



Report of the Chief Officer (Human Resources)

Standards Committee

Date: 15th October 2009

Subject: Politically Restricted Posts

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. This report follows the last meeting of the Standards Committee, where arrangements for exempting politically restricted posts were considered. Following a request for further information and clarification, this report:
 - (a) sets out further work that is being undertaken to maintain and review the list of politically restricted post, and provide assurances about this;
 - (b) provides other information around a number of specific points raised by the Standards Committee, including recruitment; and
 - (c) re-examines process issues affecting the consideration of applications for inclusion and exemption on the list of politically restricted posts.

1.0 Purpose of this Report

- 1.1 On 19 August 2009 the Standards Committee met and noted constitutional amendments to give effect to a statutory change making local Standards Committees responsible for:
- (a) granting exemptions from inclusion on the list of Politically Restricted Posts maintained by each Local Authority; and
 - (b) considering applications to have posts added to that list.
- 1.2 The Standards Committee also adopted a process for considering such applications for exemption, or inclusion, and heard its first application for an exemption. A number of points of clarification were raised and this report responds to these.

2.0 Main Issues

Maintaining the list of politically restricted posts

- 2.1 Local Authorities must maintain a list of Politically Restricted Posts (“the List”). In Leeds the responsibility for maintaining the List is assigned to the Chief Officer (HR). It is, however, the duty of individual directors to identify posts and take action to ensure they are appropriately added to the List.
- 2.2 In practice, the majority of posts are identified by their annual rate of remuneration. Within this, posts that cannot be exempted are identified within the Constitution. These are listed in Article 12 of the Constitution.
- 2.3 Following the last meeting of the Standards Committee, each Directorate has been contacted to explain what the new processes are for considering exemptions. Likewise, Directorates have also been requested to ensure that any “sensitive” posts where annual rates of remuneration is under scp 44 are identified.
- 2.4 Work is also underway to establish how this information can be incorporated into the Council’s HR computer system. In the interim, the Chief Officer (HR) will maintain a list of exempted posts (currently only one post) and a list of other Politically Restricted Posts.
- 2.5 Attached at Appendix 1 is the current list of posts, updated for this meeting. If desired, this can be presented to the Committee on an annual basis. In terms of assurances that the list is properly compiled, a number of arrangements are in place to check for changes in duties and grade which are described next. The Chief Officer (HR) will instruct local HR teams to actively monitor this to support Directors and independently check this via the Corporate HR team.

Adding posts to the List

- 2.6 Aside from a formal application to the Standards Committee, there are various ways posts can be added to the List. This would include circumstances where the duties or remuneration of a post change, including temporary changes. Further clarification on these points was requested.
- 2.7 Permanent changes in grade or duties will occur for a variety of reasons e.g. through restructures. HR teams which support Directorates have been reminded to ensure that

where changes are proposed, the implications for political restrictions are taken into account. This will include:

(a) checking for changes in job descriptions

(b) changes triggered by grade changes.

- 2.8 Checking for changes in job descriptions will also be incorporated into the Pay and Grading Review, where any issues that relate to sensitive activity can be identified by Job Evaluators.
- 2.9 In these circumstances, postholders will be informed that their contract of employment has changed and that by virtue of their rate of remuneration, or revised duties that their post is politically restricted.
- 2.10 Potentially when such changes occur, an existing postholder who is engaged in defined politically activity may be affected. There would be process of consultation about the need for changes and options explored to deal with any possible impact. Included within this would be the option to request an exemption from the Standards Committee; e.g. if a post became graded above scp 44.
- 2.11 As well as permanent changes, attention will also be given to temporary changes. If staff act-up into any post that is politically restricted they would be notified that restrictions will apply. Likewise where staff receive other payments that bring them above the scp 44 threshold, they will be tracked and added to the list.
- 2.12 As well as these formal changes, some officers will be required to deputise for politically restricted postholders. This would potentially include undertaking "sensitive duties". Whether or not restrictions should be put in place, would depend upon how regularly this happened. Previously the Independent Adjudicator made reference to this point and suggested posts could be exempted if sensitive duties were not a regular requirement of the post.
- 2.13 As a consequence Directorates have been asked to identify if there are any potential circumstances where staff are also likely to have deputising roles which could regularly involve in advising committees or press activity. As an example the Committee asked about holiday and maternity cover. It would be unlikely that cover for holidays would be seen as a regular requirement. However, maternity cover could lead to a deputy regularly undertaking sensitive duties; although it is likely that this would be addressed as a formal acting-up situation.

