

Standards Committee: procedure for consideration of Politically Restricted Posts

INTRODUCTION

The Local Government and Housing Act 1989 established a requirement for each Local Authority to maintain a list of Politically Restricted Posts (“the List”) within the meaning of that Act.

This procedure has been put in place to provide a framework for the Standards Committee to consider applications to:

- have a post added to the List upon application from any person, or otherwise;
- grant or revoke an exemption to inclusion for a post which is on the List upon application from the “postholder”.

This procedure will be subject to review by the Standards Committee.

1.0 Significance of a post being politically restricted

1.1 The significance of a post being politically restricted is that:

- (a) the post holder must not announce an intention to be a candidate for election to the House of Commons, the European Parliament, the Welsh Assembly or the Scottish Parliament, or a local authority;
- (b) where an officer announces that he wishes to resign his post because he intends to be a candidate for election in the House of Commons, his appointment shall terminate¹;
- (c) the post holder must not act as an election agent or sub-agent;
- (d) the post holder shall not be an officer of a political party, or a committee or sub-committee member of a party, if this involves him in general management of, or acting on behalf of, the party or branch;
- (e) the post holder shall not canvass on behalf of a political party, or on behalf of a candidate for election;

Post holders, other than political assistants, are also prevented from:

- (f) speaking to the public with the apparent intention of affecting support for a political party;
- (g) publishing or causing to be published written or artistic work if intended to affect public support for a political party as opposed to, for example, displaying a poster on private property.

A political assistant must not speak to the public in a way likely to create the impression that he is speaking as an authorised representative of a political party, and must not publish any written or artistic work likely to create the impression that it is authorised by a political party.

2.0 Directors' Initial Assessments

2.1 Directors make the initial assessment as to whether or not a post falls within the categories set out below in the section "Categories of Restricted Posts". Such posts will be placed on the list of politically restricted posts ("the List") unless an exemption has been granted. This decision is made by the Director and not the Standards Committee. The Director shall advise the Chief Officer (Human Resources) to amend the list.

3.0 Applications for a post to be included on the List

3.1 Where any person believes that a post which is not on the List should be on the List, they may submit a written request to the Standards Committee who will decide whether the post should be included on the

¹ Postholders announcing an intention to resign a politically restricted post to stand as a candidate for the Welsh Assembly or Scottish Parliament should take advice from the Chief Officer (Human Resources) as to whether this action will cause their employment to terminate.

List. (See the section “Dealing with Applications and Exemptions and Annex A for further detail/guidance.)

4.0 Categories of Restricted Posts

Post type	Overview	Exemption from list ?
<p>Category A <i>Senior manager posts automatically subject to restriction</i></p>	<p>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, 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 Executive (Corporate Governance)). Further guidance on this category is provided at Annex A.</p> <p>Political Assistants also fall within Category A.</p>	<p>No right to seek exemption</p>
<p>Category B <i>Posts subject to restriction based on remuneration level</i></p>	<p>Full time posts paid at a rate equal to or greater than spinal column point 44; Part time posts which would be paid at a rate equal to or greater than spinal column point 44 if full time)</p> <p>Where an Officers grade range includes spinal column point 44, the regulations only come into effect once point 44 is reached.</p> <p>These posts are automatically added to the list of politically restricted posts unless an exemption has been granted.</p>	<p>Right exists to seek exemption</p>
<p>Category C <i>Posts subject to restriction because of duties related criteria</i></p>	<p>Posts that are remunerated below spinal column point 44, but are considered politically “sensitive”, see definition below in section “Politically sensitive posts”.</p> <p>These posts are only added to the list of politically restricted posts when they are identified by the Director or the Standards Committee.</p>	<p>Right exists to seek exemption</p>

5.0 Definition of “Sensitive”

5.1 Posts will be deemed to be sensitive if it meets one or both of the following criteria:

- (a) the post involves giving advice on a regular basis to the authority itself, to any committees or sub-committees of the authority, or to any joint committees on which the authority is represented, or to any member of the Executive who is also a member of the authority; and/or
- (b) the post involved speaking on behalf of the authority on a regular basis to journalists or broadcasters.

6.0 Exemptions

- 6.1 If the exemption is granted by the Standards Committee, the post will be removed from the List. Exemptions can only be granted if the post is not “sensitive” and the post is not in category A.
- 6.2 A person who is in a politically restricted post, “the postholder”, may apply for an exemption for the post, where it has been included in the List by virtue of falling within categories B or C.
- 6.3 Where a post is vacant, the Director may make an application as “the postholder”.

