

38 Officer Employment Procedure Rules

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1. GENERAL

- 1.1 Subject to Rule 1.2 and Rule 10 below, the function of appointment and dismissal of, and taking disciplinary action against, a Member of staff of the authority must be discharged, on behalf of the authority by the Head of the Paid Service or by an officer nominated by her/him.
- 1.2 Rule 1.1 shall not apply to the appointment or dismissal of, or disciplinary action against:
- (a) The Head of the Paid Service;
 - (b) A statutory chief officer within the meaning of section 2(6) of the Local Government and Housing Act 1989;
 - (c) A non-statutory chief officer within the meaning of section 2(7) of the Local Government and Housing Act 1989;
 - (d) A deputy chief officer within the meaning of section 2(8) of the Local Government and Housing Act 1989 (subject to Rule 5.6 below);
 - (e) A political assistant appointed in pursuance of section 9 of the Local Government and Housing Act 1989; or
 - (f) A Mayor's assistant appointed in pursuance of regulations under paragraph 6 of Schedule 1 to the Local Government Act 2000.

2. RECRUITMENT AND APPOINTMENT

2.1 Declarations

- (a) 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 the Mayor or an existing Councillor or officer of the Council; or of the partner of such persons.
- (b) No candidate so related to the Mayor or a Councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by her/him.

2.2 Seeking support for Appointment

- (a) The Council will disqualify any applicant who directly or indirectly seeks the support of the Mayor or any Councillor for any appointment with the Council. The content of this Rule will be included in any recruitment information.
- (b) Neither the Mayor nor any Councillor will seek support for any person for any appointment with the Council.
- (c) Neither the Mayor nor any Councillor shall give a reference (oral or written) for a candidate for employment by the Council.

3. RECRUITMENT OF HEAD OF PAID SERVICE AND CHIEF OFFICERS

3.1 Where the Council proposes to appoint a chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

- (a) draw up a statement specifying:
 - (i) the duties of the officer concerned; and
 - (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; and
- (c) make arrangements for a copy of the statement mentioned in Rule 3.1(a) to be sent to any person on request.

4. APPOINTMENT OF HEAD OF PAID SERVICE

- 4.1 Where a Committee, Sub-Committee or officer is discharging, on behalf of the authority, the function of the appointment of an officer designated as the head of the authority's paid service, the authority must approve that appointment before an offer of appointment is made to that person.
- 4.2 The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by an Appointments Sub-Committee established in accordance with Rule 5.1 below. That Sub-Committee must include at least one Member of the Executive.
- 4.3 The full Council may only make or approve the appointment of the Head of Paid Service where no well-founded objection has been made by any Member of the Executive.

5. APPOINTMENT OF CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS

- 5.1 The Chief Executive will establish Appointments Sub-Committees upon criteria approved by the Human Resources Committee comprising relevant Members to make appointment to Chief Officer and Deputy Chief Officer posts. Any Appointments Sub-Committee established in accordance with this rule must include at least one (1) Member of the Executive.
- 5.2 Engagement of Chief Officers, to permanent positions or interim positions of over six (6) months, will be through the normal recruitment process overseen by the Human Resources Committee. The Chief Executive may make appointments to interim positions of up to six (6) months.
- 5.3 Where an interim appointment, approved by the Chief Executive, extends beyond six months it must be approved at the next available Human Resources Committee and in any case not later than two months after the end of the extension.
- 5.4 An offer of employment as a chief officer or deputy chief officer shall only be made where no well-founded objection from any Member of the Executive has been received. Subject to Rule 5.6 below, in these Rules, chief officers are defined as:
 - (a) the Chief Executive (as Head of Paid Service)
 - (b) the statutory Chief Officers, (including the Chief Financial Officer, Corporate Director, Children's Services, Corporate Director, Adults' Services, and the Monitoring Officer)
 - (c) the non-statutory chief officers which are:
 - (i) Officers for whom the Chief Executive is responsible (other directors);
 - (ii) Officers who report to or who are directly accountable to the Chief Executive by virtue of the nature of their duties; and

- (iii) Officers who report to or who are directly accountable to the Council itself or any committee of the Council by virtue of the nature of their duties.

5.5 Subject to Rule 5.6 below, in these Rules, deputy chief officers are defined as officers in departments who, by virtue of the nature of their duties, either report to or are directly accountable to the statutory or non-statutory chief officer responsible for that department.

