

Part 4 – Section J – Officer Employment Procedure Rules

Part 4J Officer Employment Procedure Rules

1. Purpose

- 1.1 These Rules set out the procedural rules dealing with the appointment and dismissal of staff. This includes mandatory standing orders required by statute, including the requirements of the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) ('The Regulations').

2 Recruitment and appointment

All staff to be appointed on merit

- 2.1 Subject to those exceptions set out in section 7 of the Local Government and Housing Act 1989, every appointment of a person to a paid office or employment under the Authority (an officer of the Council) shall be made on merit.

Declarations

- 2.2 Any candidate for any designation or appointment with the Council who knows that they are related to a Councillor or employee of the Council shall, when making an application, disclose, in writing, that relationship. A person who deliberately fails to disclose such a relationship shall be disqualified from designation or appointment and, if designated or appointed, shall be liable to dismissal.
- 2.3 Every Councillor and employee of the Council shall disclose any relationship known to them to exist between them and any person they know is a candidate for a designation or appointment by the Council.

Seeking support for appointment

- 2.4 Any candidate for designation or appointment who directly or indirectly inappropriately seeks the support of a Councillor or officer of the Council in any designation or appointment shall be disqualified and, if designated or appointed, shall be liable to dismissal. A Councillor shall not advocate for any person in respect of any designation or appointment with the Council but may give a written testimonial of a candidate's ability, experience or character.
- 2.5 Persons shall be deemed to be related to a candidate or officer if they are a spouse, civil partner, partner (i.e. member of a couple living together) parent, parent-in-law, grandparent, child, step-parent stepchild, adopted child, grandchild, child of partner, brother, sister, uncle, aunt, nephew or niece or the spouse or partner of any of the preceding persons. This list is indicative, and a judgement will be made based on the closeness of the relationship.
- 2.6 No candidate so related to a Councillor or senior officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by them, in consultation with the Director of People, Equality and Organisational Development and the Monitoring Officer.

3 RECRUITMENT OF CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS

- 3.1 Reference to a 'Chief Officer' shall, where the context permits, include a 'Deputy Chief Officer' and refers to those officers of the Council defined as such by section 43(2) of the Localism Act 2011.
- 3.2 Where the Council proposes to appoint to a Chief Officer position a Council Committee, the **Chief Officer Employment Panel**, will oversee the arrangements for the filling of the vacancy and may appoint a sub-committee for this purpose. The Chief Officer Employment

Panel **will be** convened to appoint or recommend appointment in respect of Chief Officers. It **may be** convened to appoint deputy chief officers if the Leaders of the Political Groups, in consultation with the Chief Executive, agree that the appointment in question should be carried out by the Chief Officer Employment Panel.

- 3.3 The Chief Officer Employment Panel or any other Committee or Sub-Committee (Panel) exercising responsibility for this function must include at least one Cabinet Member.
- 3.4 Where the Council proposes to appoint a Chief Officer or Deputy Chief Officer, and it is not proposed that the appointment be made exclusively from among their existing officers, or on an interim basis only, the Council will:
- 3.4.1 draw up a statement specifying the duties of the post concerned and a specification of the qualifications or qualities to be sought in the person to be appointed;
 - 3.4.2 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; and
 - 3.4.3 make arrangements for a copy of the statement mentioned in paragraph above to be sent to any person on request.
- 3.5 Where a post has been advertised as above, the Council will interview all qualified applicants for the post or select a short-list of such qualified applicants and interview those included on the short-list.
- 3.6 Where the Council is of the view that there is no suitable candidate, it will re-advertise the post.

4 APPOINTMENT OF HEAD OF PAID SERVICE, MONITORING OFFICER AND THE CHIEF FINANCE (SECTION 151) OFFICER

- 4.1 The full Council must appoint the Head of Paid Service following consideration of a recommendation of the relevant Chief Officer Employment Panel, as to the person to be appointed.
- 4.2 The full Council shall be notified, at its next available meeting, of the decision of the Chief Officer Employment Panel to appoint the Monitoring Officer and the Chief Finance (S.151) Officer.
- 4.3 The procedure set out at Rule 5 below in respect of notifying the Leader and Cabinet also applies in respect of the Head of Paid Service, Chief Finance Officer and Monitoring Officer.
- 4.4 Where the Council does not approve the recommendation of the Chief Officer Employment Panel in respect of the appointment of the Head of Paid Service, it shall indicate how it wishes to proceed.