7.0 Dealing with Applications and Exemptions

- 7.1 The person applying to the Standards Committee will do so in writing setting out the basis of their application and any supporting evidence. An example of how this information could be supplied is included as an “Application for Review of Politically Restriction”, set out in **Annex B**.
- 7.2 If the applicant is not the relevant Director, then the Director shall be informed of the application, and shall complete a “Certificate of Opinion” (an example template is included in **Annex C**), which he/she will provide the Standards Committee and to the applicant.
- 7.3 All paperwork shall be provided to Corporate Governance at least ten working days prior to the meeting of the Standards Committee.
- 7.4 The Standards Committee will consider the application, having due regard to such guidance as may be issued by the Director of Resources. The Standards Committee may seek advice from officers as they see fit, including legal and human resources advice where appropriate.
- 7.5 The Standards Committee will determine, as the case may be, whether the post should be included on the List, or whether to grant an exemption.

- 7.6 The Standards Committee will inform the applicant, the Director, and the Chief Officer (Human Resources) of their determination.
- 7.7 There is no appeal against the determination of the Standards Committee.

Annex A

Further guidance on politically restricted posts which cannot be exempted

A post is politically restricted, and cannot be granted an exemption, if:

(a) the post is that of a statutory chief officer as defined in s2(6) of the Local Government and Housing Act 1989, which includes:

- director of children's services appointed under section 18 of the Children Act 2004;
- director of adult social services appointed under section 6(A1) of the Local Authority Social Services Act 1970;
- chief officer of a fire brigade maintained under the Fire Services Act 1947 and appointed under section 18(1)(a) of that Act;
- officer responsible for section 151 of the Local Government Act 1972, section 73 of the Local Government Act 1985, section 112 of the Local Government Finance Act 1988 or section 6 of the Local Government and Housing Act 1989 or for the authority's financial affairs.

OR

(b) the post is that of a non-statutory chief officer as defined in s 2(7) of the Local Government and Housing Act 1989, which includes any:

- person for whom the head of the authority's paid service is directly responsible, other than teachers, lecturers and those with secretarial, clerical and support service duties;
- person who is required to report directly or is directly accountable to the head of the authority's paid service in relation to most or all of the duties of the post, other than teachers, lecturers and those with secretarial, clerical and support service duties;
- person who is required to report directly or is directly accountable to the local authority or any committee or sub-committee of the authority in relation to most or all of the duties of the post, other than teachers, lecturers and those with secretarial, clerical and support service duties.

OR

(c) the post is that of a deputy chief officer as defined in s 2(8) of the Local Government and Housing Act 1989, which includes any person who is required to report directly or is directly accountable to one or more statutory or non-statutory chief officers in relation to most or all of the duties of the post, other than teachers, lecturers and those with secretarial, clerical and support service duties.

Application for Review of Politically Restriction

You can use this form to apply to the Standards Committee for them to consider adding or removing a post from the list of politically restricted posts maintained by the Council (“the List”).

You should read the Process for Standards Committee consideration of Politically Restricted Posts, which highlights the relevant legislation.

1. About you

If you are making an application to have the Standards Committee consider whether a post (which is not currently on the List) should be added to the list, you do not have to tell us who you are; but it may aid the Committee to be able to contact you if there are any details about which they would like further information. Only the postholder can apply for an exemption for a post (unless the post is empty, in which case the Director may apply).

Your name: _____

Are you: The postholder / the Director / someone else *

If the Standards Committee were to want to hear from you in person would you be willing to attend a meeting of the Committee? Yes / No *

Can we contact you about this application? Yes / No *

If so, please provide contact details (e.g. phone number, email):

2. The post you want to be reviewed

Please give the job title, and any details of the team and Service where the post is located. If you are able to provide detail of the pay scale of the post, or the current postholder, this will help ensure that the Standards Committee considers the post you intend it to consider.

(Attach further sheets if you need to)

3. Your application

Please indicate which **one** of the following best describes your application:

- The post is not on the List. It should be added to the List because it is one of the posts specified in the legislation. This post falls within what the council refers to as Category A.
- The post is not on the List. It should be added to the List because the post is sensitive. Any exemption should be removed. This post falls within what the council refers to as Category B or C.
- The post is on the List. I am the “postholder”. The post should be granted an exemption and be removed from the list because (1) it is not one of the posts specified in the legislation, and (2) the duties of the post are not sensitive. This post falls within what the council refers to as Category B or C.

