

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Standards Committee
AUTHOR/S: Deputy Monitoring Officer

10 March 2010

POLITICALLY RESTRICTED POSTS

Purpose

1. To update members of the Standards Committee of their responsibility for supervising, receiving applications and making directions in relation to politically restricted posts under section 3A of the Local Government and Housing Act 1989.

Background

2. A local authority is required to keep and maintain a list of politically sensitive posts. These are senior posts or posts where the officer has delegated authority to act on behalf of the authority. These political restrictions were introduced to address concerns about political impartiality and conflicts of interest. These so-called "Widdicombe rules" sought to ensure that authority members are confident that the advice they receive from their senior staff is impartial.
3. The Local Government and Housing Act 1989 ("the 1989 Act") provides that a person holding a politically restricted post is subject to restrictions on the political activities they are able to undertake. For example, they are disqualified from standing as a candidate for election as an MP or in local government (but not as a parish councillor); from acting as an election agent or sub-agent or acting as an officer of a political party. They may not canvass on behalf of, or speak to the public in a way that creates the impression that they are an authorised representative of, a political party.
4. Section 202 of the Local Government and Public Involvement in Health Act 2007 ("the 2007 Act") provides that a person is disqualified from becoming a member of a local authority if he holds a politically restricted post. The 2007 Act amended the 1989 Act so that the granting and supervision of exemptions from these restrictions will be the responsibility of the Standards Committee rather than the Independent Adjudicator.

Review of Politically Restricted Posts

5. Section 30 of the Local Democracy, Economic Development and Construction Act 2009 makes changes to the designation of politically restricted posts by removing the requirement for all posts with a salary of £36,730 (SCP36) or over to be automatically designated as politically restricted, regardless of the postholder's duties.
6. Specifically, the Act removes the level of a postholder's salary as a ground for political restriction, which effectively abolishes Category B. The majority of politically restricted posts in the Council are restricted by virtue of their salary, rather than because of the duties attached to the particular post.
7. The Council is therefore in the process of reassessing all posts that were previously restricted by virtue of their salary under category B in order to determine whether the postholder's duties fall within category D, that is giving advice on a regular basis to

the Executive, an Executive Member, Committees or speaking to journalists or the media on a regular basis on behalf of the authority.

8. On completion of this review, those staff affected by these changes will be contacted by the Human Resources team and informed whether their post has been assessed as Category D (and so will remain politically restricted), or whether their post has been assessed as outside of the category D criteria (and so is no longer politically restricted).

Powers and responsibilities of the Standards Committee

9. Since 1 April 2008, holders of politically restricted posts have had a right to appeal to the Standards Committee for an exemption. This continues under Local Democracy, Economic Development and Construction Act 2009, although the Act removes the requirement for appellants to obtain a certificate from the local authority stating whether, in the authority's view, the duties of the postholder fall within category D. Instead, postholders wishing to appeal against the authority's decision to designate their post as politically restricted by virtue of their duties should appeal directly to the Standards Committee.
10. Where the Standards Committee is satisfied that the duties of the post do not fall within the Category D criteria set out above, then the Committee must direct that the post should not be regarded as politically restricted.
11. The Standards Committee also has power whether on the application of any person or on its own initiative, to direct that any post not on the politically restricted list should be included on the list. However, they can only do so, if they are satisfied that the duties of the post are Category D duties.

General

12. In carrying out their functions a Standards Committee must give priority, according to the time available before the election, to considering any application from a person who certifies that the application is made for the purpose of enabling them to be a candidate in a forthcoming election.
13. It should also be noted that none of the above affects the general rule that employees of a local authority are disqualified from standing for or being a member of their own authority. Nor can any such employee apply for exemption from this disqualification.

Conclusions / Summary

14. The Committee is asked to note the contents of this report.

Background Papers: the following background papers were used in the preparation of this report:

Local Government and Housing Act 1989
Local Government and Public Involvement in Health Act 2007
Local Democracy, Economic Development and Construction Act 2009

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