

## APPENDIX M: Officer Employment Procedure Rules

### 1. Recruitment and Appointment

#### (a) General

- (i) Subject to paragraphs (ii) and (iii) 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 Council, by the Officer designated under section 4(1) of the Local Government and Housing 1989 this being the Head of Paid Service or by an Officer nominated by him/her.
- (ii) Paragraph (i) shall not apply to the appointment or dismissal of, or disciplinary action against:
  - (A) the Officer designated as the Head of Paid Service;
  - (B) a statutory Chief Officer within the meaning of section 2(6) of the Local Government and Housing 1989 Act (politically restricted posts);
  - (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; or
  - (E) a person appointed in pursuance of section 9 of the Local Government and Housing Act 1989 (assistants for political groups).
- (iii) Nothing in paragraph (i) shall prevent a person from serving as a member of any 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 other 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.

#### (b) 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.
- (ii) No candidate so related to a Councillor, or an Officer will be appointed without the authority of the relevant Chief Officer or an Officer nominated by him/her.

(c) Seeking Support for Appointment

- (i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) Subject to paragraph (iii), no Councillor will seek support for any person for any appointment with the Council.
- (iii) Nothing in paragraphs (i) or (ii) will preclude a Councillor from giving a written reference for a candidate.

## **2. Recruitment of Head of Paid Service and Chief Officers**

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 paragraph (2)(a) to be sent to any person on request.

## **3. Appointment of Head of Paid Service, Chief Officers and Heads of Service**

- (a) In this paragraph, "appointor" means, in relation to the appointment of a person as an Officer of the Council, the Council or, where a Committee, Sub-Committee or Officer is discharging the function of appointment on behalf of the Council, that Committee, Sub-Committee or Officer, as the case may be.
- (b) An offer of an appointment as:
  - (i) the Officer designated as the head of paid service;
  - (ii) a statutory Chief Officer within the meaning of section 2(6) of the Local Government and Housing Act 1989 (politically restricted posts);
  - (iii) a non-statutory Chief Officer within the meaning of section 2(7) of the Local Government and Housing Act 1989;
  - (iv) a deputy Chief Officer within the meaning of section 2(8) of the Local Government and Housing Act 1989; or
  - (v) a person appointed in pursuance of section 9 of the 1989 Local

Government and Housing Act 1989 (assistants for political groups),

must not be made by the appointor until:

- (A) the appointor has notified the Proper Officer<sup>1</sup> 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;
- (B) the Proper Officer has notified every member of the Cabinet of:
  - (i) the name of the person to whom the appointor wishes to make the offer;
  - (ii) any other particulars relevant to the appointment which the appointor has notified to the Proper Officer; and
  - (iii) the period within which any objection to the making of the offer is to be made by the Leader of the Council on behalf of the Cabinet to the Proper Officer; and
- (C) either:
  - (i) the Leader of the Council has, within the period specified in the notice under sub-paragraph (B)(iii), notified the appointor that neither he/she nor any other member of the Cabinet has any objection to the making of the offer;
  - (ii) the Proper Officer has notified the appointor that no objection was received by him within that period from the Leader of the Council; or
  - (iii) the appointor is satisfied that any objection received from the Leader of the Council within that period is not material or is not well-founded.

#### 4. Other Appointments

##### Officers below Chief Officer

Appointment of Officers below Chief Officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Councillors.

#### 5. Disciplinary Action

(a) In the following paragraphs—

(i) “the 2011 Act” means the Localism Act 2011;

<sup>1</sup> Note: The Proper Officer for the purposes of this Appendix will normally be the Head of Paid Service, as per Part 13 of the Constitution. Where this concerns the appointment or dismissal of the Head of Paid Service then reference to the Proper Officer should be read as reference to the Chief Officer with responsibility for Human Resources.

