

# WEST DUNBARTONSHIRE COUNCIL

## Report by the Chief Executive

Corporate Services Committee: 28 March 2007

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**Subject: Politically Restricted Posts**

### **1. Purpose**

- 1.1** To advise Committee on revisions to the Council's Guidance on Politically Restricted Posts which has been updated to reflect guidance provided by the Local Government Political Restrictions Exemptions Adjudicator for Scotland (LGPREA), and legislative changes. The LGPREA is appointed by the Scottish Ministers, in terms of Section 3 of the Local Government Housing Act 1989 (LGHA 1989)

### **2. Background**

- 2.1** The LGHA 1989 identifies a number of politically restricted posts within local authorities. It further identifies certain categories of post deemed to be politically restricted on the basis of one or more defined criteria and introduces the requirement for every local authority to prepare and maintain a list of such posts. This list is held by the Corporate Personnel Services.
- 2.2** Guidance for local authorities in the identification of politically restricted posts has been prepared by the LGPREA and issued to all local authorities. The guidance summarises the current legislation applying to politically restricted posts and gives advice on the interpretation of the provision regarding classification of posts as politically restricted on the basis of their duties.
- 2.3** One of the classifications defined in section 2(2) of the Act was that any post, the remuneration of which was at, or exceeded a level determined from time to time by Scottish Ministers, was politically restricted. This restriction has now been repealed by the Local Governance (Scotland) Act 2004 (LGSA 2004) with effect from 28 February 2007. From that date posts which have been included solely on this basis require to be removed from the list held by an authority.

### **3. Main Issues**

#### Removal of Salary Threshold

- 3.1** The removal of the salary-criterion for inclusion in the list of politically restricted posts means that if a post was included in the list for this reason only, the post will be removed from the list, and the postholder will be notified that political restrictions no longer apply. The Council's guidance document has been updated to reflect this amendment (Appendix 1).

- 3.2 If however, the post was included through the salary criteria and another of the defined criteria, the post will remain on the list of politically restricted posts.

#### New Arrangements for Employees Standing For Election

- 3.3 Section 7 of the LGSA 2004 repeals the disqualification of an employee of a local authority from being nominated as a candidate for election as a member of that local authority. In its place it inserts section 31A of LGSA 1973 which requires that any employee elected as a member of that local authority must resign the day after their election.
- 3.4 This change does not affect the legislation in regard to political restrictions. The holders of politically restricted posts are still, therefore, disqualified from announcing their candidature for election without prior resignation of their appointment.

#### Employment of Former Members of a Local Authority

- 3.5 Section 10 of the LGSA 2004 becomes effective from 2 May 2007. From that date a former member of the Council is disqualified for 3 months from the date upon which they ceased to be a member, from being appointed to any non-politically restricted post within the Council, and are also disqualified for 12 months from being appointed to a politically restricted post within the Council.
- 3.6 Under the new provision a former member of the Council who, within the 12 months before they ceased to be a member, participated directly in the appointment of the Chief Executive, Statutory Chief Officer, Non-Statutory Chief Officer, Deputy Chief Officer or Monitoring Officer, will be disqualified for 12 months from any paid office, employment or other place of profit in the gift of the Council.
- 3.7 The guidance document has now been amended to include the above new provisions.

#### **4. Personnel Issues**

- 4.1 The revised guidance document will be issued to all employees, trades unions and elected members via a Personnel Circular. Personnel Sections are currently reviewing the List of Politically Restricted Posts and will remove from it all posts which were previously included by virtue of their level of remuneration only.
- 4.2 Holders of posts now removed from the list of politically restricted posts will be informed of the change and their conditions of service amended accordingly.
- 4.3 Holders of posts which are no longer politically restricted by virtue of the remuneration criterion but which remain politically restricted by virtue of any other criterion will be informed and the basis of the continuing political restriction made clear to them.

- 4.4 Holders of posts not previously politically restricted, but which become politically restricted as a result of the application of the guidance will be informed and their conditions of service amended.
- 4.5 A copy of updated list will be sent to the LGPREA as soon as it is available.

**5. Financial Implications**

- 5.1 There are no financial implications.

**6. Risk Analysis**

- 6.1 No risk assessment undertaken.

**7. Conclusions**

- 7.1 The Council's Guidance on Politically Restricted Posts has been updated to reflect guidance issued by the LGPREA and legislative changes and will be issued to employees, trades unions and members for information. Individuals affected by the changes will be notified and their terms and conditions amended accordingly.

**8. Recommendations**

- 8.1 **Committee is asked to note the contents of the report and the actions which will be undertaken by Corporate Personnel.**

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**David McMillan**  
**Chief Executive**  
**Date: 15 March 2007**

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**Appendices:** Guidance on Politically Restricted Posts

**Background Papers:** Guidance for Local Authorities in the Identification of Politically Restricted Posts prepared by the Local Government Political Restrictions Exemptions Adjudicator for Scotland – 28 February 2007

**Wards Affected:** N/A.