5.6 Rules 5.4 and 5.5 do not apply to:

- (a) officers whose duties are solely secretarial and clerical or are in the nature of support services; or
- (b) Head Teacher and Deputy Head Teacher posts in schools with delegated budgets.

5.7 A permanent appointment to either the Chief Finance Officer or Monitoring Officer positions proposed by the Appointment Sub-Committee must be confirmed by a meeting of Council.

6. PROCEDURE FOR THE APPOINTMENT OF CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS

6.1 Appointments Sub-Committee Membership. The Chief Executive, will set up an Appointments Sub Committee upon criteria approved by the Human Resources Committee comprising relevant Members to make appointments to chief officer and deputy chief officer posts.

6.2 Appointment Process. The following process will apply after an Appointments Sub Committee has interviewed all shortlisted candidates:

- (a) If the Sub Committee agree on a candidate suitable for the post, they will indicate their 'provisional intention to make an offer' to the Chief Executive.
- (b) The Sub Committee will inform the Chief Executive of the name of the candidate to whom they wish to make an offer together with any other particulars which the Sub Committee considers relevant in making the appointment.
- (c) The Chief Executive will notify the Mayor and each other Member of the Executive within twenty-four (24) hours of:
 - (i) The name of the person the Sub-Committee wish to make an offer to.
 - (ii) Any other particulars relevant to the appointment notified by the Sub-Committee.

- (iii) The period within which any objection to the making of the offer is to be made by the Mayor on behalf of the Executive to the Chief Executive.
- (iv) The period of objection will normally be two (2) working days. If the period of objection is to be shortened, then notification will be by telephone and e-mail.
- (v) If:
 - (1) The Mayor, within the period of objection, notifies the Sub-Committee that neither they or any other Member of the Executive has any objection to the making of the offer; or
 - (2) The Chief Executive notifies the Sub-Committee that no objection has been received by him/her within the objection period from the Mayor,
 the 'provisional intention to make an offer' will become a firm offer and the offer of appointment may be made without the need for the Sub-Committee to re-convene.
- (vi) If an objection is received within the objection period from the Mayor on behalf of the Executive, the Sub-Committee will reconvene to consider the objection. If the Sub-Committee is satisfied that any objection received from the Mayor is not material or is not well founded, they may confirm their decision and a formal offer will be made.

7. OTHER APPOINTMENTS

- 7.1** Officers below Deputy Chief Officer. Appointment of officers below deputy chief officer (other than any assistants to the political groups and any Mayor's assistant as defined at (e) and (f) respectively of Rule 1.2 above) is the responsibility of the Head of Paid Service or her/his nominee, and may not be made by the Mayor or Councillors.
- 7.2** Assistants to Political Groups. Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.
- 7.3** Mayor's Assistant. Appointment of a Mayor's Assistant shall be made in accordance with the wishes of the Mayor.

8. DISCIPLINARY ACTION

8.1 In this Rule 8:

- "the 2011 Act" means the Localism Act 2011;
- "independent person" means a person appointed under section 28(7) of the 2011 Act;

- “local government elector” means a person registered as a local government elector in the council’s area
- “The Panel” means a committee appointed by the Council for the purposes of advising the Council on matters relating to the dismissal of the Head of Paid Service, the Monitoring Officer or the Chief Financial Officer;
- “relevant meeting” means a meeting of the Full Council to consider whether or not to approve a proposal to dismiss the Head of Paid Service, Monitoring Officer or Chief Financial Officer

8.2 Suspension. The Head of the Paid Service, the Monitoring Officer or the Chief Financial Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and may last no longer than two (2) months.

8.3 The Head of Paid Service, Monitoring Officer or Chief Finance Officer may not be dismissed for disciplinary or misconduct reasons unless the procedure set out in the following Rule 8.3 (a) to (g) is complied with:

(a) An Investigating and Disciplinary Sub-Committee (IDSC) must be established to deal with formal disciplinary matters of the Relevant Officers.

(b) Where the IDSC proposes dismissal it must ask the Executive if there are objections to the proposal. If there are material, well-founded objections the IDSC must consider those.

(c) Where there is a recommendation to dismiss, the Council must then appoint an Independent Panel of at least two independent persons to consider the recommendation for dismissal.

