



# Local Government and Housing Act 1989

## 1989 CHAPTER 42

### PART I

#### LOCAL AUTHORITY MEMBERS, OFFICERS, STAFF AND COMMITTEES ETC.

##### *Political restriction of officers and staff*

#### **[<sup>F1</sup>3A Grant and supervision of exemptions from political restriction: England**

- (1) The [<sup>F2</sup>head of paid service] of a local authority in England <sup>F3</sup>...—
  - (a) must consider any application for exemption from political restriction which is made to the [<sup>F4</sup>head of paid service], in respect of any post under the <sup>F5</sup>... authority, by the holder for the time being of that post; and
  - (b) may, on the application of any person or otherwise, give directions to the <sup>F6</sup>... authority requiring it to include a post in the list maintained by the authority under section 2(2).
- (2) An application may not be made under subsection (1)(a) unless—
  - (a) the <sup>F7</sup>... authority have specified or are proposing to specify the post in the list maintained by them under section 2(2);<sup>F8</sup> ...
  - <sup>F9</sup>(b) .....
  - <sup>F10</sup> ...
- (3) If, on an application under subsection (1)(a) in respect of any post, the [<sup>F11</sup>head of paid service] is satisfied that the duties of the post do not fall within section 2(3), the [<sup>F12</sup>head of paid service] must direct—
  - (a) that, for so long as the direction has effect in accordance with its terms, the post is not to be regarded as a politically restricted post; and
  - (b) that accordingly the post is not to be specified in the list maintained by the <sup>F13</sup>... authority under section 2(2) or (as the case may be) is to be removed from that list.

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- (4) A [<sup>F14</sup>local authority's head of paid service] may not give a direction under subsection (1)(b) in respect of any post unless the [<sup>F15</sup>head of paid service] is satisfied that—
  - (a) the duties of the post fall within section 2(3); and
  - (b) the post is neither—
    - (i) in any list maintained by the <sup>F16</sup>... authority in accordance with section 2(2) above or section 100G(2) of the Local Government Act 1972; nor
    - (ii) of a description specified in any regulations under section 2(2) above.

<sup>F17</sup>(5) .....

- (6) Every local authority in England <sup>F18</sup>... must—
  - (a) give its [<sup>F19</sup>head of paid service] all such information as the [<sup>F20</sup>head of paid service] may reasonably require for the purpose of carrying out <sup>F21</sup>... functions under this section;
  - (b) comply with any direction under this section with respect to the list maintained by the authority; and
  - (c) on being given a direction under subsection (1)(b), notify the terms of the direction to the person who holds the post to which the direction relates.

- (7) In carrying out <sup>F22</sup>... functions under this section a [<sup>F23</sup>local authority's head of paid service] must give priority, according to the time available before the election, to any application under subsection (1)(a) from a person who certifies that the application is made for the purpose of enabling him to be a candidate in a forthcoming election.

<sup>F24</sup>[ In carrying out functions under this section a local authority's head of paid service (7A) must consult the monitoring officer of that authority (unless they are the same person).

(7B) The Secretary of State may by regulations make provision about the application of this section to a local authority that is not required to designate one of its officers as the head of its paid service.

(7C) Regulations under subsection (7B) may apply any provisions of this section (with or without modifications) to an authority to which they apply.]

<sup>F25</sup>(8) .....

<sup>F25</sup>(9) .....

<sup>F25</sup>(10) .....]

**Textual Amendments**

- F1** Ss. 3A, 3B inserted (E.W.) (31.1.2008 for specified purposes, 1.4.2008 so far as not already in force) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 202(2)**, 245(5); S.I. 2008/172, art. 9(2); S.I. 2008/172, art. 9(3)
- F2** Words in s. 3A(1) substituted (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 4 para. 4(2)(a)**; S.I. 2012/1463, art. 5(a) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2); S.I. 2012/2913, arts. 1(2), 2(b) (with arts. 3-6)
- F3** Words in s. 3A(1) repealed (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 4 para. 4(2)(b)**, **Sch. 25 Pt. 5**; S.I. 2012/1463, art.

