

Wiltshire Council
Standards Committee
Dispensation Requests – Politically Restricted Posts
Application Process and Criteria for Determination

Introduction

The Standards Committee, under the provisions of s 3 of the Local Government and Housing Act 1989, as amended by s 202 of the Local Government and Public Involvement in Health Act 2007, is responsible for considering applications from the holders of politically restricted posts to determine whether that post should be removed from the authority's list of posts which are politically restricted.

Background

The creation of politically restricted posts in local government arose in response to concerns that officers might be in the position improperly to influence the implementation or taking of decisions that should properly lie within the remit of elected members. Legislation was introduced to give statutory force to the principle of the political neutrality of council officers. As a result of that legislation, politically restricted officers may not:

- stand as a candidate for the House of Commons, the European Parliament, the Scottish Parliament, the National Assembly for Wales or a local authority;
act as an agent or sub-agent for a candidate for any of those bodies;
- be an officer of a political party or of any branch of a political party;
- canvass on behalf of a political party or a candidate for election.

Restricted officers other than assistants to political groups may not:

- speak publicly with "the apparent intention of affecting public support for a political party" (except where this is necessary as part of their official duties);
- publish any written or artistic work which appears to be intended to affect public support for a political party (except where necessary as part of their official duties).

There is no ban on politically restricted officers joining political parties, nor on taking part in political activities within the relevant rules.

Wiltshire Council is required to compile and maintain a list of politically restricted posts. These fall into two categories. The first category consists of the following posts:

- chief executives;
- chief officers;
- deputy chief officers;
- monitoring officers;
- any person holding a post as an assistant for a political group.

The holders of these posts are not permitted to apply for their post to be exempted from political restriction.

However, there is another category of politically restricted posts established by the legislation, called “sensitive” posts. These posts have been identified by Wiltshire Council as being posts which involve giving advice to the authority on a regular basis or speaking on behalf of the authority to journalists or broadcasters on a regular basis.

Exemptions

Holders of posts which are currently politically restricted on the grounds set out above may apply to the Standards Committee for their post to be removed from the list of politically restricted posts.

In order for the post to be removed from the list, the post holder will have to demonstrate to the Standards Committee that the post does not involve giving regular advice to the authority (for example, advising members in committee meetings, drafting significant policies, or providing frequent reports to decision making bodies of the authority) or speaking regularly, on behalf of the authority, to the media.

Process for applying for exemption

If the holder of a post that has been identified as being politically restricted on the grounds that it is a “sensitive” post considers that that they cannot influence policy in the course of their duties, or that the council has incorrectly applied the duties-related criteria, they should complete an exemption application form formally seeking exemption from political restriction for that post.

They should send the completed form to the Monitoring Officer, clearly stating their reasons for believing that their post does not meet the criteria for political restriction. They should enclose a copy of their job description and their job evaluation questionnaire. The letter should state who their line manager is.

It would be helpful to provide a list of the number of times over the last twelve months that the post holder has written a report for the council, a committee of the council or the cabinet and of occasions over the same period when they have attended a meeting of the council, a sub-committee of the council or the cabinet and spoken or provided advice. If applicable they should provide a list of the number of times in the last twelve months they have spoken on the authority's behalf to the media.

The Monitoring Officer will approach the line manager to advise them of the application, and ask whether, in the line manager's opinion, the applicant's letter represents the duties of the post accurately. The manager will be asked to provide their opinion in writing.

When these have been completed and returned the Monitoring Officer will arrange for a dispensation sub-committee of the Standards Committee to meet and consider the application. The dispensation sub-committee will usually meet within 14 days of the Monitoring Officer receiving a written response from the applicant's line manager.

If the applicant wishes to apply for exemption because they wish to stand for election they should clearly state this in their application, giving the date of the election and the date upon which candidates' nominations must be received. Wherever possible priority will be given to these applications.

The dispensation sub-committee will receive a covering report from the Monitoring Officer, the letter from the applicant with the job description and the JEQ, and the letter from the applicant's line manager.

There is no appeal against the dispensation sub-committee's decision. It is therefore in the applicant's interests to ensure that they provide a full statement of their reasons for considering that their post does not meet the criteria for political restriction.

Criteria for determination of requests

The dispensation sub-committee may grant an exemption when they consider, based on the evidence presented to them, the post does not involve any of the following duties:

- Regular provision of advice to the authority or the executive
- Regular provision of advice to any committee of the authority
- Regularly speaking to the media on behalf of the authority.

Notification of decision

The Monitoring Officer will advise the post holder of the Standards Committee's decision in writing at the earliest opportunity – usually within 10 working days of the meeting.

The Monitoring Officer will send a notice of the decision to the post holder, the post holder's line manager, and to HR. HR will be responsible for ensuring that the post is removed from the list of politically restricted posts, and amending the JEQ and job description.