(d) The reports of the IDSC and the Independent Panel must be considered by a meeting of Council which must consider and approve the proposal to dismiss before the notice of dismissal is issued.

(e) The Relevant Officer will have the opportunity to appear before the council meeting to put their case before a decision is taken.

~~(a) The Council must invite relevant Independent Persons to be considered for appointment to the Panel, with a view to appointing at least two (2) such persons to the Panel.~~

~~(b) In paragraph (a) above “relevant Independent Persons” means any Independent Person who has been appointed by the Council, 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~~

~~(c) Subject to paragraph (d), the Council must appoint to the Panel such relevant Independent Persons who have accepted an invitation issued in~~

~~accordance with paragraph (a) in accordance with the following priority order—~~

- ~~(d) a relevant Independent Person who has been appointed by the Council and is a local government elector;~~
- ~~(e) any other relevant Independent Person who has been appointed by the Council;~~
- ~~(f) a relevant Independent Person who has been appointed by another authority or authorities~~
- ~~(g) the Council is not required to appoint more than two (2) relevant Independent Persons in accordance with paragraph (c) but may do so~~
- ~~(h) the Council must appoint any Panel at least twenty (20) working days before the relevant meeting~~
- ~~(i) before the taking of the vote at the relevant meeting on whether or not to approve such a dismissal, the Council must take into account, in particular—~~
- ~~(j) any advice, views or recommendations of the Panel;~~
- ~~(k) the conclusions of any investigation into the proposed dismissal; and~~
- ~~(l) any representations of the officer whose dismissal is being considered at the meeting~~
- ~~(m) any remuneration, allowances or fees paid by the Council 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 Independent Person under the 2011 Act.~~

8.4 Involvement of Members in Disciplinary Action. Neither the Mayor nor any Member of the Council will be involved in disciplinary action against any officer below deputy chief officer except where set out in Paragraph 10.

8.5 A Disciplinary Policy and Procedure for the Head of Paid Service, the Monitoring Officer and the Chief Financial Officer shall from time to time be issued or updated. That document does not form part of the Council's Constitution but should be read alongside these Officer Employment Procedure Rules.

9. DISMISSAL

9.1 Neither the Mayor nor any Member of the Council will be involved in the dismissal of any officer below deputy chief officer except where set out in Paragraph 10.

9.2 Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the dismissal of an officer designated as the head of the authority's paid service, as the authority's Chief Finance Officer, or as the

authority's Monitoring Officer, the authority must approve that dismissal before notice is given to that person.

9.3 Where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the function of the dismissal of any officer referred to at (a) to (d) of Rule 1.2 above, at least one member of the Executive must be a member of that committee or sub-committee.

9.4 Where the authority or a Committee, Sub-Committee or officer ("the dismissor") proposes to dismiss:

The Head of the Paid Service;

A statutory chief officer;

A non-statutory chief officer; or

A deputy chief officer,

notice of dismissal must not be given until the dismissor has notified the Head of the Paid Service (or where the officer to be dismissed is the Head of the Paid Service, the Monitoring Officer) of the name of the person whom the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal; and

(a) The Head of the Paid Service, or as the case may be, the Monitoring Officer, has notified the Mayor and every other member of the Executive of:

(i) The name of the person whom the dismissor wishes to dismiss;

(ii) Any other particulars relevant to the dismissal which the dismissor has notified; and

(iii) The period within which any objection to the dismissal is to be made by the Mayor on behalf of the Executive to the Head of the Paid Service/ Monitoring Officer; and

(b) Either:

(i) The Mayor has, within the period specified in the notice under 9.4(b) above, notified the dismissor that neither they nor any other Member of the Executive has any objection to the dismissal; or

(ii) The Head of the Paid Service/Monitoring Officer has notified the dismissor that no objection was received by her/him within that period from the Mayor; or

(iii) The dismissor is satisfied that any objection received from the Mayor within that period is not material or is not well founded.

9.5 If a valid objection is made by the Mayor to a dismissal proposed by a Committee or Sub Committee that body shall re-convene to consider the

objection. If the Committee or Sub Committee is satisfied that the objection is not well founded they will confirm their decision.

10. APPEALS

10.1 Nothing in Rule 1.1 above shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by:-

- (a) another person against any decision relating to the appointment of that other person as a member of staff of the authority;
- (b) a member of staff of the authority against any decision relating to the dismissal of that member of staff.