



LONDON FIRE BRIGADE

Decision title

London Fire Commissioner – Structures and Political Restrictions

Recommendation by
General Counsel to the Commissioner

Decision Number
LFC-0005-D

NO PROTECTIVE MARKING

Summary

1. This report explains the political restrictions affecting employees of the London Fire Commissioner (the Commissioner). (The law is contained in sections 1 – 3 of the Local Government and Housing Act 1989 (as amended) and regulations made under that Act), and exemplifies the London Fire Commissioner's top management structure, as at 1 April 2018.

Decision

2. The London Fire Commissioner implements the political restrictions to staff as described between paragraphs 4 – 20 of report LFC-0005, and
3. The London Fire Commissioner implements the top management structure exemplified at Appendix 1, including the changes described at paragraphs 21 and 22, of that same report.

Dany Cotton QFSM
London Fire Commissioner

Date 1-4-18

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LONDON FIRE BRIGADE

Report title

London Fire Commissioner – Structures and Political Restrictions

Report to

London Fire Commissioner

Date

1 April 2018

Report by

General Counsel to the Commissioner

Report Number

LFC-0005

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Background

1. This report explains the political restrictions affecting employees of the London Fire Commissioner (the Commissioner). (The law is contained in sections 1 – 3 of the Local Government and Housing Act 1989 (as amended) and regulations made under that Act), and exemplifies the London Fire Commissioner's top management structure, as at 1 April 2018.

Recommendations

2. The London Fire Commissioner implements the political restrictions to staff as described between paragraphs 4 – 20 of report LFC-0005, and
3. The London Fire Commissioner implements the top management structure exemplified at Appendix 1, including the changes described at paragraphs 21 and 22, of that same report.

Politically Restricted Posts

4. The following persons are to be regarded as holding politically restricted posts under the Commissioner:
 - a) *Statutory chief officers*. The only officer in this category is the Director of Corporate Services (as the statutory officer responsible for the arrangements to manage the Commissioner's financial affairs under section 127 of the Greater London Authority Act 1999).
 - b) *Non-statutory chief officers*. This means any officers who, for all or most of their duties, are required to report directly or are directly accountable to the Commissioner unless their duties are solely secretarial, clerical or otherwise in the nature of support services. This category includes:
 - The Deputy Commissioners;
 - The Assistant Commissioners;
 - Assistant Director, People Services;
 - Chief Information Officer;

- General Counsel to the Commissioner;
- Assistant Director, Technical and Commercial;
- Assistant Director, Strategy and Risk;
- Assistant Director, Communications;
- Assistant Director, Training and Professional Development;
- Assistant Director, Finance;
- Assistant Director, Health and Safety.

- c) *Deputy chief officers*. This means any officers who, for all or most of their duties, are required to report directly or are directly accountable to one or more of the statutory or non-statutory chief officers unless their duties are solely secretarial, clerical or are otherwise in the nature of support services.
- d) *The monitoring officer*. This is currently the General Counsel to the Commissioner.
- e) Any person (not within sub-paragraphs (a) to (d) above) whose post is included in the Commissioner's scheme of delegation of functions to officers. This comprises every post-holder to whom the Commissioner has delegated a power, unless the delegation is limited to no more than 6 months. (A copy of the Scheme of Governance and its delegations is available on Hotwire.)
- f) Any person not within sub-paragraphs (a) to (e) above whose post is included in a list of posts which are not exempted from political restriction whose duties consist in or involve one or both of the following:
- a. Giving advice on a regular basis to the Commissioner;
 - b. Speaking on behalf of the Commissioner on a regular basis to journalists or broadcasters.

5. The list of posts is held by the General Counsel to the Commissioner. A copy is attached as Appendix 4 to this report.

Terms and Conditions of Employment

6. The Policing and Crime Act 2017 London Fire and Emergency Planning Authority Staff Transfer Scheme 2018 made specific provision for any employee of the London Fire and Emergency Planning Authority whose employment transferred to the Commissioner and who was employed before the transfer in a politically restricted post (a post which is regarded as politically restricted for the purposes for Part 1 of the Local Government and Housing Act 1989).
7. The specific provision being that the contract of employment of any employee referred to in paragraph 4 above shall incorporate the political restrictions which apply to politically restricted posts in accordance with the Local Government and Housing Act 1989 and the Local Government Officers (Political Restrictions) Regulations 1990 and shall also incorporate the requirement that the employee shall not become or remain a member of a local authority as defined by Section 21(1) of the Local Government and Housing Act 1989.
8. The Mayor of London has directed that the functions of the Commissioner shall be exercised as regards the determination of the terms of appointment and conditions of employment of any members of staff appointed to certain posts so that the requirements described in paragraph 9 below are fulfilled.

9. The reference made in paragraph 8 above to members of staff appointed to certain posts is a reference to those individuals who would be regarded for the purposes of Part 1 of the Local Government and Housing Act 1989 as persons holding politically restricted posts if the Commissioner had been designated as a local authority for the purposes of Sections 1 and 2 of the Local Government and Housing Act 1989.
10. The requirements are that the terms of appointment and conditions of employment shall specify that the member of staff may not:
- a) become or remain a member of a local authority as defined by Section 21(1) of the Local Government and Housing Act 1989.
 - b) do anything that is listed in Parts 1 and 2 of the Schedule to the Local Government Officers (Political Restrictions) regulations 1990 (SI 90/851).
11. Accordingly, it is a term and condition of employment of staff holding the politically restricted posts mentioned in paragraph 4 (a) to (f) above that they must not:
- a) Stand for election to the House of Commons, the European Parliament, the Scottish Parliament, the Welsh Assembly or a local authority.
 - b) Act as an election agent or sub-agent for candidates for election to the bodies mentioned in sub-paragraph (a) above.
 - c) Be an officer of a political party or branch of a political party or a member of a committee or sub-committee of a political party or branch if their duties would be likely to require them to participate in its general management or act on its behalf in dealings with other people who are not members of the party or an associated party.
 - d) Canvass on behalf of a political party or candidate or prospective candidate for election to any of the bodies mentioned in sub-paragraph (a) above.
 - e) Speak to the public at large or a section of the public with the apparent intention of affecting public support for a political party.
 - f) Publish to the public at large or a section of the public any written or artistic work of which they are an author or editor or cause, authorise or permit another person to publish such a work, if the work appears intended to affect public support for a political party (except that they may display a poster or other document on their dwelling or a vehicle or article used by them).
 - g) Shall not become or remain a member of a local authority as defined by Section 21(1) of the Local Government and Housing Act 1989.
12. Nothing in sub-paragraphs (e) or (f) above precludes staff from engaging in the activities mentioned in them to the extent that is necessary for the proper performance of their official duties.

Exemptions

13. An application for exemption from political restriction can be made to the Commissioner by the holder of a post falling within paragraph 4 (f) above or the holder of a post which the Commissioner is proposing to specify in the list mentioned in paragraph 4 (f). The Commissioner:

- a) will consider any application for exemption from political restriction which is made to her; and
- b) may, on the application of any person or otherwise, decide to include a post in the list referred to in paragraph 4 (f) above.

14. Applications for exemption should be made in writing and sent to the General Counsel to the Commissioner. A guidance note on how to apply for exemption and an application form are attached for information (see appendices 1 and 2). Further copies can be obtained from the General Counsel to the Commissioner, Business Support Team (020 8555 1200 or governance@london-fire.gov.uk).

Standing for election

15. Employees of the Commissioner who hold politically restricted posts cannot stand for election to the House of Commons, the European or Scottish Parliaments, the Welsh Assembly or any local authority. This restriction does not apply to standing for election to parish councils.
16. Staff who do not hold politically restricted posts are free to stand for election to the bodies mentioned in paragraph 15 above, but should have regard to the advice in paragraphs 17 – 20 below.
17. Although staff who do not hold politically restricted posts appear free in principle to stand for election as Mayor of London it is difficult to see how many of the duties of Mayor affecting the Commissioner could be performed if the Mayor were also an employee of the Commissioner.
18. Staff who do not hold politically restricted posts are free to stand for election to the London Assembly. Staff contemplating doing so should consider the practical implications of holding an office whose duties affect the Commissioner, having regard to conflicts which could arise and the effect of having a disclosable pecuniary interest in matters relating to the Commissioner.
19. Staff who do not hold politically restricted posts appear free to stand for election to a London borough but officers of some borough councils may take a different view.
20. Staff who do not hold politically restricted posts who are contemplating standing for election to any of the bodies mentioned in paragraphs 17 – 19 above may wish to seek their own legal advice and any advice available from the political party they wish to represent (if any).

Top Management Structure

21. Assistant Commissioner Andy Roe and the interim Head of Human Resources Tracey Dennison undertook an in-depth review into the effectiveness and capability of the Brigade's people related services. This recommended the reorganisation of services and the establishment of a new People Services Department within the Corporate Services Directorate. Responsibility for all training activities remains a core role of the Safety and Assurance Directorate.
22. In establishing the structures and requirements of the London Fire Commissioner, the General Counsel's Department has assumed responsibility for governance, providing the support requirements to the executive functions of the Commissioner.

Further information

23. Any member of staff requiring further information on the above should contact the General Counsel to the Commissioner at governance@london-fire.gov.uk.

Finance comments

24. The Director of Corporate Services has reviewed this report and has no comments.

Workforce comments

25. The People Services Review included extensive consultation with staff, service users, the representative bodies and the equality support groups. Comments were carefully considered and where appropriate changes to the proposals were made.

