

Wiltshire Council

Standards Committee

20 July 2011

Politically Restricted Posts – Applications for Exemption

Purpose of the report

1. To advise the Committee of the requirements for them to consider officer applications for their jobs to be removed from the Wiltshire Council list of politically restricted posts.
2. To provide the Committee with a proposed procedure for considering and determining such applications.

Background

3. Some officers are prevented from playing an active role in politics by virtue of their employment – these officers' posts are termed 'politically restricted'.
4. This restriction arises from the long established tradition that local government officers involved in advising elected members of their authority should be seen to observe a policy of political neutrality. This should ensure that members of the council are able to receive impartial advice from officers, and that officers are not influenced by any political bias in the implementation of the authority's policies.
5. The definition of a politically restricted post is established by statute under the Local Government and Housing Act 1989 as amended by the Local Government and Public Involvement in Health Act 2007 and the Local Democracy, Economic Development and Construction Act 2009, and the Local Government (Political Restrictions) Act 1990.
6. Local authorities are required to maintain a list of politically restricted posts
The legislation establishes two classes of politically restricted post:
 - a. The first class is the "specified post" – these are posts where there is no right of appeal against the classification and applies to certain senior posts – the head of paid service, the statutory and non-statutory chief officers and the monitoring officer, and deputy chief officers.
 - b. The second class is composed of posts which involve one or both of the following –
 - i. Giving advice on a regular basis to the authority itself, to any committee or sub-committee of the authority or to any joint

committee on which the authority is represented and/or to the cabinet or cabinet portfolio holders

- ii. Speaking on behalf of the authority on a regular basis to journalists or broadcasters.
7. The holders of posts in the second of these groups may apply for their post to be exempt from political restriction and removed from the list of politically restricted posts.
8. The Standards Committee, or a sub-committee of the Standards Committee, has the duty and power to grant these exemptions or to require a post to be added to the list of politically restricted posts.
9. If the application is made for the purpose of enabling the applicant to be a candidate in a forthcoming election and the applicant certifies to that effect, the Standards Committee must give priority to the application bearing in mind the time available before the election.

Main Considerations for the Committee

7. There is little guidance available on the application of this statutory function of the Standards Committee. The function was formerly conducted by an independent adjudicator.
8. The Committee cannot grant exemptions to the holders of “specified posts”, only to the second class of politically restricted posts.
9. Exemption may be granted if the post holder can demonstrate to the Committee that their post has incorrectly been included on the list of politically restricted posts. This can occur when a job description is developed for a new post in anticipation of duties that involve regular advice to members or the provision of regular press briefings, and those duties do not then arise in practice.
10. The Committee should not provide an exemption unless the post-holder can demonstrate that their post does not include the regular provision of advice to members or regular press briefings/statements.
11. The Deputy Monitoring Officer has drafted a brief form to be completed by officers who wish to apply for their post to be exempted from political restriction (**Appendix A**). She has also drafted some guidance for applicants to use (**Appendix B**). The procedure requires the line manager to provide the Standards Committee with information to supplement the application for exemption.
12. The Standards Committee has already established a system of booking regular sub-committee meetings on a monthly basis in order to assess Code of Conduct complaints and dispensation applications. It is proposed that any applications for exemption from political restriction should be considered by the Dispensation Sub-Committee. The number of applications is likely to be very low.

Risk Assessment

13. There are no risks associated with the proposal in this report.

Legal Implications

14. As covered in the report.

Financial, Environmental Implications

15. There are no financial or environmental implications associated with the proposal in this report.

Proposal

16. Members are asked to agree the attached procedure for considering applications for exemption from the holders of politically restricted posts and that these applications will be determined by the Dispensation Sub-Committee.

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Unpublished documents relied upon in the production of this report:

None