

<b>Item No.</b> 7.	<b>Classification:</b> Open	<b>Date:</b> 10 March 2010	<b>Meeting Name:</b> Standards Committee
<b>Report title:</b>		Politically Restricted Posts	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Strategic Director of Communities, Law and Governance	

## RECOMMENDATION(S)

1. That the committee note the issues outlined in this report.
2. That the committee agree whether to form a sub-committee to carry out the functions and instruct the monitoring officer to draft procedure rules.

## BACKGROUND INFORMATION

3. The Local Government and Housing Act 1989 (“the 1989 Act”) requires every local authority to prepare and maintain a list of politically restricted posts. The original legislation identified categories of post deemed to be politically restricted on the basis of one or more defined characteristics.
4. The effect of including a council employee on the list of politically restricted posts, debars that individual from having any active political role either in or outside the workplace, in particular:
  - standing for candidature for public elected office, unless the employee resigns prior to announcing his/her candidature;
  - acting as an election agent or sub-agent for any candidate for election;
  - holding office in a political party;
  - canvassing at elections (not restricted to Southwark);
  - speaking or writing publicly (other than in an official capacity) with the intention of affecting public support for a political party.
5. Currently Section 2 of the 1989 Act lists “politically restricted” posts as follows:
  - a) chief executives;
  - b) chief officers;
  - c) deputy chief officers;
  - d) monitoring officers;
  - e) any person holding a post as an assistant for a political group; and
  - f) any person not falling within these categories whose post is listed by the authority on the grounds that it involves giving advice to the authority itself, to any committee or sub-committee of the authority or to any joint committee on which the authority are represented; or where the authority are 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 on a regular basis or speaking on behalf of the authority to journalists or broadcasters on a regular basis.

- g) officers whose posts were remunerated at or above a prescribed level (currently equivalent to spinal point 44 £36,730).
6. The Local Government Act 2007 amended the 1989 Act so that the granting and supervision of exemptions from the political restriction will be the responsibility of the standards committee. This Act also provides that the Secretary of State may issue general advice with regard to the making of decisions on political restrictions. Before giving such general advice, the Secretary of State must consult those representatives of local government he considers appropriate.

## **KEY ISSUES FOR CONSIDERATION**

7. The Local Democracy, Economic Development and Construction Act 2009 removed the salary category [shown in paragraph 6 (g) above] with effect from 12 January 2010, and provided for appeals to decisions on political restrictions to be heard by the Standards Committee. Changes to the constitution to reflect the latter change will be considered by council assembly in March.
8. The head of human resources is responsible for drawing up the list of politically restricted posts in consultation with chief officers. With regard to the post falling within paragraph 6 (f) the criteria for making decisions on inclusion is more judgmental. The application of the salary criteria was factual and captured most posts. Officers will therefore put in arrangements to deal with queries about inclusion on the list.
9. In practice, it is expected that appeals on politically restricted posts will be few, essentially where a member of staff believe that the council has wrongly applied the criteria, i.e. the duty related criteria has been misinterpreted. The procedure will be that they may write to the head of human resources in the first instance setting out their reasons with reference to their existing job description and work plan.
10. The head of human resources would then review the inclusion of the post taking account of comments from the relevant chief officer and giving an initial view. If the member of staff remains unhappy with this review then they could appeal to the standards committee for the final determination.
11. it is proposed that standards committee would determine these appeals based on the remaining two criteria in 6(f):
- any person giving advice to the authority itself, to any committee or sub-committee of the authority or to any joint committee on which the authority are represented; or where the authority are 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 on a regular basis or
  - speaking on behalf of the authority to journalists or broadcasters on a regular basis.
12. There is no further right of appeal under the legislation.
13. The committee should consider whether these determinations should be made by the full committee or whether a sub-committee should be formed to carry out this function. Officers consider that a sub-committee based on the assessment sub-

committees would be the most cost-effective way of carrying out these determinations.

### Community impact statement

14. These changes are unlikely to have no or very little impact on local people and communities.

### Resource implications

15. Changes can be contained within existing budgets.

### Legal implications

16. The specific legal implications relating to this report have been included in the report.

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
The Constitution.	<a href="http://www.southwark.gov.uk/YourCouncil/HowTheCouncilWorks/councilconstitution.html">http://www.southwark.gov.uk/YourCouncil/HowTheCouncilWorks/councilconstitution.html</a> 2nd floor, PO Box 64529, London, SE1P 5LX	Lesley John 020-7525-7228

## AUDIT TRAIL

<b>Lead Officer</b>	Deborah Collins, Strategic Director of Communities, Law & Governance	
<b>Report Author</b>	Norman Coombe, Principal lawyer	
<b>Version</b>	Final	
<b>Dated</b>	1 March 2010	
<b>Key Decision?</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Communities, Law and Governance	Yes	Incorporated
Finance Director	No	No
<b>Executive Member</b>	N/A	N/A
<b>Date final report sent to Constitutional Team</b>	1 March 2010	