5 APPOINTMENT OF CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS

- 5.1 Where a Committee, Sub-Committee (Panel) or an officer is discharging the function of appointment on behalf of the authority, an offer of an appointment as a Chief Officer or Deputy Chief Officer must not be made by the appointor until:-
- 5.1.1 the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;

- 5.1.2 the proper officer has notified every Member of the Cabinet of the authority of–
- (a) the name of the person to whom the appointor wishes to make the offer;
 - (b) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and
 - (c) the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the proper officer; and
- 5.1.3 either–
- (a) the Leader has, within the period specified in the notice, notified the appointor that neither they, nor any other member of the cabinet, has any objection to the making of the offer;
 - (b) the proper officer has notified the appointor that no objection was received within that period from the Leader; or
 - (c) the appointor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

6 DISCIPLINARY ACTION IN RESPECT OF HEAD OF PAID SERVICE, THE MONITORING OFFICER AND THE CHIEF FINANCE OFFICER (S.151 OFFICER)

- 6.1 The Head of Paid Service, Monitoring Officer or Chief Finance (s151) Officer and other Chief Officer(s) may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months without a review of such suspension first taking place. The proceedings will be dealt with in accordance with the Council's agreed policy and the Regulations.
- 6.2 The Model Disciplinary Procedure A (England) of the Conditions of Service Handbook of the Joint Negotiating Committee for Local Authority Chief Executives and accompanying Guidance give effect to these provisions and will be used in circumstances where disciplinary action against the Head of Paid Service, Monitoring Officer or Chief Finance (s151) Officer is contemplated.
- 6.3 **Potential for dismissal** - Disciplinary action or situations in which there is the potential to dismiss the Head of Paid Service, Monitoring Officer or Chief Finance (s151) Officer on the grounds of misconduct or for other reasons such as capability and some other substantial reason will require the involvement of an Independent Investigator. Where it results in a proposal to dismiss, it will require the involvement of an Independent Panel before the Council considers the proposal in accordance with the Regulations
- 6.4 **Independent Persons** – The Head of Paid Service, the Monitoring Officer and the Chief Finance (S.151) Officer may not be dismissed unless this procedure is complied with.
- 6.4.1 Relevant Independent Persons must be invited to be considered for appointment to an Independent Persons Panel, with a view to appointing at least two such persons to the Panel.
- 6.4.2 The “relevant Independent Persons” means any Independent Person who has been appointed or, where there are fewer than two such persons, such Independent Persons as have been appointed by another authority, or authorities, as the Council considers appropriate.

- 6.4.3 The Council must appoint to the **Independent Persons Panel** such relevant independent persons who have accepted an invitation issued in accordance with Procedure Rule 6.2 in accordance with the following priority order:
- (a) a relevant Independent Person who has been appointed by the Council and who is a local government elector;
 - (b) any other relevant Independent Person who has been appointed by the Council;
 - (c) a relevant Independent Person who has been appointed by another authority or authorities
 - (d) The Council is not required to appoint more than two relevant Independent Persons but may do so.
 - (e) The Council must appoint any Independent Persons Panel at least 20 working days before the relevant meeting.
- 6.4.4 Before the taking of a vote at the relevant meeting on whether to approve such a dismissal, the body in question must take into account, in particular:
- (i) any advice, views or recommendations of the Independent Persons Panel
 - (ii) the conclusions of any investigation into the proposed dismissal; and
 - (iii) any representations from the relevant officer.
- 6.4.5 Any remuneration allowances or fees paid by the Council to an Independent Person appointed to the Independent Persons Panel must not exceed the level of remuneration, allowance or fees payable to that Independent Person in respect of that person's role as an Independent Person under the Localism Act 2011.

