

CITY & COUNTY OF CARDIFF DINAS A SIR CAERDYDD

STANDARDS AND ETHICS COMMITTEE:

27th January 2015

REPORT OF THE MONITORING OFFICER AGENDA ITEM: 4

POLITICALLY RESTRICTED POSTS - REVIEW

Reason for this Report

1. To enable the Committee to review the Council's arrangements in respect of politically restricted posts.

Background

2. The Standards and Ethics Committee has responsibility 'to advise the Council on the effective implementation of [its Ethical] Code' (Terms of Reference, paragraph (c)) in relation to Members and employees.
3. Under the Employees Code of Conduct, paragraph 3, all employees are required to be politically neutral, and must not allow their own personal or political opinions to interfere with their work.
4. By law, certain employees are additionally subject to statutory restrictions on their political activities, and such posts are referred to as 'politically restricted'.
5. The Standards and Ethics Committee has noted the need to review the Council's arrangements for politically restricted posts, as part of its Work Programme 2014/15.

Issues

6. The Local Government and Housing Act 1989 (Part 1), list those posts which are 'politically restricted', and incorporates into those officers' terms and conditions of employment various specified political restrictions.
7. The posts which are politically restricted by law include:
 - i. All 'senior officers' – under Cardiff's management structure, this covers all officers at Operational Manager grade and above (by virtue of the level and or the delegated powers of those posts);

- ii. Any other officer who has delegated authority to exercise any power of the Council (except where the delegation is made for a specified period of 6 months or less); and
 - iii. Any other post where the duties of the post involve:
 - (a) giving advice on a regular basis to the Council, any committee or sub-committee of the Council, any joint committee on which the Council is represented, or to the Cabinet or any committee of the Cabinet, or to any member of the Cabinet; or
 - (b) speaking on behalf of the Council on a regular basis to journalists or broadcasters.
8. The Council is legally required to maintain up to date lists of politically restricted posts (specifically, those falling within paragraphs 7(ii) and (iii) above), and the Council's Constitution gives the Monitoring Officer responsibility for holding these lists.
9. The restrictions imposed by law on politically restricted posts prevent such officers from:
- (a) Becoming, or remaining, a Member of a Local Authority, the House of Commons, the National Assembly for Wales or the European Parliament;
 - (b) Acting as an election agent or sub agent for a candidate;
 - (c) Participating in the general management of a political party or acting on its behalf in dealings with third parties;
 - (d) Canvassing on behalf of a political party or a candidate; and
 - (e) Speaking in public or publishing a work with the apparent intention of affecting public support for a political party.

[However, there is also provision for officers to apply for exemption from political restriction in certain cases.]

10. Under the Council's current arrangements, political restrictions are confirmed to relevant post-holders upon appointment and the list of politically restricted posts at Operational Manager level and above is kept up to date. However, the supplementary list of politically restricted posts below Operational Manager level does not appear to have been updated in recent years. The recommendation of this report is therefore that the Monitoring Officer should be instructed to contact all Directors to confirm the political restrictions imposed by law and obtain updated lists of politically restricted posts below Operational Manager level within each Directorate.
11. The Committee will be aware of the forthcoming UK Parliamentary General Election, and it is suggested that advice should be provided to all politically restricted post holders on their restrictions in respect of political activity in advance of the elections.

ADVICE

This report has been prepared by the Monitoring Officer. It contains all the information necessary to allow Members to arrive at a reasonable view, taking into account the advice contained in this section.

Legal Implications

There legal implications are set out in the body of the report.

Financial Implications

There are no direct financial implications arising from the recommendations of this report.

RECOMMENDATION

The Committee is recommended to:

1. Note the information set out in the report; and
2. Instruct the Monitoring Officer to contact all Directors to confirm the political restrictions imposed by law, obtain updated lists of politically restricted posts below Operational Manager level within each Directorate, and ensure that such lists are regularly reviewed and kept up to date.
3. Instruct the Monitoring Officer to issue appropriate advice and guidance to all politically restricted post-holders in advance of the 2015 UK Parliamentary General Election.

Marie Rosenthal
County Clerk and Monitoring Officer
21st January 2015

Background Papers

Employees' Code of Conduct