



## HUMAN RESOURCES AND ORGANISATIONAL DEVELOPMENT

### POLITICAL RESTRICTIONS POLICY

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## PEOPLE AND ORGANISATIONAL DEVELOPMENT

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## POLITICAL RESTRICTIONS POLICY

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## **1. POLICY STATEMENT**

This policy covers the arrangements that SFRS has in place regarding the classification of Politically Restricted posts.

## **2. BACKGROUND**

Prior to the inception of the Scottish Fire and Rescue Service (SFRS) in April 2013, each of the eight legacy FRS were covered by legislation known as the Local Government and Housing Act 1989 (c.42) (LGHA 1989) which required each FRS to identify posts which should be classified as politically restricted.

Being employed in a politically restricted post prevents an employee from engaging in the following:

- Being a candidate for any of the four tiers of government (Scottish Parliament / House of Commons / European Parliament / any local authority);
- Acting as an agent for such a candidate;
- Being an officer of any political party or branch, if that work involves management of the branch or gives the person a public profile outside the party;
- Restrictions covering publishing work appearing or intending to affect public support for a political party.

Although the legislation no longer technically applies to the Service, in the interest of fairness and impartiality, it has been determined that SFRS will mirror its principles and adopt the same approach to the identification and classification of SFRS posts. Therefore, the purpose of this policy is to outline the way in which posts are classified as politically restricted and the appeals mechanism employees may utilise should they disagree with this.

### **3. SCOPE**

This policy applies to all SFRS employees.

### **4. LIST OF POLITICALLY RESTRICTED POSTS**

A list of posts which the Service has classified as politically restricted has been created. Due to the evolving nature of job roles, this list will be reviewed and updated on a periodic basis. Recruiting Managers will be required to identify whether a post is politically restricted or not, prior to it being advertised using the Vacancy Request form.

Any posts which are politically restricted will be advertised as such and the job description will reflect this. The most up-to-date list of politically restricted posts is held within HROD, a copy of which is available by contacting the Workforce Planning and Resourcing Team.

### **5. CLASSIFICATION OF POLITICALLY RESTRICTED POSTS**

#### **5.1 Specified Posts**

There are different reasons as to why some posts are classified as politically restricted. Specified posts are automatically subject to restrictions on political activity and have no right of appeal. The following constitute specified posts within SFRS:

The Chief Officer, the Deputy Chief Officer, Assistant Chief Officer and all Director posts.

## **5.2 Posts Identified by the Characteristics of their Duties**

These are posts involved in the provision of advice to the SFRS or any of its committees, sub-committees or joint committees on which it is represented and posts in which post holders have contact with the media on a regular basis and speak on behalf of the SFRS to journalists or broadcasters. Posts involving regular contact with the media are detailed within the SFRS Engaging with the Media Policy available on the i-Hub.

## **5.3 Delegation of Duties**

Post holders who have been delegated the duties of a politically restricted post will be regarded as being in a politically restricted post where the delegation lasts for more than 6 months.

## **5.4 Contracts of Employment**

Employees whose posts are classified as politically restricted will have a clause contained within their Contract of Employment which details this requirement and the mechanisms in place for appealing against this classification, where appropriate.

# **6. APPEALS PROCESS**

Appeals involving matters relating to political restrictions will follow a two-step process detailed below:

## **6.1 Internal**

The first stage will require the employee, who wishes to apply for political restrictions to be lifted, to submit the grounds of their appeal in writing to the Head of POD. Information should include the title of the post, the job description for the post, the basis upon which the post is currently deemed to be politically restricted and the reasons why the employee considers political restriction to be inappropriate. Appeals

should be submitted within 7 days of an employee receiving a copy of their Contract of Employment (or variation), stipulating their post as being politically restricted.

## 6.2 External Adjudicator

Employees who remain dissatisfied with the outcome provided at the internal stage have a further right to appeal to the independent Adjudicator, who currently acts as the Adjudicator for Scotland (Local Government) on matters relating to political restrictions. Employees wishing to appeal to the Adjudicator must do so within 7 days of receiving a written outcome from the Head of POD at the internal stage detailed above.

