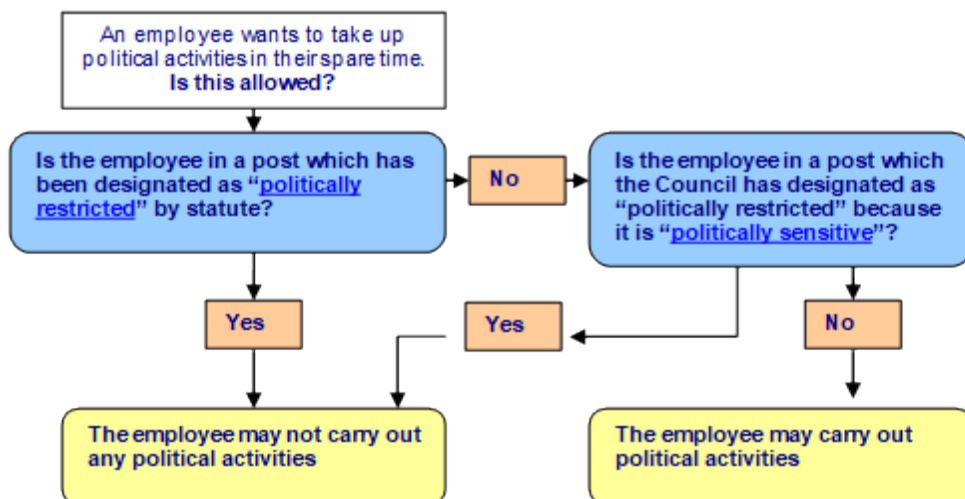


**CHAPTER 10 – OFFICER EMPLOYMENT**  
**RULES**

# 1. POLITICALLY RESTRICTED POSTS POLICY



## 1.1. SUMMARY

- (1) In order to avoid any potential conflict of interests, and to comply with Local Government Regulations, some posts within the council are designated politically restricted posts. This means that there are constraints imposed on those postholders from undertaking political activities.

*(see Part 1 Local Government and Housing Act 1989, as amended)*

## 1.2. WHICH POSTS ARE DESIGNATED AS “POLITICALLY RESTRICTED” UNDER PART 1 LOCAL GOVERNMENT AND HOUSING ACT 1989, AS AMENDED

<b>Category 1 The Head of Paid Service</b>
<ul style="list-style-type: none"> <li>• The Chief Executive</li> </ul>
<b>Category 2 Statutory Chief Officers</b>
Posts fulfilling the following functions: <ul style="list-style-type: none"> <li>• The Director of Children’s Services</li> <li>• The Director of Adults’ Services and</li> <li>• The Director of Finance</li> </ul>
<b>Category 3 Non-Statutory Chief Officers</b>

<ul style="list-style-type: none"> <li>• Any person for which the Chief Executive is directly responsible e.g ELT members</li> <li>• Any person, who as respects all or most of the duties of his post, is required to report directly or is directly accountable to either the Chief Executive, the Council or any committee or sub-committee.</li> </ul> <p><i>(This category does not apply to posts whose duties are solely secretarial or clerical or who have other support functions)</i></p>
<p><b>Category 4 Deputy Chief Officers</b></p> <ul style="list-style-type: none"> <li>• Persons who, as respects all or most of the duties of their post is required to report directly or is directly accountable to one or more of the statutory or non-statutory Chief Officers.</li> </ul> <p><i>(This category does not apply to posts whose duties are solely secretarial or clerical or who have other support functions)</i></p>
<p><b>Category 5 The Monitoring Officer</b></p> <ul style="list-style-type: none"> <li>• The Executive Director of Corporate Services</li> </ul>
<p><b>Category 6 Assistants to political groups</b></p>
<p><b>Category 7 Officers to whom powers are delegated</b></p> <ul style="list-style-type: none"> <li>• Persons whose posts have delegated powers under the City Council's delegation scheme. All SLT members have delegated powers although they may be included in other categories.</li> </ul> <p><i>(This category does not apply to posts of authorised officers who are exercising delegated powers on behalf of a SLT member.)</i></p>
<p><b>Category 8 Officers holding “Politically Sensitive Posts”</b></p> <ul style="list-style-type: none"> <li>• Those persons who either give advice on a regular basis to the Council, to a Committee or Sub-Committee of the Council or to any Joint Committee on which the Council is represented and/or speak on behalf of the Council on a regular basis to journalists or broadcasters. This is unlikely to be posts below Band 4.</li> </ul>

### 1.3. IS THERE A LIST OF AFFECTED POSTS IN THE COUNCIL

- (1) All posts designated as politically restricted will be flagged as politically restricted on IBC, and a list of such posts can be requested People Services.
- (2) The decision as to whether a post is to be designated as politically restricted on the grounds that it is a “Politically Sensitive Post” (as defined above) will be taken by the appropriate ELT Member or their nominated officer; e.g. manager for the service/ team. This will be determined when the post is created or when there is a change in role and responsibilities and confirmed as per the establishment management and recruitment processes. (The relevant forms under these processes require confirmation as to whether a post is politically restricted)
- (3) In addition ELT Members or their nominated officer will review the list of politically restricted posts quarterly to ensure it is up to date and will notify

of any changes required to the list of politically restricted posts which will be held in IBC.

#### **1.4. WHAT IS THE EFFECT OF A POST BEING DESIGNATED AS “POLITICALLY RESTRICTED”**

- (1) The following clause will be inserted into all contracts of employment for employees holding posts designated as politically restricted.
- (2) ‘This post is politically restricted and you may not therefore engage in any political activity contrary to the provisions of the Local Government and Housing Act 1989 or any Regulations made thereunder whilst employed by the City Council.’
- (3) Staff holding jobs which are politically restricted may not:
  - i. stand for election as a Member of Parliament
  - ii. stand for election as a Member of the European Parliament
  - iii. stand for election as a Councillor in any local authority (although staff may still stand for election to a Parish or Community Council)
  - iv. stand for election as a Member of the Scottish Parliament
  - v. stand for election as a Member of the Welsh Assembly
  - vi. act as an election agent or sub-agent for a candidate of any of the above
  - vii. canvass at elections on behalf of a political party or a person who is or seeks to be a candidate of any of the above
  - viii. hold office in a political party where his duties as a member require them to participate in the general management of the party or to act on behalf of the party in dealings with persons other than members of the party or members of another political party associated with the party.
  - ix. speak or write publicly on matters with the apparent intention of affecting public support for a political party (this does not apply to political assistants and is not to be construed as precluding the appointee from engaging in activities to such an extent as is necessary for the proper performance of his official duties).
- (4) The cumulative 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.

*(Schedule 1 of the Local Government Officer (Political Restriction) (England and Wales) Regulations 1990 provides further detail.)*

#### **1.5. ARE THERE ANY EXEMPTIONS AND WHO CAN APPLY**

- (1) An application for an exemption can be made on the basis that a post has been incorrectly included in Category 8.

- (2) Only employees (or future employees with a formal job offer from WCC) in Politically Sensitive Posts which have been designated as politically restricted under Category 8 above can apply for the exemption.
- (3) No application for exemption can be made for posts politically restricted under Categories 1 -7.
- (4) No application can be made for an exemption to carry out political activity as described above while the post remains politically restricted.

#### **1.6. WHAT ARE THE GROUNDS FOR APPLYING FOR AN EXEMPTION**

- (1) Employees may apply for an exemption from political restrictions on the basis that their post was incorrectly included on the list of Politically Sensitive Posts since it does not undertake either of the following duties:
  - i. 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;
  - ii. speaking on behalf of the authority on a regular basis to journalists or broadcasters
- (2) Where an exemption is granted, it applies to that post – it is not transferable from one authority to another, nor from one job to another.

#### **1.7. WHEN DO YOU APPLY FOR AN EXEMPTION**

- (1) Where an individual who already holds public office is subsequently appointed to, or promoted into, a politically restricted post as designated under Category 8, they must apply for an exemption against such designation before moving into the new post if they wish to continue to hold public office (see Exemption Section above).

#### **1.8. HOW DO YOU APPLY FOR AN EXEMPTION**

- (1) An employee who wishes to apply for an exemption should, in the first instance, write to the Director of People Services requesting a decision on the status of their post.
- (2) The Director of People Services will submit the application with the appellant's job description and any other relevant information to the City Council's Chief Executive for decision.
- (3) The decision of the Chief Executive is final.

