

## Standards Committee

### Procedure for consideration of Politically Restricted Posts

#### 1. Introduction

- 1.1. 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.
- 1.2. 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”.
- 1.3. This procedure will be subject to review by the Standards Committee.

#### 2. 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. Directors are accountable for ensuring that the List is updated.
- 2.2. Directors may also perform maintenance on the list of politically restricted posts and add or delete posts where their assessment of those posts makes it appropriate to do so, for example if the duties or reporting lines of a post have sufficiently changed to mean the post no longer falls within the categories of restricted posts.

#### 3. Categories of Restricted Posts

Post type	Overview	Exemption from list ?
Specified Posts	Further guidance on this category is provided in appendix 1. Political Assistants are also specified posts.	No right to seek exemption
Posts with sensitive duties	Further guidance on this category is provided in appendix 2. Posts are only added to the list on the basis of their duties, where their duties have been assessed as warranting inclusion.	Right exists to seek exemption

#### 4. Applications for a post to be included on the List

- 4.1. 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 List.

## **5. Applications for exemptions**

- 5.1. A person who is in a politically restricted post, “the post holder”, may apply for an exemption for the post, where it has been included in the List by virtue of its duties.
- 5.2. Where a post is vacant, the Director may make an application as “the post holder”. A job applicant to whom a (conditional) offer of employment has been made shall also be considered to be “the post holder” for these purposes.

## **6. Dealing with Applications and Exemptions**

- 6.1. 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 appendix 3.
- 6.2. The Director shall be informed of the application. In all cases, the Director shall complete a “Certificate of Opinion” (an example template is included in appendix 4), which he/she will provide to the Standards Committee and to the applicant.
- 6.3. If the applicant has asked for a reassessment of whether a post should be on the list (by virtue of being specified or having sensitive duties) and the Director concurs with the applicant’s view then the Director shall arrange for the List to be amended, then the application need proceed no further.
- 6.4. If the Director does not concur with the applicant, or if the application is for an exemption for a post which does have sensitive duties, then the Director should also provide a brief report to the Standards Committee. An example of appropriate content is included at appendix 5.
- 6.5. All paperwork shall be provided to Corporate Governance at least ten working days prior to the meeting of the Standards Committee. Corporate Governance will ensure that the Standards Committee is provided with the application, the Certificate of Opinion and their report.
- 6.6. 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.
- 6.7. 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. If an 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 “specified”. The Committee may also advise the Director of its determination that a post does not meet the criteria for inclusion on the List.
- 6.8. The Standards Committee will inform the applicant, the Director, and the Chief Officer (Human Resources) of their determination.

## **7. Appeals process**

- 7.1. There is no appeal against the determination of the Standards Committee.

## **Appendix 1**

### **Guidance on “specified” posts**

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.

## **Appendix 2**

### **Guidance on posts with “sensitive duties”**

A post which has been deemed to have “sensitive duties” may be exempted if the determination of the Standards Committee is that the nature of the duties been undertaken is not such as to require political restriction.

*A posts has sensitive duties 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.

*Part (b) of the above test has three key points: (i) giving advice (ii) on a regular basis, (iii) to a relevant audience.*

- i) Advice may, for example, be in person, or in the form of reports or submissions; it may be in writing or oral. Note that many reports end in recommendations for the committee (etc) to take a particular course of action. If this is more than a mere formality (e.g. a recommendation to note the contents), it could be that the report is advising a course of action.
- ii) There is no specific level at which advice becomes "regular", and you should use your discretion in making this judgement. The only guidance is from the Independent Adjudicator (who had oversight of these matters before they passed to local Standards Committees): "something more than an occasional attendance to present a formal report to a committee is needed to establish that advice is given on a regular basis."
- iii) Bodies/committees/meetings that should be considered include: Full Council, Scrutiny Boards, the Corporate Governance and Audit Committee, the Area Committees, the General Purpose Committee, Standards Committee, Member Management Committee, Licensing Sub-Committee, Licensing and Regulatory Panel, Plans Panel, Development Plan Panel and the Executive (including both individual members of the Executive, and/or the Exec Board).

## Appendix 3



# Application for Review of Political 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 post holder can apply for an exemption for a post (unless the post is empty, in which case the Director, or a job applicant to whom the post has been offered, may apply).

Your name: \_\_\_\_\_

Are you:            The post holder / 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):

\*delete as appropriate

### 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:

<input type="checkbox"/>	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 is a specified post in the legislation.
<input type="checkbox"/>	The post is not on the List. It should be added to the List because the post has sensitive duties. Any exemption should be removed.
<input type="checkbox"/>	The post is on the List. I am the "post holder". 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.
<input type="checkbox"/>	The post is on the List. I am the "post holder". 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) although the duties of the post are sensitive, an exemption should be granted for this post.

#### 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 post holder.

(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.

(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

**Appendix 4: Certificate of Opinion**



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

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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)

## **Appendix 5: Example text for any report to accompany a 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 is a specified post and explain to which post the post holder reports to, and whether that post is in a specified post.]
- 2.3. [Explain whether the post has sensitive duties. Include a current job description and details of what advice has been given (and to whom), 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 is specified in the legislation; it is a post which cannot be exempted from inclusion on the list of politically restricted posts maintained by the Council.]

[OR]

- 4.2. [The Director’s view as to whether this post has sensitive duties within the meaning of the Act is certified above.]

### **5. Sign-off**

Signature \_\_\_\_\_

Date \_\_\_\_\_