- (ii) “Chief Finance Officer”, “disciplinary action”, “Head of Paid Service” and “Monitoring Officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;<sup>2</sup>
  - (iii) “independent person” means a person appointed under section 28(7) of the 2011 Act;
  - (iv) “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;
  - (v) “the Panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972(d) for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;
  - (vi) “relevant meeting” means a meeting of the Council to consider whether or not to approve a proposal to dismiss a relevant officer; and
  - (vii) “relevant officer” means the Chief Finance Officer, Head of Paid Service or Monitoring Officer, as the case may be.
- (b) A relevant officer may not be dismissed unless the procedure set out in the following paragraphs and Schedule 3 to the Local Authorities (Standing Orders) (England) Regulations 2001 are complied with.
- (c) The Council 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.
- (d) In paragraph (c) “relevant independent person” 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 is considered appropriate.
- (e) Subject to paragraph (f), the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph (c) in accordance with the following priority order—
- (i) a relevant independent person who has been appointed by the Council who is a local government elector;
  - (ii) any other relevant independent person who has been appointed by the Council;
  - (iii) a relevant independent person who has been appointed by another authority or authorities.

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<sup>2</sup> Note: In this section Chief Finance Officer refers to the post of Section 151 Officer (who at this time is also the Head of Paid Service and the Chief Executive)

- ~~(f) The Council is not required to appoint more than two relevant independent persons in accordance with paragraph (e) but may do so.~~
- ~~(g) The Council must appoint any Panel at least 20 working days before the relevant meeting.~~
- ~~(h) Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the Council must take into account, in particular—~~
- ~~(i) any advice, views or recommendations of the Panel;~~
- ~~(ii) the conclusions of any investigation into the proposed dismissal; and~~
- ~~(iii) any representations from the relevant officer.~~
- ~~(i) 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 independent person under the 2011 Act."~~
- ~~(a) In paragraph (b), "Chief Finance Officer", "disciplinary action", "Head of the Paid Service" and "Monitoring Officer", have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001 and "designated independent person" has the same meaning as in regulation 7 of those Regulations.~~
- ~~(b) No disciplinary action in respect of the Head of Paid Service, its Monitoring Officer or its Chief Finance Officer, except action described in paragraph 3, may be taken by the Council, or by a Committee, a Sub-Committee, a Joint Committee on which the Council is represented or any other person acting on behalf of the Council, other than in accordance with a recommendation in a report made by a designated independent person under regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001 (investigation of alleged misconduct).~~
- ~~(c) The action mentioned in paragraph 2 is suspension of the Officer for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension must be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.~~

## **6. Dismissal**

- (a) In this paragraph, "dismissor" means, in relation to the dismissal of an Officer of the Council, the Council or, where a Committee, Sub-Committee or another Officer is discharging the function of dismissal on behalf of the Council, that Committee, Sub-Committee or other Officer, as the case may be.
- (b) Notice of the dismissal of :
- (i) the Officer designated as the Head of Paid Service;
- (ii) a statutory Chief Officer within the meaning of section 2(6) of the Local

Government and Housing 1989 (politically restricted posts);

- (iii) a non-statutory Chief Officer within the meaning of section 2(7) of the Local Government and Housing 1989;
- (iv) a Deputy Chief Officer within the meaning of section 2(8) of the Local Government and Housing 1989; or
- (v) a person appointed in pursuance of section 9 of the 1989 Local Government and Housing (assistants for political groups).

must not be given by the dismissor until:

- (i) the dismissor has notified the Proper Officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
- (ii) the Proper Officer has notified every member of the Cabinet of:
  - (A) the name of the person who the dismissor wishes to dismiss;
  - (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 dismissal is to be made by the Leader of the Council on behalf of the Cabinet to the Proper Officer; and
- (iii) either
  - (A) the Leader of the Council has, within the period specified in the notice under sub-paragraph (ii)(C), notified the dismissor that neither he nor any other member of the Cabinet has any objection to the dismissal;
  - (B) the Proper Officer has notified the dismissor that no objection was received by him within that period from the Leader of the Council; or
  - (C) the dismissor is satisfied that any objection received from the Leader of the Council within that period is not material or is not well-founded.

## **7. Councillor Involvement**

Councillors will not be involved in disciplinary action against any Officer below Deputy Chief Officer or the dismissal of any Officer below 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 Councillors in respect of disciplinary action.