



Standards Committee - 12 April 2010

Standards Committee – Politically Restricted Posts

1. Purpose of the report

To inform the Standards Committee of the changes to the criteria for politically restricted posts.

2. Recommendations

To note the change in criteria.

1. Background

3.1.1 The Local Government Act 1972 was the first piece of legislation to introduce restrictions which prevented a councillor from being employed in any capacity by the local authority he serves.

3.1.2 In 1989, the Local Government and Housing Act 1989 (LGHA 1989) introduced the principle of 'politically restricted posts' and of restricting the political activities of local authority employees. These reforms were made in response to the Widdecombe report which identified issues of concern involving local authority officers and the apparent lack of political impartiality, which could lead to separate loyalties and prejudicial service.

3.1.3 The report distinguished 'twin-tracking', which is where a local authority employee is also an elected Member of another local authority, for special criticism. The concerns included the inability to serve the interests of the Council on which they sit, and the potential lack of political impartiality. Twin-tracking, involving those holding 'politically restricted posts', is now restricted by the LGHA 1989 which prohibits such activities.

3.1.4 The effect of including an employee on the list of politically restricted posts is to prevent that individual from having either an active political role in or outside of the workplace. Politically restricted employees are automatically disqualified from standing or holding elected office, these restrictions are incorporated in employee's terms and conditions of employment.

3.1.5 These employees are also restricted from:

- canvassing on behalf of a political party or a person who is or seeks to be a candidate
- speaking to the public at large or publishing any written or artistic work that could give the impression that they are advocating support for a political party

The cumulative effect of these restrictions is to limit the holders of politically restricted posts to bare membership of political parties, with no active participation within the party permitted.

3.1.6 It is left to the discretion of each authority whether or not to reinstate an employee who resigns his post, and then consequently fights and loses an election.

3.1.7 Each local authority is under a duty to draw-up and regularly update a list of those posts which are politically restricted.

3.1.8 Politically restricted posts fall into three broad categories:

Specified posts:

- the Head of the Paid Service (s 4 LGHA)
- the statutory chief officers,
- non-statutory chief officers
- deputy chief officers
- the monitoring officer (s 5 LGHA)
- the chief finance officer (s 151 LGA)
- officers exercising delegated powers, i.e. persons whose posts are for the time being specified by the authority in a list maintained in accordance with Section 100G(2) of the LGA
- assistants to political groups

'Sensitive' posts

A sensitive post is one which meets one or both of the following duties-related criteria:

- giving advice on a regular basis to the authority itself, to any committee or subcommittee of the authority or to any joint committee on which the authority are represented; or where the authority are operating executive arrangements, to the executive of the authority; to any committee of that executive; or to any member of that executive who is also a member of the authority
- speaking on behalf of the authority on a regular basis to journalists or broadcasters

Posts paid at or above a certain level

All posts where the remuneration level is or exceeds the 'spinal column point' 44 on the NJC for Local Government Services scales, which currently equates to a yearly salary of £37,206 (as of 1 April 2009), will be automatically included on the list of politically restricted posts.

Remuneration is a wider term than 'salary level' and would include other variable elements of pay (aside from regional weightings) such as 'acting up' / overtime / shift bonus and performance-related pay elements.

- 3.1.9 It should be noted that head teachers, teachers and lecturers are all exempt from political restrictions under The Local Government Housing Act 1989 and this has remained unchanged under the new legislation.
- 3.1.10 The classification of posts as politically restricted has been amended with effect from 12th January 2010 by the Local Democracy, Economic Development and Construction Act 2009 by removing the bar imposed by reference to the remuneration level of the post.
- 3.1.11 In England the responsibility for the granting of exemptions from political restriction transferred to the Standards Committee with effect from 1 April 2008. Save for 'specified posts' that have no right of appeal.
- 3.1.12 In light of the changes in legislation, it is proposed to conduct a formal review of all posts within the authority that are currently classed as politically restricted.

4. Resource Implications

4.1.1 Financial

None identified

4.1.2 People

The compatibility of political restrictions on local authority posts with an individual's rights under the European Convention of Human Rights was tested in the case of Ahmed and others v UK [1999] 188 ECHR. The European Court of Human Rights held that the political restrictions did not breach Article 10 (the right to freedom of expression) or Article 11 (the right to freedom of association) of the applicant's Convention rights, as the public has a right to expect that those holding higher level local government office are politically impartial

5. Governance and Performance Issues

5.1. Risk Management

None identified

5.2. Performance Management

None identified

6. Legal

These proposals take account of the council's legal responsibilities in respect of political restricted posts.

7. Consultation

Consultation with the unions will take place via the Employee Relations Forum.

8. Impact

8.1. Service Impact

Service areas will be required to review all posts

8.2. Council Impact

The restrictions placed on the number of staff enabled to engage in political activity has reduced them permitting a greater number of employees to participate in political activity.

8.3. Citizen Impact

See Council impact above.

Signed:



Bhupinder Gill
**Assistant Director Legal &
Constitutional Services and Monitoring
Officer**

Date: 29 March 2010

Contact Officer

Jo Whitehouse

Member Services Officer

☎ 01922 652025

✉ whitehousejl@walsall.gov.uk

Signed:



Rory Borealis
Executive Director (Resources)

Date: 29 March 2010