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## Report of Chief Officer (Human Resources)

### Standards Committee

Date: 1<sup>st</sup> July 2008

### Subject: Politically Restricted Posts

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#### Electoral Wards Affected:

Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

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## Executive Summary

1. Under the Local Government and Public Involvement in Health Act 2007, Local Standards Committees will be able to grant and specify exemptions for Politically Restricted Posts (PRPs). Regulations allowing this are likely to come into force later this year.
2. PRPs have been in place in local government since 1990, however, this is a new function for Standards Committees; transferring responsibility from an Independent Adjudicator, appointed by the Secretary of State.
3. This report provides the background to PRPs and outlines the current situation in Leeds. Implications and recommendations for Standards Committee surrounding the new role are put forward and can be refined according to final regulations.

## 1.0 Purpose of this Report

- 1.1 The purpose of this report is to provide Members of the Standards Committee with background to Politically Restricted Posts (PRPs), and to outline the current situation in Leeds. This report also raises implications and recommendations for Standards Committee surrounding this new role which can be refined according to final Regulations.

## 2.0 Background Information

- 2.1 Politically Restricted Posts were introduced under the Local Government and Housing Act in 1990. They prohibit Local Government Officers from:
- a. Candidature for public elected office (other than to a Parish, Town or Community Council)
  - b. Holding office in a political party
  - c. Canvassing at elections
  - d. Speaking or writing publicly (except in an official capacity) on matters of party political controversy
- 2.2 The introduction of PRPs was controversial as many office holders who were Councillors in other Authorities resigned their position. Over time, however, issues have abated somewhat, and PRPs have become a more accepted safeguard of political independence amongst officers. This is akin to similar arrangements required in the Civil Service.
- 2.3 Specifically, in 1990, staff were informed if their post was restricted and informed of their right to appeal this. Records from 18 years ago suggest 20 postholders were granted exceptions; the majority being Educational Psychologists who subsequently transferred to Education Leeds. The last recorded exception was granted was in 1994 and this post also no longer exists. As part of this process LCC was asked to give an opinion about these posts and the degree to which they were involved in advising members or taking decisions on behalf of the authority.
- 2.4 Since then the maintenance of the PRP list has not been widely questioned. Although informal enquiries are occasionally made to HR teams about PRPs, these tend to be staff new to local government seeking clarification.

## 3.0 Main Issues

### What is a Politically Restricted Post ?

- 3.1 A summary of the definition of Politically Restricted Posts, according to regulations, is given below. Different post categories have different rights to apply for exemption, and this is also indicated.

Post type	Overview	Exemption from list ?
<b>Category A</b> <i>Senior manager posts</i>	Head of paid service and Directors Chief Officers and their Deputies – including Officers who are not designated Deputies but, in respect of all or most of their duties of their post,	No right to seek exemption

<i>automatically subject to restriction</i>	are required to report directly to, or are directly accountable to, a Service Director Officers having specified delegated authority to carry out certain functions of the Local Authority e.g. Monitoring Officer (who in Leeds is the Assistant Chief Exec – Corporate Governance)	
<b>Category B</b> <i>Posts subject to restriction based on remuneration level</i>	Full time posts equal to or above spinal column point 44 or equivalent – currently £35,852 per annum Part time posts (which would be equal to or higher than £35,852 per annum if FT) Where an Officers grade range includes spinal column point 44, the regulations only come into effect once point 44 is reached.	Right exists to seek exemption
<b>Category C</b> <i>Posts subject to restriction because of duties related criteria</i>	Posts that are remunerated below spinal column point 44, but are considered politically sensitive, that is:  Posts that give advice on a regular basis to the authority, to any committee or sub committee, or to any joint committee on which the authority are represented. Posts that speak on behalf of the authority on a regular basis to journalists or broadcasters	Right exists to seek exemption