* delete as appropriate

4. Supporting Information

Please give as much detail as you can supporting your application. In particular (unless your application is simply that the post is one of the specified posts) you should, where possible, give details of the job description and actual duties of the postholder.

(Attach further sheets if you need to)

If you have any documents which would support your application, please attach copies, and list those documents here.

(Attach further sheets if you need to)

If you are aware of any individuals who may be able to assist the Standards Committee in deciding issues of fact in regard to your application, please provide details here. You should provide details of the person, and also the information you believe they have. It may help if you can indicate the context in which they

(Attach further sheets if you need to)

5. Sending the form in

Send this form to

The Standards Committee (Review of Politically Restricted Posts)
Leeds Civic Hall
Calverley Street
LEEDS
LS1 1UR

Annex C: Certificate of Opinion



Leeds
CITY COUNCIL

Originator: Tel:

**LOCAL GOVERNMENT AND HOUSING ACT 1989
(Political Restriction of certain posts)
CERTIFICATE OF OPINION**

I, [name of Director], having been duly authorised as set out in the local authority's constitution in accordance with section 3 of the Local Government and Housing Act 1989, hereby certify that in the opinion of Leeds City Council the duties of the post of [give title of post and its Directorate/Service] **do/do not*** fall within subsection (3) of section 2 of the 1989 Act as the duties **do/do not*** consist of or involve either (or both)* of the following:

(a) giving advice on a regular basis to the council themselves, to any committee or sub-committee of the council, or to any joint committee on which the council is represented, or, where the authority is 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.

(b) speaking on behalf of the council on a regular basis to journalists or broadcasters.

Signature Date

(*delete as appropriate)

Annex C: Example Report to Accompany Certificate of Opinion

1. Introduction

- 1.1. The Local Government and Housing Act 1989 (as amended) (“the 1989 Act”) places on Local Authorities the duty to maintain a list of politically restricted posts, as defined within that act.
- 1.2. The 1989 Act was amended to transfer the responsibility for granting exemptions for inclusion on the List to the Standards Committee of the relevant Council.
- 1.3. The Standards Committee is required to consider applications, and the Certificate of Opinion issued by the Council as to whether the post should, or should not, be on the List. It is the responsibility of each Director to provide such Certificates when required.
- 1.4. The opinion of the Director is set out in the certificate above; the remainder of this report provides the Director’s reasoning, to assist the Standards Committee in its consideration of an application before it.

2. Details of the post

- 2.1. [Give brief details of the history of the post, indicating when it was established (this may need to be an “established before” date in some cases) and any pertinent major changes to the job role since.]
- 2.2. [Explain whether the post falls in “Category A” (as described in the Standards Committee: procedure for consideration of Politically Restricted Posts) and explain to whom the postholder reports, and whether this person is in Category A.]
- 2.3. [Explain whether the post falls within Category B: is it *paid* at or above a level equivalent to spinal column point 44 on the NJC for Local Government Service scales. Note that for these purposes honoraria, regular overtime, shift allowances, etc. may mean that a post that is graded below SCP44 is actual paid at the same or greater rate.]
- 2.4. [Explain whether the post is “sensitive”, as explained in Category C. A current job description and details of what advice has been given, or communication with the press has taken place in, for example, the last year.]

3. Considerations in reaching the Opinion

- 3.1. [Indicate the scope of evidence considered, and where information came from, for example, have the postholder’s views been considered; have the views of the post’s managers been considered? If the key issue is around dealings with the media, has the Corporate Communications team been consulted? If the issue is around whether the post is specified has advice been sought from Corporate Governance/HR/Legal? For new posts the Director *may* wish to provide evidence of a comparable post in another Authority.]

3.2. [Include a summary of the views of those consulted; where the director's opinion diverges from that of the consultee(s), please acknowledge this and indicate why.]

4. Conclusion

4.1. [It is the Director's view that this post falls within Category A, that is to say it is a post which cannot be exempted from inclusion on the list of politically restricted posts maintained by the Council.]

[OR]

[The Director's view as to whether this post is "sensitive" within the meaning of the Act is certified above.]

5. Sign-off

Signed:

Dated: