

Human Resources

Political Restrictions on Local Government Employees & Politically Restricted Posts

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South Yorkshire
Fire & Rescue
WORKING FOR A SAFER
SOUTH YORKSHIRE

POLITICAL RESTRICTIONS ON LOCAL GOVERNMENT EMPLOYEES

INTRODUCTION

1. The Local Government and Housing Act 1989 (LGHA) extended the restrictions on employees of local authorities (including Fire and Rescue Services) holding political posts or participating in political activity. Some employees e.g. Chief Fire Officers are automatically subject to restrictions. Others are restricted by the nature of the duties they perform as part of their role e.g. regular press spokespersons. South Yorkshire Fire and Rescue (SYFR) have, as required by the Act, approved a list of posts to which restrictions apply. This list is subject to regular review and revision.
2. As a member of the Dignity at Work Partnership¹, SYFR is committed to promoting a positive working environment where the dignity and respect, to which all employees are entitled, is not undermined. No employee should be treated less favourably on the grounds of race, gender or gender reassignment, disability, sexual orientation, religion or spiritual belief, colour, nationality, national or ethnic origin, marital/parental status, family ties, trade union or political belief, hours worked, or any other reason, either directly or indirectly.
3. This policy supersedes all previous personnel orders, policies and procedures.

SCOPE

4. Fire authorities are considered local authorities for the purposes of the LGHA and therefore whole-time and corporate staff are covered by the provision of the Act.
5. This policy forms part of an employee's contract of employment. As such each employee is obliged to comply with the requirements of this policy.

RESTRICTIONS ON EMPLOYEES

6. Under the LGHA, SYFR cannot appoint as an employee, in any capacity, any councillor who is currently a member of that authority or has been a member in the previous 12 months.
7. Under the Local Government Act 1972 (LGA), an employee will be disqualified from being elected or holding office as a member of that local authority.
8. The effect of including a local authority employee on the list of 'politically restricted posts' is to prevent that individual from having any active political role either in or outside of the workplace. Politically restricted employees will automatically be disqualified from standing for or holding elected office.

¹ The Dignity at Work Partnership is a partnership between the Government, Unite (the UK's largest union) and major public and private sector organisations. For further information on the Partnership, see www.dignityatwork.org

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9. It is at the discretion of SYFR whether or not to reinstate an employee who resigns their post and then consequently fights and loses an election.
10. In practice this equates to debarring SYFR staff from standing for offices as:
 - Local Councillors
 - MPs
 - MEPs
 - Members of the Welsh Assembly
 - Members of the Scottish Assembly
 - Members of the Northern Ireland Assembly

They are also restricted from:

- Canvassing on behalf of a political party or person who is or seeks to be a candidate
 - Speaking to the public at large or publishing any written or artistic work that could give the impression that they are advocating support for a political party
11. The effect of these restrictions is to limit the holders of politically restricted posts to bare membership of political parties, with no active participation within the party permitted.
 12. All local authority employees fall within the scope of the Act.

Human Rights and Politically Restricted Posts

13. The European Court, in September 1998, decided that political restrictions are not contrary to the freedom of expression provisions in the convention of human rights.

POSTS WHICH ARE POLITICALLY RESTRICTED

14. Each local authority (including FRSs) has a duty under the Act to draw up and regularly review a list of those posts which are politically restricted. This list is at Appendix A.
15. The politically restricted posts within SYFR fall into these two categories:

a) Specified Posts (s.2 LGHA)

- CEO / Chief Fire Officer
- Deputy Chief Fire Officer
- Any senior post reporting directly to the CEO / Chief Fire Officer or Deputy Chief Fire Officer
- Any officer exercising delegated powers, i.e. a person whose post is, for the time being one of those listed above.

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All of these post holders are politically restricted without rights of exemption, meaning that they cannot appeal to the Standards Committee.

b) 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 joint committee on which the authority is 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 Standards Committee to be exempted from the list, on the grounds that the Authority has wrongly applied the criteria.

THE STANDARDS COMMITTEE

16. The Authority's Standards Committee is responsible for considering any application from a SYFR employee for exemption from political restrictions.
17. The Standards Committee is a committee appointed by the Authority and is chaired by an independent member. The Authority's Monitoring Officer is responsible for advising the Standards Committee on the performance of its functions.
18. Applications for a post to be exempted from political restrictions should be addressed to:
The Monitoring Officer
South Yorkshire Fire and Rescue Authority
18 Regent Street
Barnsley
S70 2HG

PROCEDURE ON APPEAL

19. Any employee whose post is included in the list of politically restricted posts (Appendix A), on duties-related grounds can appeal initially to their Function Head and subsequently to the Standards Committee if they feel that they cannot influence policy, or that SYFR has incorrectly applied the duties related criteria.
20. All appeals to the Standards Committee require a letter from the applicant formally seeking exemption and a full job description of the post.

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RECRUITMENT OF POSTS DESIGNATED AS POLITICALLY RESTRICTED

21. All posts that are designated as politically restricted must be advertised as such. In addition, the guidelines at Appendix B should be included in recruitment packs or at the shortlisting stage.

CONDITIONS OF SERVICE

22. Nothing in this policy should be interpreted as contradicting the provisions made under current employment legislation, good practice or the following:
 - The National Joint Council for Brigade Managers of Fire and Rescue Services, Constitution and Scheme of Conditions of Service (The Gold Book)
 - The National Joint Council for Local Authorities Fire Brigades, Scheme of Conditions of Service (The Grey Book)
 - The Joint Negotiating Committee for Chief Officers of Local Authorities

**If you require any further guidance on this policy please contact
Human Resources**

POLITICALLY RESTRICTED POSTS

SPECIFIED POSTS

Chief Fire Officer / Chief Executive

Deputy Chief Fire Officer / Chief Operating Officer

Assistant Chief Fire Officer / Director of Service Delivery

Assistant Chief Fire Officer / Director of Service Development

Director of Finance and Resources

SENSITIVE POSTS

Head of Human Resources

Head of Asset Management

Head of Corporate Communications and Administration

Head of Policy, Performance and Programmes

Head of Financial Services

Head of Emergency Response

Head of Technical Services and Projects

Head of Prevention and Protection

Head of Operational Standards and Safety

Head of Service Training and Development

Please note –

This list is subject to regular review; always contact Human Resources to confirm which posts are politically restricted.

Politically Restricted Posts – Restrictions of the Local Government and Housing Act (1989) and Local Government Officers (Politically Restricted) Regulations (1990)

Guidance on Restrictions

1. This is a Politically Restricted Post

Legislation imposes restrictions on public political activity by certain employees. Accordingly, some local government posts (including South Yorkshire Fire and Rescue) are categorised as restricted. The post for which you are applying is defined as restricted as it comes under one of the following general categories:

- The CEO / Chief Fire Officer or Deputy Chief Fire Officer and any senior posts reporting directly to these.
- An officer carrying out delegated functions, giving advice on a regular basis to the Fire Authority or to any committee or sub-committee, or speaking on behalf of the Fire Authority on a regular basis to journalists or broadcasters

2. A Summary of the Restrictions

The restrictions on political activity that apply to officers in listed posts are set out in regulations. These restrictions are deemed to be incorporated in terms of appointment, and conditions of employment, of every person holding a restricted post.

The regulations provide that:

- The post holder must not announce an intention to be a candidate for election to the House of Commons, the European parliament, or a Local Authority;
- Where an officer announces that he/she wishes to resign his/her post because he/she intends to be a candidate for election in the House of Commons, his/her appointment shall terminate;
- The post holder must not act as an election agent or sub-agent;
- The post holder shall not be an officer of a political party, or a committee or sub-committee member of a party, if this involves him/her in general management of, or acting on behalf of, the party or branch;
- The post holder shall not canvass on behalf of a political party, or on behalf of a candidate for election;

Post holders, other than political assistants, are also prevented from:

- Speaking to the public with the apparent intention of affecting support for a political party:

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- Publishing or causing to be published written or artistic work if intended to affect public support for a political party as opposed to, for example, displaying a poster on private property.

3. Appeals

An employee, other than the CEO / Chief Fire Officer and other senior posts reporting directly to the CEO / Chief Fire Officer or Deputy Chief Fire Officer, may appeal against being judged as in a politically restricted post on the grounds of:

- Your duties not involving the giving of advice on a regular basis to the Fire Authority or to any committee or sub-committee, or speaking on behalf of the Fire Authority on a regular basis to journalists or broadcasters.

In the first instance an appeal should be made in writing to the CFO/DCFO.