Any appeal should be submitted in writing to the Head of POD in the first instance, who will make the necessary arrangements to forward to the Adjudicator for review. Appeals will be forwarded to the Adjudicator, with a covering letter from the Head of POD, stating SFRS view of the merits of the application. Decisions made by the Adjudicator are final and there is no further right of appeal, having exhausted the internal and external appeals process.

If the Adjudicator upholds the employee's appeal, the following will be initiated:

- That for a specified period, the post **will not** be regarded as politically restricted and should be removed from the list of politically restricted posts;
- Priority will be given to any application for removal from the list of politically restricted posts by a person who certifies that it is for the purpose of enabling them to stand as a candidate in a forthcoming election.

## **7. PURDAH**

Local Authorities are prohibited by law from doing anything which might be regarded as impacting upon public support for a political party. This prohibition is particularly pertinent when elections are being held. The period between the notice of election and the election itself is commonly known as “Purdah” and this is where Members and Officers should take particular care during this period. The restrictions relating to purdah equally apply to the SFRS and its employees.

Whilst Purdah should not stop the usual business of the SFRS taking place, key decisions or activities may be looked at more closely during Purdah to avoid any concern that the SFRS is using the period in the run up to the election to promote a political party. Further guidance on Purdah and the restrictions in place will be distributed by the SFRS Communications Team where this becomes applicable.

## **8. FURTHER INFORMATION**

For further information in respect of politically restricted posts or related to submission of appeals relating to the classification of posts as politically restricted, please contact your local HR Business Partner in the first instance. A list of posts which are currently classified as politically restricted is available from Workforce Planning and Resourcing Team (HR-OD). The SFRS Code of Conduct also refers to the standards of behaviour expected from those in posts classified as politically restricted and further information can be found within the policy, available on the staff intranet.

## **9. MONITORING AND RECORD KEEPING**

### **9.1 Monitoring**

SFRS is committed to evaluating the effectiveness of its activities and operations, and meeting its statutory obligations for monitoring. To do this, we will:

- create and capture necessary data to demonstrate evidence, accountability and information about our decisions and activities and the effectiveness of policies, procedures and processes;
- maintain securely and preserve access to records, as long as they are required to support SFRS operations, in accordance with the SFRS Records Retention Schedule;
- meet legal record-keeping requirements, including the Data Protection Act 2018 and the Freedom of Information (Scotland) Act 2002, and confidentially destroy those records as soon as they are no longer required.

### **9.2 Privacy Statement**

SFRS processes personal data collected as part of this Policy in accordance with the Data Protection Act 2018 and General Data Protection Regulation 2018 (GDPR). In particular, data collected as part of this policy is held securely and accessed by and disclosed to individuals, only for the purposes of supporting employees. In addition, Data Protection Impact Assessments are carried out, where necessary, for all new and revised policies involving the processing of personal data.

### **9.3 Consultation**

This policy has been developed following full consultation with relevant stakeholders and representative bodies. It has been agreed by the relevant SFRS Committees who provide strategic advice and advice on matters affecting employees, whilst ensuring it supports the strategic aims of the SFRS.

## **9.4 Policy Review**

This policy will be subject to update and review, as necessary, by the People and Organisational Development (POD) Directorate, at no more than five yearly intervals or earlier should any relevant legislative, precedent, judgement, operational review or organisational changes occur prior to that date.

## **10. ASSOCIATED DOCUMENTS / REFERENCES**

Code of Conduct

Engaging with the Media Policy

Records Retention Schedule

WFPR001 Vacancy Request Form (Support Staff)

WFPR005 Vacancy Request Form (Uniformed)

Data Protection Act 2018

Freedom of Information (Scotland) Act 2002

General Data Protection Regulation 2018

Local Government and Housing Act 1989