7 DISMISSAL OF CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS

- 7.1 Where a Committee, Sub-Committee (Panel) or an officer is discharging the function of dismissal on behalf of the authority, notice of the dismissal of a Chief Officer or Deputy Chief Officer must not be given by the dismissor until—
- 7.1.1 the dismissor has notified the proper officer of the name of the person to be dismissed and any other particulars which are relevant to the dismissal;
 - 7.1.2 the proper officer has notified every member of the Cabinet of:
 - (a) the name of the person to be dismissed:
 - (b) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
 - (c) the period within which any objection to the proposed dismissal is to be made by the Leader on behalf of the Cabinet to the proper officer; and
 - 7.1.3 either—

- (a) the Leader has, within the period specified in the notice, notified the dismissor that neither they, nor any other member of the Cabinet, has any objection to the proposed dismissal;
- (b) the proper officer has notified the dismissor that no objection was received within that period from the Leader; or
- (c) the dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

8 DELEGATION OF FUNCTIONS IN RESPECT OF CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS

- 8.1 Subject to rule 8.2 below, the function of appointment or dismissal of, and taking disciplinary action against, any Chief Officer is to be conducted by the Chief Officer Employment Panel as set out at **Part 3A** (Terms of Reference of Committees) of this Constitution or, in the case of Deputy Chief Officers, by the Head of Paid Service, or other Chief officer, as set out at **Part 3C** (Delegation to Officers) of this Constitution.
- 8.2 Only a meeting of the full Council may dismiss the Head of Paid Service, the procedure set out in rule 6 having been followed.
- 8.3 Where disciplinary action against a Deputy Chief Officer has been delegated to the Head of Paid Service or their nominee, Councillors may only be involved the matter where such involvement is necessary for any investigation or inquiry into alleged misconduct through the Council's disciplinary, capability and related procedures.

9 OTHER OFFICERS

- 9.1 The function of appointment or dismissal of, and taking disciplinary action against, any officer other than a Chief Officer or Deputy Chief Officer must be the responsibility of the Head of Paid Service, or their nominee.
- 9.2 Councillors will not be involved in the appointment, dismissal of or taking disciplinary action against any officer other than a Chief Officer or Deputy Chief officer, except where such involvement is necessary for any investigation or inquiry into alleged misconduct, although 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 disciplinary action resulting in dismissal only.
- 9.3 Any disciplinary action will be taken in accordance with the Council's Disciplinary Policy and Procedure, as adopted from time to time.

10 NO DIRECTIONS TO BE GIVEN TO PERSONS MAKING APPOINTMENTS OR TAKING DISCIPLINARY ACTION

- 10.1 Save as specifically provided for elsewhere in these Officer Employment Procedure Rules, neither the Council nor the Cabinet or its Committees or Overview and Scrutiny meeting or an individual Councillor, nor any other person shall directly or indirectly:
 - 10.1.1 give directions to any person taking any step in relation to an appointment to a post in the paid service of the Council as to the identity of the person to be appointed;
 - 10.1.2 give directions about the taking of any disciplinary action in relation to a person in the paid service of the Council; or

- 10.1.3 otherwise interfere with the making of such an appointment or the taking of disciplinary action.

11 PAY POLICY AND TERMS AND CONDITIONS OF EMPLOYMENT

- 11.1 The preparation of the Council's **Pay Policy Statement** will be undertaken as determined by the full Council and must be approved annually by a meeting of the full Council before the end of the 31 March immediately preceding the financial year to which it relates.
- 11.2 Except as set out above in these Officer Employment Procedure Rules, other matters concerning the terms and conditions, including conditions as to remuneration, upon which officers are appointed by the Council for the proper discharge of such of their or another authority's functions as fall to be discharged by those officers are to be determined by the Council, the Chief Officer Employment Panel, or any other Committee or Sub-Committee (Panel), as set out at **Part 3A** (Matters Reserved to the Council and Terms of Reference of Committees) or by the Head of Paid Service, or their nominee, as set out at **Part 3C** (Delegation to Officers) of this Constitution.