

OFFICER EMPLOYMENT PROCEDURE RULES

Introduction

In accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) (“the Regulations”) and subject to the Procedure Rules set out below, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the Council must be discharged, on behalf of the Council, by the officer designated under section 4(1) of the Local Government and Housing Act 1989 (designation and reports of Head of Paid Service) as the Head of Paid Service or by an officer nominated by him. Should any conflict arise between these officer Employment Procedure Rules and the relevant legislation, the latter will prevail.

Nothing shall prevent a person from serving as a member of a committee or sub-committee established by the Council to consider an appeal by –

- (a) another person against any decision relating to the appointment of that person as a member of staff of the Council, or
- (b) a member of staff of the Council against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

1. RECRUITMENT AND APPOINTMENT

- (a) Declarations
 - (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or Officer of the Council; or of the partner of such persons (or if they are related in any other way to such persons).
 - (ii) No candidate so related to a Councillor or Officer will be appointed without the authority of the Head of Paid Service or an Officer nominated by him.
 - (iii) A candidate who fails to disclose a relationship as set out in (i) above shall be disqualified for the appointment and, if appointed, shall be liable to dismissal without notice.
- (b) Seeking support for appointment
 - (i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillors for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

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- (ii) Subject to paragraph (iii), no Councillors will seek support for any person for any appointment with the Council.

2. RECRUITMENT OF HEAD OF PAID SERVICE AND CHIEF OFFICERS

Where the Council proposes to appoint a Chief Officer (* as defined in Paragraph 3 of Part II of Schedule 3 of the Local Authorities (Standing Orders) (England) Regulations 2011 (as amended) and any assistant to political groups) and it is not proposed that the appointment will be made exclusively from among its existing Officers, the Council will:

1. (a) Draw up a statement specifying:
 - (i) the duties of the Officer concerned
 - (ii) Any qualifications or qualities to be sought in the person to be appointed
 - (b) Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it.
 - (c) Make arrangements for a copy of the statement mentioned in (a) above to be sent to the person on request.
2. Where a post has been advertised as provided in 2.1 above, the Council shall –
 - (a) Interview all qualified applicants for the post, or
 - (b) select a shortlist of such qualified applicants and interview those included on the shortlist.
 3. Where no qualified person has applied, the Council shall make further arrangements for advertisement in accordance with 1. above.

3. APPOINTMENT OF HEAD OF PAID SERVICE, MONITORING OFFICER AND CHIEF FINANCIAL OFFICER

- (a) Where a committee, sub-committee or officer is discharging, on behalf of the Council, the function of the appointment of an officer designated as the head of the authority's paid service, Full Council must approve that appointment before an offer of appointment is made to that person.
- (b) Full Council will approve the appointment of the Head of Paid Service, Monitoring Officer and Chief Financial Officer following the recommendation of the Human Resources Sub-Committee of the Council. That Sub-Committee must include at least one member of the Cabinet.
- (c) Full Council may approve and make the appointment of the Head of Paid Service, Monitoring Officer and Chief Financial Officer only where no valid well-founded objection has been made by any member of the Cabinet.

4. APPOINTMENT OF CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS

- (a) The Human Resources Sub-Committee of the Council will appoint the Chief Officers (*). That Sub-Committee must include at least one member of the Cabinet.
- (b) An offer of appointment to the post of a Chief Officer (*) shall be made only where no valid well-founded objection from any member of the Cabinet has been received.
- (c) A central record of Chief Officer posts covered by Paragraph 3 of Part II of Schedule 2 of the Local Authorities (Standing Orders) Regulations 2001 (as amended) will be produced by the Head of Paid Service and the Monitoring Officer and held in Human Resources.

5. NOTIFICATION OF APPOINTMENTS

- (a) An offer of appointment can only be made to an individual by the correct 'appointer', being the Council or a committee, sub-committee or authorised nominated officer of the Council discharging the function of appointment on behalf of the Council as determined by the Regulations and these Procedure Rules.
- (b) No offer of an appointment shall be made to the Head of Paid Service, Monitoring Officer, Chief Financial Officer, or Chief Officer post (*) until:
 - (i) The Chairman of the Human Resources Sub-Committee (on behalf of the Sub-Committee) has notified the Assistant Director (Partnerships) of the name of the person to whom the post is to be offered and any other particulars relevant to the appointment which the Sub-Committee has notified to the Assistant Director (Partnerships).
 - (ii) The Assistant Director (Partnerships) has notified every member of the Cabinet of the name and of the person to whom the post is to be offered any other particulars relevant to the appointment and the period for objection.
- (c) The Leader of the Council may object, on behalf of the Cabinet, to the appointment within 3 working days of the issue of the notice in (b) above.
- (d) An offer of appointment may then only be made if:
 - (i) The Leader of the Council has notified the Assistant Director (Partnerships) within 3 working days that neither they, nor any other Member of the Cabinet has any objection to the making of the appointment; or

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- (ii) The Assistant Director (Partnerships) has notified the Sub-Committee that they have not received any objection from the Leader in the period specified in (c) above; and
 - (iii) The Sub-Committee is satisfied that any objection received from the Leader within that period is neither material nor well-founded.

6. OTHER APPOINTMENTS

The appointment of Officers below the Deputy Chief Officer is the responsibility of the Head of Paid Service or their nominee, and may not be made by Councillors.