Recruitment Issues

- 2.14 In the past, posts have been advertised without reference to any political restriction that would apply. To make this clearer, the Business Support Centre, which manages the administration of recruitment, has been asked to ensure that information given to candidates states where a restriction would apply. Likewise, the Councils' Recruitment Codes of Practice will be updated to ensure that the arrangements for seeking exemptions is communicated to candidates.
- 2.15 In providing this information for candidates, there is a potential that job applicants seek exemptions before a recruitment process is completed. Previously, the Independent Adjudicator had determined that any requests for an exemption could only be made by an existing postholder, or a preferred candidate to whom a job had been offered. It is therefore proposed that Directors are also informed that any applications for

exemptions are only made where this relates to a preferred candidate, with a job offer. As a consequence, the Standards Committee will not need to consider prospective candidates from seeking exemption which may only be speculative and not best use of their time.

- 2.16 In terms of any employment law issues that may apply, it is felt that taking such a position would not disadvantage one candidate over another. All candidates would have the same opportunity to discuss the implications of a politically restricted post and, if offered, a post, apply for an exemption. If an exemption were not granted by the Standards Committee, a preferred candidate would either have to withdraw their application or decide to refrain from defined political activity.

Refining the Process For Considering Exemptions

- 2.17 At the request of the Standards Committee the DCLG has been written to seeking advice on why guidance has not been given to support Standards Committees undertaking this new duty.
- 2.18 Like other Councils Leeds has had to develop its own procedure. A number of issues were raised about this.
- 2.19 Members asked whether or not an appeals process should be created. The Committee is asked to note that legally there is no requirement to do this. Likewise under the previous arrangements with the Independent Adjudicator appeals were not heard. However, the Committee would be able to reconsider any applications if there has been a material change in circumstances or new information is available.
- 2.20 Members asked whether the Standards Committee could create a sub-committee to consider applications for exemption from politically restricted posts. The draft terms of reference for such a proposed Politically Restricted Posts Sub-Committee are attached as Appendix 2. Members of the Standards Committee are asked to approve these terms of reference. The creation of a Politically Restricted Posts Sub-Committee will also require consequential amendments to the Standards Committee Terms of Reference and Article 9 of the Constitution, which can be approved by the Assistant Chief Executive (Corporate Governance) via a delegated decision.
- 2.21 The Standards Committee (and any Sub-Committee of the Standards Committee), must be composed of at least three people, including at least two Members of the authority and one Independent Member. Officers have identified three possible compositions as follows:

Option 1

- 1 Independent Member (who would Chair the Sub-Committee)
- 2 Leeds City Councillors
- 1 Parish Member (who would not be required to attend for the meeting to be quorate)

Option 2

- 2 Independent Members (one of whom would Chair the Sub-Committee)
- 2 Leeds City Councillors
- 1 Parish Member (who would not be required to attend for the meeting to be quorate)

Option 3

- 1 Independent Member (who would Chair the Sub-Committee)
- 2 Leeds City Councillors

2.22 Option one mirrors the composition of the Assessment and Review Sub-Committees, whilst option two is the same composition as the Hearings Sub-Committee agreed in July 2009. The advantage of option three would be that it would be more likely that the full membership of the Sub-Committee could be achieved at short notice. However should a Member become aware of a personal and prejudicial interest during the meeting, or not be able to attend for some reason, the meeting would become inquorate. Members of the Standards Committee are asked to confirm which of the compositions they would prefer.

2.23 Finally to reflect on any lessons learnt after hearing the first case more preparatory work will be done by HR. This includes simplifying documentation to avoid repetition and ensuring applications focus on the duties postholders have to undertake.

3.0 Legal and Resource Implications

3.1 Arrangements and assurances for maintaining the list of politically restricted posts have been given following questions raised by the Committee at its previous meeting. These are intended to give the Committee the support it needs to discharge its functions in this area.

4.0 Recommendations

4.1 The Standards Committee is asked to:

- Note answers to the questions raised at its previous meeting;
- Approve the terms of reference for the Politically Restricted Posts Sub-Committee (attached as Appendix 2); and
- Confirm which of the options it prefers for the Politically Restricted Posts Sub-Committee.

Background Documents:

Independent Adjudicators Letter to Local Authority Chief Executives 2002

Reports to Standards Committee August 2009

“The Role and Make Up of Standards Committee” by Standards for England