

HR Guide: Politically Restricted Posts

Version: 1.5

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North Ayrshire Council
Comhairle Siorrachd Àir a Tuath

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Version Control

Version Number	Effective Date	Details of Last Revision
1	1 October 2015	Created to support revised Terms and Conditions.
1.1	1 March 2017	Update to reflect changes to designations.
1.2	8 March 2017	Revisions to Guidance.
1.3	25 August 2020	Update to reflect changes to designations.
1.4	6 December 2021	Update to remove redundant links.
1.5	17 August 2022	Moved to accessible template.

Equality Impact Assessment: TBC

Prepared by: HR Team

1. Introduction

- 1.1 Within North Ayrshire Council, certain posts fall into a category of being “politically restricted”. This restriction imposes limitations on political activities of the current post holder.

2. Legal and contractual background

- 2.1 The Local Government and Housing Act 1989, as amended section 2, places restrictions on a person who holds a politically restricted post. In addition, the Secretary of State for Scotland introduced regulations which are incorporated into the contract of employment of each employee holding a politically restricted post.

3. Politically restricted posts

- 3.1 Teaching posts are not Politically Restricted. They are exempt under the Local Government Housing Act 1989 as amended.
- 3.2 There are 4 categories of Politically Restricted Posts which are in some cases interlinked. The following describes the posts that are politically restricted under the Local Government Housing Act 1989 as amended. For ease, these have been put into 2 categories, Designation (D) and Giving Advice (G).

3.3 Posts designated in the restricted category D are:

- Chief Executive
 - Chief Social Worker
 - Chief Finance Officer
- The Monitoring Officer appointed in terms of Section 5 of the Act.
- Assistants for political groups appointed in terms of Section 9 of the Act.
- Persons to whom the Council has delegated certain powers to be exercised on behalf of North Ayrshire Council.
- Chief Officer of a Community Justice Authority (on secondment to the council only)

3.4 Posts under Category G are:

Posts where it appears to the Council that the duties involve:

- Giving advice on a regular basis to the Council themselves, to any committee or sub-committee of the Council or to any joint committee on which the Council are represented; and/or
- Speaking on behalf of the Council on a regular basis to journalists or broadcasters

4. Appeals to being politically restricted

- 4.1 Any holder of a politically restricted post who wishes the political restrictions to be lifted on their post may apply directly to the Adjudicator with a copy being sent to the Council's Monitoring Officer (currently the Head of Service (Democratic) and Solicitor to the Council). The application for appeal should provide the title of the post, the role profile, 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 North Ayrshire Council to state its position in regard to the appeal application and may request details of the post in order for a judgement to be made on the appeal.

- 4.2 Applications for appeal must be sent directly to the Adjudicating Officer for Scotland:

Local Government Political Restrictions Exemption Adjudicator for Scotland
PO Box 10153
Dundee
DD2 9BS

- 4.3 A copy of the appeal must be sent to the Head of People & ICT, and the Council's Monitoring Officer, Cunninghame House, Irvine.
- 4.4 The Adjudication Officer will write to the employee direct to advise of the decision.
- 4.5 A complete, up to date, list of all posts within North Ayrshire Council which are covered by the Regulations is held by and available from the Head of People & ICT and the Council's Monitoring Officer (Head of Service (Democratic) and Solicitor to the Council).

5. Restrictions for persons appointed to a politically restricted post

- 5.1 The following describes the restrictions on a post holder of a politically restricted post:
- 5.1.1 An employee who holds a "politically restricted post" is disqualified from standing for, being or becoming a member of a local authority, member of the House of Commons, member of the European Parliament or member of the Scottish Parliament.
- 5.1.2 The appointee shall not act as an election agent or sub-agent within the meaning of section 67 or section 68 of the Representation of the People Act 1983 for a candidate for election, as a member of a mentioned body above.
- 5.1.3 The appointee shall not be an officer of a political party, or of any branch of such a party or a member of any committee or sub-committee of such a party or branch if his/her duties as such an officer or member would be likely to require him/her to participate in the general management of the party or the branch or to act on behalf of the party or branch in dealings with persons other than members of the party or members of another political party associated with the party.

- 5.1.4 The appointee shall not canvas on behalf of a political party or on behalf of a candidate for election as a member of the House of Commons, the Scottish Parliament, the European parliament, or any local authority.
- 5.1.5 The appointee shall not speak to the public at large or to a section of the public with the apparent intention of affecting public support for a political party.
- 5.2 The appointee shall not:
- Publish any written or artistic work of which they are the author (or one of the authors) or any written work or collection of artistic works in relation to which he/she has acted in an editorial capacity which is designed to affect public support for a political party; or
 - Cause, authorise or permit any other person to publish such a work or collection if the work appears to be intended to affect public support for a political party.
 - Sub paragraph above only applies to publication to the public at large or to a section of the public, and nothing in that sub-paragraph shall preclude the display of a poster or other document on property occupied by the appointee as his/her dwelling or on a vehicle or article used by him/her.
- 5.3 Nothing in the above paragraphs will preclude the appointee from engaging in the above activities to the extent that would be necessary for the proper performance of the duties and responsibilities of their post.
- 5.4 This document is a guide only and is not intended to be a statement of law. Full details on Political Restrictions and restricted activities can be found at [Local Government Political Restrictions Exemptions Adjudicator for Scotland](#).