26. Prospect have been kept informed on the arrangements for the management of political restrictions.

Legal comments

27. General Counsel is the author of this report.

Sustainability implications

28. None.

Equalities implications

29. None.

List of Appendices to this report:

- i. Appendix 1 – Applying for exemptions: guidance note
- ii. Appendix 2 – Application form for an exemption of a post from political restriction
- iii. Appendix 3 – Certificate of opinion
- iv. Appendix 4 – List of politically restricted posts

Appendix 1 – Applying for exemptions – guidance note

Politically restricted posts

Introduction

1. If your post is on the list of posts referred to in paragraph 4 (f) of this policy and contained in appendix 4 you may apply to the Commissioner for an exemption. That list contains posts whose duties consist in or involve one or both of the following:
 - I. Giving advice on a regular basis to the Commissioner;
 - II. Speaking on behalf of the Commissioner on a regular basis to journalists or broadcasters.
2. The Commissioner will consider any application for exemption from political restriction which is made to her in respect of any post on the list by the holder for the time being of that post.
3. The Commissioner may also on the application of any person or otherwise decide to include a particular post in the list of posts.

Applying for an exemption

4. You need to complete the application form in appendix 2 (attaching to it your job description) and send it to the Assistant Director, People Services (Recruitment Manager, extension 30516).
5. The Assistant Director, People Services will check the completed application form and forward it, together with their advice on it, to the General Counsel to the Commissioner for completion by the General Counsel to the Commissioner of a certificate of opinion (see appendix 3).
6. The General Counsel to the Commissioner (having considered the advice of the Assistant Director, People Services and any other appropriate advice) will complete and sign the certificate of opinion and forward the application form and certificate of opinion to the Commissioner. Copies of the certificate of opinion will be supplied to the Assistant Director, People Services and the applicant for exemption.
7. If the Commissioner requires more information the General Counsel to the Commissioner will obtain it from the applicant, the applicant's manager or elsewhere as appropriate.
8. If the Commissioner is satisfied that the duties of the post do not fall within those described in paragraph 2 above she may direct that the post is not to be regarded as politically restricted and not to be specified in the list or to be removed from it.
9. In carrying out her functions the Commissioner may give priority, according to the time available before an election, to any application from staff who certify that the application is made for the purpose of allowing them to be a candidate in a forthcoming election.
10. In carrying out her functions the Commissioner may consult the Monitoring Officer (currently the General Counsel to the Commissioner).
11. If you are applying for an exemption so that you may stand in a forthcoming election you should send your application as soon as possible before the election to give the Commissioner time to deal with it. You cannot allow your name to go forward as a candidate unless your post has been exempted – your application for an exemption is not enough by itself.
12. Upon receipt of a direction the General Counsel to the Commissioner will notify the holder of the post concerned and the Assistant Director, People Services who will put a copy on the post-holder's E-PRF.

Appendix 2 – Application form for exemption of a post from political restriction

London Fire Commissioner Politically Restricted Posts

This form must be accompanied by a job description from the Commissioner for the post in respect of which the application for exemption from political restriction is made.

TITLE OF POST IN RESPECT OF WHICH APPLICATION FOR EXEMPTION IS MADE:

NAME OF APPLICANT POST-HOLDER:

OFFICE ADDRESS:

THE EXTENT OF YOUR DUTIES IN ADVISING THE COMMISSIONER OR SPEAKING TO JOURNALISTS OR BROADCASTERS:

ANY OTHER INFORMATION IN SUPPORT OF YOUR APPLICATION:

DO YOU INTEND STANDING AS A CANDIDATE IN FORTHCOMING ELECTIONS?

Signature

Date

Name

Appendix 3 – Certificate of opinion

London Fire Commissioner Politically Restricted Posts

I, (*name of the General Counsel to the Commissioner*,
having been formally authorised by the London Fire Commissioner hereby certify that in the
opinion of the London Fire Commissioner the duties of the post of
..... (*give title of the post and its department*) do/do not* fall
within paragraph 4 (f) of the Commissioner's Policy No: (.....) as the duties do/do
not* consist in or involve either (or both)* of the following:

- Giving advice on a regular basis to the Authority, a committee or sub-committee;
- Speaking on behalf of the Authority on a regular basis to journalists or broadcasters.

Signature

Date

Appendix 4 – List of politically restricted posts

This is the list of posts whose duties consist in or involve one or both of the following:

- a) Giving advice on a regular basis to the Authority, a committee or sub-committee;
- b) Speaking on behalf of the Authority on a regular basis to journalists or broadcasters.

List

News Manager, Communications Department

Senior Communications Officers, Communications Department

Communications Officer, Communications Department.

London Fire Commissioner – Top Management Structure