#### **1.9. CONSEQUENCES OF NOT APPLYING FOR AN EXEMPTION**

- (1) If an individual is in a politically restricted post and has not obtained an exemption but still takes part in political activity, they would be in breach of

their contract of employment. They may also be liable to disciplinary action under the council's disciplinary code.

- (2) If an individual who already holds public office is subsequently appointed to, or promoted into, a politically restricted post and does not apply for exemption, they will be disqualified from remaining in public office.

## **2. OFFICER EMPLOYMENT PROCEDURE RULES**

### **2.1. RECRUITMENT AND APPOINTMENT**

#### Declarations

- (1) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or of the partner of such persons.
- (2) No candidate so related to a councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by them.

#### Seeking support for appointment.

- (3) The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (4) No councillor will seek support for any person for any appointment with the Council.

### **2.2. RECRUITMENT OF HEAD OF PAID SERVICE AND CHIEF OFFICERS**

- (1) Where the Council proposes to appoint a chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:
  - i. draw up a statement specifying:
    - the duties of the officer concerned; and
    - any qualifications or qualities to be sought in the person to be appointed;
  - ii. make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
  - iii. make arrangements for a copy of the statement mentioned in paragraph to be sent to any person on request.

### **2.3. APPOINTMENT OF HEAD OF PAID SERVICE**

- (1) The full council will approve the appointment of the head of paid service following the recommendation of such an appointment by a committee or sub-committee of the Council. That committee or sub-committee must include at least one member of the executive.

- (2) The full Council may only make or approve the appointment of the head of paid service where no well-founded objection has been made by any member of the executive.

#### **2.4. APPOINTMENT OF CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS**

- (1) A committee or sub-committee of the Council will appoint chief officers and deputy chief officers. That committee or sub-committee must include at least one member of the executive.
- (2) An offer of employment as a chief officer or deputy chief officer shall only be made where no well-founded objection from any member of the executive has been received.

#### **2.5. OTHER APPOINTMENTS**

- (1) **Officers below deputy chief officer.** Appointment of officers below deputy chief officer (other than assistants to political groups and an assistant to the mayor) is the responsibility of the relevant Chief Officer, and may not be made by councillors.
- (2) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group provided the Council has agreed in principle to the appointment of political assistants.

#### **2.6. DISCIPLINARY ACTION**

- (1) **Suspension.** The Head of the Paid Service, monitoring officer and chief finance officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.
- (2) **Independent person.** No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a designated independent person.
- (3) Councillors will not be involved in the disciplinary action against any officer below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.

#### **2.7. DISMISSAL**

- (1) Councillors will not be involved in the dismissal of any officer below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.



## 2.8. APPOINTMENT OF CHIEF OFFICERS

- (1) Subject to paragraphs (2) and (6) the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the Council must be discharged, on behalf of the Council, by the Chief Executive or by an officer nominated by him.
- (2) Paragraph (1) shall not apply to the appointment or dismissal of, or disciplinary action against –
  - i. the Chief Executive
  - ii. a statutory or non statutory chief officer within the meaning of section 2 of the Local Government and Housing Act 1989 Act (“the 1989 Act”);
  - iii. a deputy chief officer within the meaning of section 2 of the 1989 Act; or
  - iv. a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).
- (3) The full Council must approve the appointment of the Chief Executive before an offer of appointment is made to him or, as the case may be, must approve dismissal before notice of dismissal is given to him.
- (4) Where a committee or sub-committee of the Council is discharging, on behalf of the Council, the function of the appointment or dismissal of any officer referred to in sub-paragraphs (i), (ii) or (iii) of paragraph (2), at least one member of the Cabinet must be a member of that committee or sub-committee.
- (5) In this, and following, paragraphs “appointor” means, in relation to the appointment of a person as an officer of the Council, the Council or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the Council, that committee, sub-committee or officer, as the case may be.
- (6) An offer of an appointment as an officer referred to in sub-paragraph (i), (ii) or (iii) of paragraph 2 must not be made by the appointor until –
  - i. the appointor has notified the Director of Human Resources of the name of the person on whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
  - ii. the Director of Human Resources has notified every member of the Cabinet of:
    - the name of the person to whom the appointor wishes to make the offer;
    - any other particulars relevant to the appointment which the appointor has notified to the Director of People Services; and