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- 5(a)(d) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2); S.I. 2012/2913, arts. 1(2), 2(b)(c) (with arts. 3-6)
- F4** Words in s. 3A(1)(a) substituted (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 4 para. 4(2)(c)**; S.I. 2012/1463, art. 5(a) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2); S.I. 2012/2913, arts. 1(2), 2(b) (with arts. 3-6)
- F5** Word in s. 3A(1)(a) repealed (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 4 para. 4(2)(d)**, **Sch. 25 Pt. 5**; S.I. 2012/1463, art. 5(a)(d) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2); S.I. 2012/2913, arts. 1(2), 2(b)(c) (with arts. 3-6)
- F6** Word in s. 3A(1)(b) repealed (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 4 para. 4(2)(d)**, **Sch. 25 Pt. 5**; S.I. 2012/1463, art. 5(a)(d) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2); S.I. 2012/2913, arts. 1(2), 2(b)(c) (with arts. 3-6)
- F7** Word in s. 3A(2)(a) repealed (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 4 para. 4(3)**, **Sch. 25 Pt. 5**; S.I. 2012/1463, art. 5(a)(d) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2); S.I. 2012/2913, arts. 1(2), 2(b)(c) (with arts. 3-6)
- F8** Word in s. 3A(2)(a) repealed (12.1.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), ss. 30(4)(a), 148(1)(d), **Sch. 7 Pt. 1**
- F9** S. 3A(2)(b) repealed (12.1.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), ss. 30(4)(b), 148(1)(d), **Sch. 7 Pt. 1**
- F10** Words in s. 3A(2) repealed (12.1.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), ss. 30(4)(c), 148(1)(d), **Sch. 7 Pt. 1**
- F11** Words in s. 3A(3) substituted (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 4 para. 4(4)(a)**; S.I. 2012/1463, art. 5(a) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2); S.I. 2012/2913, arts. 1(2), 2(b) (with arts. 3-6)
- F12** Words in s. 3A(3) substituted (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 4 para. 4(4)(b)**; S.I. 2012/1463, art. 5(a) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2); S.I. 2012/2913, arts. 1(2), 2(b) (with arts. 3-6)
- F13** Word in s. 3A(3)(b) repealed (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 4 para. 4(4)(c)**, **Sch. 25 Pt. 5**; S.I. 2012/1463, art. 5(a)(d) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2); S.I. 2012/2913, arts. 1(2), 2(b)(c) (with arts. 3-6)
- F14** Words in s. 3A(4) substituted (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 4 para. 4(5)(a)**; S.I. 2012/1463, art. 5(a) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2); S.I. 2012/2913, arts. 1(2), 2(b) (with arts. 3-6)
- F15** Words in s. 3A(4) substituted (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 4 para. 4(5)(b)**; S.I. 2012/1463, art. 5(a) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2); S.I. 2012/2913, arts. 1(2), 2(b) (with arts. 3-6)
- F16** Word in s. 3A(4)(b)(i) repealed (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 4 para. 4(5)(c)**, **Sch. 25 Pt. 5**; S.I. 2012/1463, art. 5(a)(d) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2); S.I. 2012/2913, arts. 1(2), 2(b)(c) (with arts. 3-6)
- F17** S. 3A(5) repealed (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 4 para. 4(6)**, **Sch. 25 Pt. 5**; S.I. 2012/1463, art. 5(a)(d) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2); S.I. 2012/2913, arts. 1(2), 2(b)(c) (with arts. 3-6)

