

## **MANCHESTER CITY COUNCIL REPORT FOR INFORMATION**

**Report to:** Standards Committee - 11<sup>th</sup> January 2010

**Subject:** Politically Restricted Posts

**Report of:** The City Solicitor

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### **PURPOSE OF REPORT**

To inform the Standards Committee of changes to the law governing the designation of politically restricted posts.

### **RECOMMENDATION**

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

### **FINANCIAL CONSEQUENCES FOR REVENUE BUDGET:**

None at present

### **FINANCIAL CONSEQUENCES FOR CAPITAL BUDGET:**

None

### **WARDS AFFECTED:**

All

### **IMPLICATIONS FOR:**

Antipoverty: None

Equal Opportunities: None

Environment: None

Employment: The designation of posts which are to be politically restricted is under review in light of changes to the law set out in the Local Democracy, Economic Development and Construction Act 2009. Following completion of this review, those staff affected by these changes will be contacted by Corporate Personnel on an individual basis.

## **BACKGROUND DOCUMENTS**

Report to Standards Committee on Politically Restricted Posts 10<sup>th</sup> March 2008

Local Democracy, Economic Development and Construction Act 2009

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### **1. Introduction**

- 1.1 The Local Government and Public Involvement in Health Act 2007 gave Standards Committee the responsibility to determine applications for exemption from political restriction by holders of such posts, and the power to direct the City Council to include posts on its list of restricted posts.
- 1.2 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 over SCP 44 to be automatically designated as politically restricted, regardless of the postholder's duties.
- 1.3 This report provides a summary of these changes, how the City Council is seeking to implement them and how changes to the designation of politically restricted posts may impact upon the duties and powers of the Standards Committee in this regards.

### **2. Categories of posts which are politically restricted**

- 2.1 The authority is required to maintain a list of all politically restricted posts, which are defined on Part 1 of Local Government and Housing Act 1989 as follows:

#### **Category A: Chief Officers**

- Head of the Paid Service (The Chief Executive)
- Statutory Chief Officers, namely the Director of Children's Services, Director of Adult Services and the Chief Finance Officer;
- Non Statutory Chief Officers - anybody who reports directly to the Chief Executive (excluding secretarial and clerical staff);

- Statutory and Non-Statutory Deputy Chief Officers – those persons who report directly to or are directly accountable to one or more of the statutory or non-statutory chief officers (i.e. Heads of Service and other senior staff)
- Monitoring Officer
- Political Assistants (appointed under section 9 of the 1989 Act)

### **Category B**

- Posts (not falling within Category A) paid SCP 44 and above. SCP 44 falls in the middle of the current grade 9, which runs from SCP 42 to 46.

### **Category C: Officers with delegated powers**

- Posts (not falling within Category A or B) which are listed as having delegated powers in the Scheme or Delegation to Officers. In reality all such posts currently fall within Category A or B.

### **Category D: Officers giving advice to the Executive, committees or speaking to the media**

Posts which do not fall within Category A, B or C and whose duties consist in or involve:-

- giving advice on a regular basis to the Council, any committee, sub-committee or joint committee, the Executive or any member of the Executive
- speaking on a regular basis to journalists or broadcasters on behalf of the authority

## **3. The effect of Political Restriction**

- 3.1 A person holding a politically restricted post is disqualified from becoming or remaining a member of a local authority (excluding a parish council) or of the House of Commons.
- 3.2 In addition, the terms and conditions of employment of persons holding a politically restricted post are deemed to incorporate various other restrictions, including prohibition from:
- announcing, or causing or permitting the announcement of the employee's candidature for election to the House of Commons, the European Parliament or a local authority
  - speaking to the public or publishing written work with the apparent intention of affecting public support for a political party
  - acting as an election agent
  - canvassing on behalf of a political party
  - being an officer or member of a committee of a political party or branch of a political party if the duties would require the employee to participate in the general management of the party or branch or act on behalf of the party or branch with persons outside the party [NB. There is no restriction on being a member of a political party]

- 3.3 The City Council provides standard information to all applicants who are seeking appointment to a politically restricted post and these restrictions are also incorporated into the contract of employment.

#### **4. Review of Politically Restricted Posts**

- 4.1 Section 30 of the Local Democracy, Economic Development and Construction Act 2009 makes changes to these provisions, which will come into effect on 12<sup>th</sup> January 2010.
- 4.2 Specifically, the Act removes the level of a postholder's salary as a ground for political restriction, which effectively abolishes Category B.
- 4.3 The majority of politically restricted posts in the Council (of which there are currently 852 in total) are restricted by virtue of their salary, rather than because of the duties attached to the particular post.
- 4.4 The City 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 postholders' 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.
- 4.5 On completion of this review, those staff affected by these changes will be contacted by Corporate Personnel 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).

#### **5. Powers and responsibilities of the Standards Committee**

- 5.1 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 (see above). 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.
- 5.2 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.
- 5.3 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.

**6. General**

- 6.1 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.
- 6.2 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.