- the period within which any objection to the making of the offer is to be made by the Leader of the Council on behalf of the Cabinet to the Director of People Services; and either
    - the Leader has, within the period specified in the notice under sub-paragraph (ii) (c), notified the appointor that neither they nor any other member of the Cabinet has any objection to the making of the offer;
    - the Director of People Services has notified the appointor that no objection was received by them within that period from the Leader; or
    - the appointor is satisfied that any objection received from the Leader within that period is not material or is not well founded.
- (7) In this, and following, paragraphs “dismissor” means, in relation to the dismissal of an officer of the Council, the Council or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the Council, that committee, sub-committee or other officer, as the case may be.
- (8) Notice of the dismissal of an officer referred to in sub-paragraph (i), (ii) or (iii) of paragraph (2) must not be given by the dismissor until
- i. the dismissor has notified the Director of People Services of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal
  - ii. the Director of People Services has notified every member of the Cabinet of
    - the name of the person who the dismissor wishes to dismiss;
    - any other particulars relevant to the dismissal which the dismissor has notified to the Director of People Services  
and
    - the period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the proper officer; and either
      - the Leader has, within the period specified, notified the dismissor that neither he they nor any other member of the Cabinet has any objection to the dismissal and the Director of People Services has notified the dismissor that no objection was received by them within that period from the Leader; or
      - the dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.
- (9) Nothing in paragraph (1) shall prevent a person from serving as a member of any committee or sub-committee established by the Council to consider an appeal by:

- i. another person against any decision relating to the appointment of that other person as a member of staff of the Council; or
  - ii. a member of staff of the Council against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.
- (10) Every appointment (and dismissals) of a Chief Officer and a Deputy Chief Officer of the Council shall be made by the Appointments Sub-Committee except where the relevant Cabinet Member, indicates that they wish the Chief Executive to do so on their behalf. These arrangements shall also apply to appointments of Chief Officers and Deputy Chief Officers made as part of the Bi-borough arrangements. For such appointments to be made the Appointments Sub-Committee (or similar) of each of the participating boroughs must have agreed.
- (11) Disciplinary action shall only be considered against the Head of the Paid Service, the Chief Financial Officer or the Monitoring Officer when the provisions of the Local Authorities (Standing Order (England) (Amendment) Regulations 2015 have been adhered to.
- (12) Where it is proposed to appoint a Chief Officer (within the meaning of the Local Authorities (Standing Orders) Regulations 1993) and it is not proposed that the appointment be made exclusively from among the Council's existing officers, the Director of People Services shall:
  - i. draw up a statement specifying the duties of the post concerned and any qualifications or qualities to be sought in the person to be appointed;
  - ii. make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
  - iii. make arrangements for a copy of the statement referred to in paragraph (i) to be sent to any person on request.
- (13) Where a post has been advertised in accordance with paragraph (12) (ii) a shortlist of qualified applicants for the post shall be selected and such selected applicants shall be interviewed by the Appointments Sub-Committee.
- (14) Where no qualified person has applied, the Director of People Services shall make further arrangements for advertisement in accordance with paragraph (12) (ii) above.
- (15) The appointment, resignation, retirement etc, of Chief Officers shall be reported to all Members of the Council.

## **2.9. DISCIPLINARY ACTION IN RESPECT OF CHIEF OFFICERS**

- (1) Every Chief Officer shall be subject to the Code of Conduct and the disciplinary procedures prescribed in or by his contract of employment and as set out in the Council's Constitution.
- (2) No disciplinary action in respect of the Head of the Paid Service, its Monitoring Officer or its Chief Financial Officer, except action described in paragraph (3) below, may be taken by the authority, or by a committee, a sub-committee, a joint committee on which the authority is represented or any other person acting on behalf of the authority, other than in accordance with the provisions of Standing Order 2.8 (10) above.

#### **2.10. SECURITY**

- (1) Every officer of the Council shall be required to give such security for the faithful execution of their office, and for duly accounting for all moneys which may be entrusted to them, as the Council shall from time to time determine, the Council paying the necessary premiums.