7. DISCIPLINARY ACTION IN CONNECTION WITH CHIEF OFFICERS

- (a) The Human Resources Sub-Committee shall deal with disciplinary action (this has the same meaning as defined in the Local Authorities (Standing Orders) (England) Regulations 2001) in connection with the Council's Chief Officers (*) as defined in this Constitution, and any assistant to political groups and resolve any action which it considers appropriate.
- (b) With regards to disciplinary issues in connection with the Council's statutory officers, the Committee can only resolve action short of dismissal. In instances where its recommendation is to dismiss any Statutory Officer it must adhere to the processes set out in these Procedure Rules and the full Human Resources and Council Tax Committee together with the Independent Persons must refer its recommendation to Full Council.
- (c) The Council's statutory officers are those defined as Head of the Council's Paid Service, Chief Financial Officer and Monitoring Officer.

8. DISCIPLINARY ACTION IN CONNECTION WITH OFFICERS BELOW DEPUTY CHIEF OFFICER

Members will not be involved in the disciplinary action or dismissal against any officer below a Deputy Chief Officer. The Council's disciplinary, capability and related procedures, as adopted from time to time will apply, and may allow a right of appeal to Members in respect of disciplinary action.

9. DISCIPLINARY & DISMISSAL CASES INVOLVING THE COUNCIL'S STATUTORY OFFICERS: HEAD OF PAID SERVICE, THE CHIEF FINANCIAL OFFICER AND THE MONITORING OFFICER:

9.1 In the following paragraphs-

- (a) *"the 2011 Act" means the Localism Act 2011;*

(b) “chief finance officer”, “disciplinary action”, “head of the authority’s paid service” and “monitoring officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;

(c) “independent person” means a person appointed under section 28(7) of the 2011 Act;

(d) “local government elector” means a person registered as a local government elector in the register of electors in the authority’s area in accordance with the Representation of the People Acts;

(e) “the Panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;

(f) “relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and

(g) “relevant officer” means the chief finance officer, head of the authority’s paid service or monitoring officer, as the case may be.

9.2 A relevant officer may not be dismissed by the authority unless the procedure set out in the following paragraphs is complied with.

9.3 The authority must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.

9.4 In paragraph 2.3 “relevant independent person” means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.

9.5 Subject to paragraph 2.6, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 2.3 in accordance with the following priority order-

(a) a relevant independent person who has been appointed by the authority and who is a local government elector;

(b) any other relevant independent person who has been appointed by the authority;

(c) a relevant independent person who has been appointed by another authority or authorities.

9.6 The authority is not required to appoint more than two relevant independent persons in accordance with paragraph 2.5 but may do so.

9.7 *The authority must appoint any Panel at least 20 working days before the relevant meeting.*

9.8 *Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular-*

- (a) *any advice, views or recommendations of the Panel;*
- (b) *the conclusions of any investigation into the proposed dismissal; and*
- (c) *any representations from the relevant officer.*

9.9 *Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as an independent person under the 2011 Act.*

10. DISMISSAL

- (a) Members will not be involved in the dismissal of any officer below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct. The Council's disciplinary, capability and related procedures, as adopted from time to time, may allow a right of appeal to Members in respect of dismissals.
- (b) Where a committee, sub-committee or officer is discharging, on behalf of the Council, the function of the dismissal of an officer designated as the Head of Paid Service, Chief Finance Officer or Monitoring Officer, Full Council must approve that dismissal before notice is given to that person (the statutory procedure set out in 9 above must be followed prior to such dismissal)
- (c) Where a committee or sub-committee is discharging, on behalf of the Council, the function of the dismissal of a Chief Officer, at least one member of the executive must be a member of that committee or sub-committee.
- (d) Notices of dismissal can only be made to an officer by the correct 'dismissor', being the Council or a committee, sub-committee or an authorised nominated officer of the Council discharging the function of dismissal on behalf of the Council as determined by the Regulations and these Procedure Rules.
- (e) Notice of dismissal must not be given to the Head of Paid Service, Monitoring Officer, Chief Financial Officer, or Chief Officer post (*) until:
 - (i) The Chairman of the Human Resources Sub-Committee (on behalf of the Sub-Committee) has notified the Assistant Director (Partnerships) of the name of the

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- person the Sub-Committee wishes to dismiss and any other particulars relevant to the dismissal which the Sub-Committee has notified to the Assistant Director (Partnerships).
- (ii) The Assistant Director (Partnerships) has notified every member of the Cabinet of the name of the person who the dismissor wishes to dismiss, any other particulars relevant to the dismissal and the period for objection.
- (f) The Leader of the Council may object, on behalf of the Cabinet, to the dismissal within 3 working days of the issue of the notice in (e) above.
- (g) Notice of dismissal may then only be made if:
- (i) The Leader of the Council has notified the Assistant Director (Partnerships) within 3 working days that neither they, nor any other Member of the Cabinet has any objection to the dismissal; or
 - (ii) The Assistant Director (Partnerships) has notified the Sub-Committee that they have not received any objection from the Leader in the period specified in (f) above.
 - (iii) The Sub-Committee is satisfied that any objection received from the Leader within that period is neither material nor well-founded.