

## **Part F – Officers**

### **Section F3:- Officer Employment Procedure Rules**

#### **In Part F:-**

**Section F1** of the Constitution explains the role of the authority's Officers in general and the role of certain key and "statutory" or "proper" officers. It sets out the Officer management structure and explains how the authority's functions are grouped together under Services and Directorates.

**Section F2** contains the Officer Scheme of Delegation which sets out how Council has delegated powers to officers and how officers are to use those powers. In summary, with the exception of matters that are specifically reserved to Members by law or in this Constitution, such as adopting strategic policy and taking certain types of regulatory decisions, all of the other functions are delegated to officers. Officers may enter into contracts and incur expenditure but must do so within financial limits and procedures set out in the Finance and Contract Procedure Rules (Section G4).

**This Section (F3)** contains the Officer Employment Procedure Rules.

## **Part F - Officers**

### **Section F3: - Officer Employment Rules**

**In this Section:-**

- 1. Definitions**
- 2. Responsibility for Appointing, Dismissing and Disciplining Employees**
- 3. Appointment of the Head of the Paid Service**
- 4. Appointment of Chief Officers (Statutory or Non-statutory) and Deputy Chief Officers**
- 5. Dismissal of the Head of the Paid Service**
- 6. Dismissal of Chief Officers (Statutory and Non-Statutory) and Deputy Chief Officers**
- 7. Saving Regarding the Hearing of Appeals**

## 1. Definitions

In these Rules –

“the 1989 Act” means the Local Government and Housing Act 1989;

“the 2000 Act” means the Local Government Act 2000;

“the 2001 Regulations” means the Local Authorities (Standing Orders) Regulations 2001;

“Chief Finance Officer” has the same meaning as set out in Regulation 2 of the 2001 Regulations;

“disciplinary action” has the same meaning as set out in Regulation 2 of the 2001 Regulations;

“Head of the Paid Service” has the same meaning as set out in Regulation 2 of the 2001 Regulations;

“member of staff” means a person appointed to or holding paid office or employment to the Council;

“Independent Person” means a person appointed under section 28(7) of the Localism Act 2011 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;

“Independent Persons 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 in accordance with Schedule 3 to the 2001 Regulations, including or comprising at least two Independent Persons who have accepted an invitation to be considered for appointment to the Panel and who have been appointed to it in accordance with the following priority order—

(a) an independent person who has been appointed by the authority and who is a local government elector in the Council’s area;

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

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

“Monitoring Officer” has the same meaning as set out in Regulation 2 of the 2001

Regulations;

“Statutory Chief Officer” has the meaning as set out in section 2 (6) of the 1989 Act and for this Council will be the Deputy Chief Executive (People) and the Chief Operating Officer (the Chief Finance Officer/section 151 Officer; “Non-Statutory Chief Officer” means a person who reports to the Head of the Paid Service or who is directly accountable to the local authority or any committee or subcommittee of the authority as set out in Section 2 (7) of the 1989 Act and for this Council will be any other Deputy Chief Executives appointed by the Council who are not Statutory Chief Officers, and the Director of Governance (the Monitoring Officer); “Deputy Chief Officer” means a person who for most or all of his duties is required to report direct, or is directly accountable, to a statutory or non-statutory Chief Officer as set out in section 2 (8) of the 1989 Act and for this Council shall be its Directors (apart from those who are statutory or non-statutory chief officers).

## **2. Responsibility for Appointing, Dismissing and Disciplining Employees**

- 2.1 Staff within the organisation are employed, appointed, designated or engaged on behalf of the whole Council and not by parts of the organisation or individuals.
- 2.2 The employment, appointment, designation or engagement of all staff will be in compliance with the law and any policies and practices of the Council.
- 2.3 Subject to clauses 2.4 and 2.5 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 Head of the Paid Service or by an officer nominated by him or her.
- 2.4 The provisions of clause 2.3 shall not apply to the appointment or dismissal of or disciplinary action against:
  - (a) the officer designated as the Head of the Paid Service;
  - (b) a Statutory Chief Officer;
  - (c) a Non-Statutory Chief Officer;
  - (d) a Deputy Chief Officer.

The Staffing Committee is responsible for the appointment and dismissal of the officers set out above in (a) – (c) apart from the Chief Operating Officer (the Chief Finance Officer/section 151 Officer) or the Director of Governance (the Monitoring Officer) and for this purpose the Staffing Committee must include at least one member of the Cabinet. The Chief Executive shall be responsible for the appointment of the Chief Operating Officer and the Director of Governance and the appropriate Director shall be responsible for the appointment of a Deputy Chief Officer. The procedures for such appointments and dismissals are set out in paragraphs 3 to 6 of these Rules.

