

Democracy and Standards Committee 16th November 2021

Report Title	Politically Restricted Posts – Appeal Procedure
Report Author	Adele Wylie – Director of Legal & Democratic Services (Monitoring Officer) adele.wylie@northnorthants.gov.uk

List of Appendices

Appendix A – Draft Politically Restricted Posts – Appeals Procedure

1. Purpose of Report

- 1.1. For the Committee to approve a procedure for determining appeals made by officers in relation to the designation of a post as “Politically Restricted”.

2. Executive Summary

- 2.1 Under law the Authority, through the Head of Paid Service, can designate certain posts on the staffing establishment as “politically restricted”. The effect of designating a post as “politically restricted” would prevent the postholder from having any active political role in or outside the workplace.
- 2.2 Postholders would automatically be disqualified from standing for or holding elected office and these restrictions would be incorporated as terms of the employee’s contract of employment.
- 2.3 Postholders would also be prohibited from canvassing on behalf of a political party or a person who is or seeks to be a candidate, speaking on behalf of or undertaking work or activity that may give the impression that they are advocating support for a political party.

3. Recommendations

- 3.1 It is recommended that the Committee:
- a) Approve the Politically Restricted Posts – Appeals Procedure (as detailed in Appendix A).
- 3.2 Reason for Recommendations –
- To ensure that there is a clear appeal procedure in place for postholders who wish to contest the designation of their post as “politically restricted”.

4. Report Background

- 4.1 Under legislation the Authority, through the Head of Paid Service, have the right to designate certain posts as “politically restricted”. The legislation defines certain posts as “political restricted” without right of appeal. These are known as “specified posts” and include the Head of Paid Service, statutory chief officers etc.
- 4.2 The legislation also allows for certain posts to be designated, if they meet certain other criteria; these are known as “sensitive posts”. They include those posts which provide regular advice and guidance to decision makers (this is usually interpreted as senior posts only), and those employed within the Authority’s communications/press team.
- 4.3 Legislation allows for those employed in “sensitive posts” to appeal against the designation, if they feel the Authority has misinterpreted said legislation.

5. Issues and Choices

- 5.1 The Council is required to have an appropriate appeal mechanism in place with regard to this matter. Legislation requires that the Council’s “standards committee” has responsibility for determining appeals received from postholders.
- 5.2 Ensuring one of the Independent Persons is involved in hearing and determining any appeals received assists in providing assurance to appellants.
- 5.3 Appellants would have the right to present their case to the Appeal Panel and to be accompanied by a trade union representative or work colleague.
- 5.4 The proposed procedure (Appendix A) was tabled at a meeting of the Enabling Services Directorate Consultative Forum held on 3rd November 2021, where trade union representative’s views were sought. Following discussion, the Forum endorsed the proposed procedure for approval by the Committee.

6. Implications (including financial implications)

6.1 Resources and Financial

- 6.1.1 None specific to this report.

6.2 Legal

- 6.2.1 The Authority is required to comply with the relevant legislation pertaining to the designation of posts as “Politically Restricted”, and to ensure that an appropriate appeal procedure is put in place.
- 6.2.2 Whilst it is recognised that “politically restricted” status does prohibit the activities of some postholders, this is a statutory requirement and proportionate to their role and responsibilities within the Authority. The designation is clearly included within job descriptions and terms and conditions during recruitment.

6.2.3 It should be noted that staff employed in election duties (e.g., polling stations, poll card delivery, count assistants etc) by the local Returning Officer are subject to separate legislation, relating to ensuring the impartiality of staff working on elections. These staff are employed by the local Returning Officer not the Council.

6.3 Risk

6.3.1 The Council needs to ensure an appropriate appeal procedure is in place with regard to this matter. Whilst the number of posts designated as “politically restricted” should be low, the Council needs to ensure the law is applied appropriately and the rights of both the Council and postholders protected.

6.3.2 Any designation of a post as “politically restricted” under the “sensitive posts” category will need to be scrutinised by appropriate officers prior to recruitment, to ensure such application of the designation is proportionate and within legislative guidelines.

6.4 Consultation

6.4.1 Constitutional Working Group
Enabling Services Directorate Consultative Forum

6.5 Consideration by Scrutiny

6.5.1 N/A.

6.6 Climate Impact

6.6.1 None specific to this report.

6.7 Community Impact

6.7.1 Recording of Council meetings can assist in ensuring that those unable to attend have an opportunity to follow discussions and debate. Whilst recording of meetings by the press and public is not a substitute for a full broadcast by the Council, it is important that there is a clear Protocol in place to facilitate such recordings.

7. Background Papers

7.1 Local Government and Housing Act 1989
Local Government (Political Restrictions) Regulations 1990
Local Democracy, Economic Development and Construction Act 2009