- 3.2 Officers in category B and C may seek exemption only on grounds that they do not regularly advise the Authority, any Committee, Sub Committee or Joint Committee and do not speak regularly on the Authority's behalf to journalists or broadcasters. There is no time limit on appeals and a further application for exemption can be made if duties change.
- 3.3 Any member of the public could also complain if they believe that a post had wrongly been omitted from the list of Politically Restricted Posts.
- 3.4 Teachers, Headteachers and lecturers are all exempt from political restrictions, and will not be regarded as holding Politically Restricted Posts whatever their role or remuneration level.
- 3.5 Finally, in terms of employment law, a consequence of the legislation means any violations of the restrictions are a breach of contract.

### **The current situation in Leeds**

- 3.6 The person responsible for maintaining the PRP list is the Chief Officer (Human Resources), and a review of the list is performed periodically. The Council's HR and payroll system provides the core information by which we maintain and demonstrate our PRP list is up to date. Additional staff identified under Category C are added to this list as required.

- 3.7 The PRP list was last updated in spring 2008 and following that review, 1,100 posts were identified on the Leeds list.
- 3.8 Staff are informed on appointment if they are subject to PRP requirements and this is detailed in contracts. Given changes in duties and given that earnings may fluctuate above the £35,852 threshold, staff who may temporarily fall into this category are routinely tracked.
- 3.9 If staff who are on the list were identified as taking part in any political activity, as defined under the Regulations, this would be reported to the Monitoring Officer.

### **Implications for the Standards Committee**

- 3.10 Section 202 of the Local Government and Public Involvement in Health Act 2007 outlines a new responsibility for the Standards Committee. In summary:

The Standards Committee shall:

Consider applications for exemption from the 'politically restricted post list' – by the post holder – and make decisions whether they should be on the list or not.

Consider concerns from any member of the public who believes that a post has been wrongly omitted from the 'politically restricted post list'

- 3.11 Appendix 1 outlines Section 202 of the Local Government and Public Involvement in Health Act 2007 in full.
- 3.12 Applications can only be made for posts on the list, or being proposed to go onto list held by the authority. The standards committee must give priority to those applications which are linked to people applying for exemption because of candidacy for elections.
- 3.13 The regulations also reaffirm the role of the local authority as follows:

The local authority shall:

Give its standards committee all information that it may reasonably require to make decisions

Comply with any direction from the standards committee

Notify the post holder about the decision taken by the standards committee

- 3.14 Subject to final Regulations, further advice will also be sought to establish how previous mechanisms were applied and how information is gathered to support decisions. For example, this would include:
- a. understanding what would be reasonable grounds for exempting posts from politically restrictions, and;

- b. evidence and opinions that a local authority would present regarding the functions of a post.

3.15 Based on an assessment of these, the Standard Committee would be asked to agree a more a detailed procedure for considering cases.

#### **4.0 Implications for Council Policy and Governance**

4.1 The Department of Communities and Local Government believe that standards committees are ideally placed to undertake these responsibilities in relation to employees. This is because the Standards Committee is an independent committee which currently has a role in promoting high standards of conduct amongst elected Members.

4.2 In addition, the Committee's role in maintaining ethical standards, reviewing arrangements such as the Register of Interests, and contributing to good governance, make the Committee a good alternative to the Independent Adjudicator.

#### **5.0 Legal and Resource Implications**

5.1 There are no legal or resource implications to considering this report.

#### **6.0 Conclusions**

6.1 PRPs have been in place in local government since 1990, however, this is a new function for Standards Committees; transferring responsibility from an Independent Adjudicator, appointed by the Secretary of State.

6.2 Regulations allowing the Standards Committee to carry out this function are expected to be released later in the year. The Standards Committee will be required to agree a detailed set of procedures for considering such matters as soon as Regulations become available.

#### **7.0 Recommendations**

7.1 It is recommended that the Standards Committee note the information in this report, and request a further report in due course (once appropriate Regulations have been released).