### **CATEGORY 1**

Posts individually identified in the legislation are listed below, but excluding Administrative, Secretarial and Clerical Support:

- The Chief Executive
- Statutory Chief Officers
- Chief Social Work Officer
- Chief Finance Officer
- Monitoring Officer
- Political Assistants
- Chief Officer of a Community Justice Authority\*

\* If on secondment from a local authority for a period of up to two years, as permitted by the legislation.

### **CATEGORY 2**

The posts defined in terms of their relationship with others are:

- Non-statutory Chief Officers
- A person for whom the Chief Executive is directly responsible; or
- A person who, as regards all or most of his/her duties, reports directly to, or is directly accountable to, the Chief Executive or the local authority themselves or any committee or sub-committee of the local authority.

- Deputy Chief Officers
- A person who, as regards all or most of his/her duties, reports directly to, or is directly accountable to, one or more of the Chief Officers.

### CATEGORY 3

The posts identified by the characteristics of their duties are:

- Those involving the provision of advice to the local authority
- A person who, on a regular basis, gives advice to the local authority themselves, or to any committee or sub-committee of the authority, or to any joint committee on which the authority are represented.
- Those involving contact with the media
- A person who, on a regular basis, speaks on behalf of the authority to journalists or broadcasters

### CATEGORY 4

Posts which have delegated powers of the Council.

## ***POLITICAL RESTRICTIONS***

The Local Government Officers (Political Restrictions) Regulations 1990 (as amended) define the political restrictions imposed upon an employee to a politically restricted post. In summary, for employees whose posts fall into any of the above categories, the restrictions are:

1. The employee may not announce him/herself, or allow him/herself to be announced by another, as a candidate for election as a member of:
  - The House of Commons
  - The Scottish Parliament
  - The European Parliament
  - Any Local Authority
2. The employee shall not act as an election agent or sub-agent for any candidate for election as a member of any of the bodies mentioned in 1 above.
3. The employee shall not be an officer of any political party or branch if his/her duties as such include party or branch management or acting on behalf of the party in dealings with people outside the party or its associated parties.
4. The employee shall not canvass on behalf of a political party or on behalf of a candidate for election as a member of any of the bodies mentioned in 1 above.

5. The employee shall not speak to the public with the apparent intention of affecting public support for a political party (unless appointed under section 9 of LGHA 1989).
6. The employee shall not publish, or have published by another, any written or art work, of which he/she is the author in whole or in part or the editor, if the work appears to be intended to affect public support for a political party. This does not preclude the display of a poster at the employee's home or on their car (unless appointed under section 9 of LGHA 1989).
7. In the event that the employee notifies the Council in writing of their intention to resign in order to become a candidate for election as a member of the House of Commons or of the Scottish Parliament, their appointment shall terminate forthwith.
8. Insofar as any of the actions described in 5 or 6 above are part of the proper performance of the employee's official duties, he/she is not precluded from engaging in them.
9. The employee shall not speak to the public in a way likely to create the impression that he/she is the authorised representative of a political party.
10. The employee shall not publish, or have published by another, any written or art work, of which he/she is the author in whole or in part or the editor, in a way likely to create the impression that the publication is authorised by a political party.

The restrictions on political activities are part of the terms on which the employees hold their posts and, accordingly, any circumstances of non-compliance with the Act by an employee will be dealt with in accordance with the Council's [Achieving & Maintaining Standards](#) policy.

### ***STATUTORY EXEMPTIONS FROM POLITICAL RESTRICTION***

There are two exemptions from political restriction provided by statute.

- Holders of teaching posts (head teachers, principals, teachers and lecturers)
- Secretarial, clerical and support staff, even if they report to the Chief Executive or to a Chief Officer.

## ***RIGHTS OF APPEAL***

Appeals against restrictions are considered by the Adjudicator for Scotland ([LGPREAS - Local Government Political Restrictions Exemptions Adjudicator for Scotland](#)).

The Adjudicator will consider any application for exemption from political restriction, made by an employee in that post, provided that the post is included in the list of politically restricted posts maintained by the Council.

An employee in a politically restricted post has the right to apply for the political restrictions to be lifted from their post. An employee who wishes to exercise this right may apply either directly to the Adjudicator or can write to the Corporate Human Resources Manager. The application should detail the post title, job description, the basis upon which the post is currently deemed to be politically restricted and the reasons why the applicant considers that political restriction is no longer appropriate. Prior to adjudication, the Adjudicator will request the Council to state its position in regard to the application.

If an employee is successful with such an appeal, that employee's post will no longer be regarded as politically restricted and the postholder (current or future) will be exempt from the political restrictions. However, consideration to reclassifying the post as politically restricted would need to be given should there be any future significant change to the duties of the post.

*For further information or guidance, please contact Human Resources.*