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- F18** Words in s. 3A(6) repealed (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), Sch. 4 para. 4(7)(a), **Sch. 25 Pt. 5**; S.I. 2012/1463, art. 5(a)(d) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2); S.I. 2012/2913, arts. 1(2), 2(b)(c) (with arts. 3-6)
- F19** Words in s. 3A(6)(a) substituted (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 4 para. 4(7)(b)(i)**; S.I. 2012/1463, art. 5(a) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2); S.I. 2012/2913, arts. 1(2), 2(b) (with arts. 3-6)
- F20** Words in s. 3A(6)(a) substituted (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 4 para. 4(7)(b)(ii)**; S.I. 2012/1463, art. 5(a) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2); S.I. 2012/2913, arts. 1(2), 2(b) (with arts. 3-6)
- F21** Word in s. 3A(6)(a) repealed (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), Sch. 4 para. 4(7)(b)(iii), **Sch. 25 Pt. 5**; S.I. 2012/1463, art. 5(a)(d) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2); S.I. 2012/2913, arts. 1(2), 2(b)(c) (with arts. 3-6)
- F22** Word in s. 3A(7) repealed (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), Sch. 4 para. 4(8)(a), **Sch. 25 Pt. 5**; S.I. 2012/1463, art. 5(a)(d) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2); S.I. 2012/2913, arts. 1(2), 2(b)(c) (with arts. 3-6)
- F23** Words in s. 3A(7) substituted (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 4 para. 4(8)(b)**; S.I. 2012/1463, art. 5(a) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2); S.I. 2012/2913, arts. 1(2), 2(b) (with arts. 3-6)
- F24** S. 3A(7A)-(7C) inserted (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 4 para. 4(9)**; S.I. 2012/1463, art. 5(a) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2); S.I. 2012/2913, arts. 1(2), 2(b) (with arts. 3-6)
- F25** S. 3A(8)-(10) repealed (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), Sch. 4 para. 4(10), **Sch. 25 Pt. 5**; S.I. 2012/1463, art. 5(a)(d) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2); S.I. 2012/2913, arts. 1(2), 2(b)(c) (with arts. 3-6)

#### **Modifications etc. (not altering text)**

- C1** Pt. 1 applied (E.) (8.5.2017) by The West Midlands Combined Authority (Functions and Amendment) Order 2017 (S.I. 2017/510), arts. 1(2), **23(4)**
- C2** S. 3A applied (with modifications) (26.7.2012) by The Local Authorities (Exemption from Political Restrictions) (Designation) Regulations 2012 (S.I. 2012/1644), regs. 1(1), **2**
- C3** S. 3A applied (with modifications) (3.3.2017) by The Tees Valley Combined Authority (Functions) Order 2017 (S.I. 2017/250), arts. 1(2), **6(b)**
- C4** S. 3A applied (E.) (8.5.2017) by The West of England Combined Authority Order 2017 (S.I. 2017/126), arts. 1(4), **15(b)**
- C5** S. 3A applied (E.) (8.5.2017) by The Greater Manchester Combined Authority (Functions and Amendment) Order 2017 (S.I. 2017/612), arts. 1(3), **5(b)**
- C6** S. 3A applied (E.) (8.5.2017) by The Liverpool City Region Combined Authority (Functions and Amendment) Order 2017 (S.I. 2017/430), arts. 1(3), **12(1)(b)**
- C7** S. 3A applied (E.) (8.5.2017) by The West Midlands Combined Authority (Functions and Amendment) Order 2017 (S.I. 2017/510), arts. 1(2), **14(b)**
- C8** S. 3A applied (2.11.2018) by The Newcastle Upon Tyne, North Tyneside and Northumberland Combined Authority (Establishment and Functions) Order 2018 (S.I. 2018/1133), arts. 1, **17(1)(b)** (with art. 28)
- C9** S. 3A applied (E.) (28.7.2020) by The Barnsley, Doncaster, Rotherham and Sheffield Combined Authority (Functions and Amendment) Order 2020 (S.I. 2020/806), arts. 1, **13(1)(b)**

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**C10** S. 3A applied (E.) (30.1.2021) by [The West Yorkshire Combined Authority \(Election of Mayor and Functions\) Order 2021 \(S.I. 2021/112\)](#), arts. 1(2), **16(1)(b)**

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