- 2.5 The Staffing Committee is responsible for the function of taking disciplinary action other than dismissal in respect of the Head of the Paid Service, Chief Finance Officer or Monitoring Officer.
- 2.6 With regard to recruitment 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, niece of an existing councillor or officer of the Council, or the partner of such persons. A candidate who deliberately fails to disclose such a relationship shall be disqualified from appointment and if appointed shall be liable to dismissal.
- 2.7 The Senior HR Manager shall ensure that the provisions contained in Clause 2.6 are reflected in application forms or in any accompanying detailed procedures for any post advertised.
- 2.8 The Senior HR Manager in consultation with the Leader of the Council shall be responsible for the suspension of the Head of the Paid Service. The Head of the Paid Service shall be responsible for the suspension of any Chief Officer. The appropriate Chief Officer shall be responsible for the suspension of any Deputy Chief Officer.

### **3. Appointment of the Head of the Paid Service**

- 3.1 Where the Council proposes to appoint the Head of the Paid Service, the Staffing Committee will oversee the arrangements for filling the vacancy.
- 3.2 The Staffing Committee shall:

- (a) draw up a statement specifying the duties and salary of the post of the Head of the Paid Service and 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 above to be sent to any person on request;
  - (d) select from the applications a short list of qualified candidates and interview those included in the short list.
- 3.3 Following the interview of candidates, the Committee will come to a view as to the most suitable person for the position.
- 3.4 The Committee must advise the Senior HR Manager of:
- (a) the name of the person in question;
  - (b) any other particulars which the Committee consider are relevant to the appointment.
- 3.5. Within five clear working days of receiving the notification in 3.4 above, the Senior HR Manager will notify each member of the Cabinet of:
- (a) the information notified in paragraph 3.4 above;
  - (b) 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 Senior HR Manager ; such period shall not exceed five clear working days.
- 3.6. An offer of appointment must wait until:
- (a) the Leader has, within the period of the notice under paragraph 3.5 above, notified the Committee through the Senior HR Manager that neither he/she nor any member of the Cabinet has any objection to the making of the offer;
  - (b) the Senior HR Manager has notified the Committee that no objections have been received by him/her within the period of notice under 3.5 above;
  - (c) the Committee is satisfied that any objection received from the Leader within the notice period is not well founded. In this regard, where necessary the advice of the Director of Governance (or if appropriate an alternative legal adviser) should be sought.

- 3.7 Where following the above procedure there are no objections to the proposed appointment or any objections are not upheld, the Committee will recommend that person for appointment at the next meeting of the full Council or at a specially convened meeting of the Council. If the full Council approve the recommendation, then a formal appointment can be made.
- 3.8. Where following the interviews the Committee are of the view that there is no suitable candidate, it will re-advertise the post.
- 3.9 Where the full Council do not approve the recommendation of the Committee, they shall indicate how they wish to proceed.

#### **4. Appointment of Chief Officers (Statutory or Non-Statutory) and Deputy Chief Officers**

- 4.1. Where the Council proposes to appoint a Chief Officer (meaning a Statutory Chief Officer or a Non-Statutory Chief Officer) or Deputy Chief Officer, then:
- (a) the Staffing Committee shall oversee the arrangements for filling the vacancy of a Chief Officer apart from the Chief Operating Officer (the Chief Finance Officer/section 151 Officer) or the Director of Governance (the Monitoring Officer);
  - (b) the Chief Executive shall be responsible for the appointment of the Chief Operating Officer and the Director of Governance; and
  - (c) the appropriate Director shall be responsible for the appointment of a Deputy Chief Officer.
- 4.2 The Staffing Committee, the Chief Executive or the Director shall:
- (a) draw up a statement specifying the duties and salary of the officer concerned and 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 any person on request;
  - (d) select from the applications a short list of qualified candidates and interview those included in the short list.

- 4.3 Following the interview of candidates, the Staffing Committee, the Chief Executive or the Director will come to a view as to the most suitable person or the position.
- 4.4. The Staffing Committee, the Chief Executive or the Director must advise the Senior HR Manager  
of:  
(a) the name of the person in question;  
(b) any other particulars which the Committee or Director consider are relevant to the appointment.
- 4.5. Within five clear working days of receiving notification in 4.4 above, the Senior HR Manager will notify each member of the Cabinet of:  
(a) the information notified under paragraph 4.4 above;  
(b) the period in which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the Senior HR Manager ; such period not to exceed five clear working days.
- 4.6 An offer of appointment must wait until:  
(a) the Leader has within the period of notice under paragraph 4.5 above, notified the Staffing Committee or Director through the Senior HR Manager that neither he/she nor any Member of the Cabinet has any objection to the making of the offer; or  
(b) the Senior HR Manager has notified the Staffing Committee, the Chief Executive or the Director that no objections have been received by him/her within the period of notice set out in 4.6 above; or  
(c) the Staffing Committee, the Chief Executive or the Director is satisfied that any objection received from the Leader within the notice period is not material or not well founded. In this regard, where necessary, the advice of the Director of Governance (or if appropriate an alternative legal adviser) should be sought.
- 4.7 Once the conditions in 4.6 above have been satisfied a formal offer of appointment may be made to the successful candidate.
- 4.8 Where following interviews the Staffing Committee, the Chief Executive or the

Director is of the view that there is no suitable candidate the post must be readvertised.

## **5. Dismissal of the Head of the Paid Service, Chief Finance Officer or Monitoring Officer**

5.1 The Staffing Committee is designated as the Committee discharging, on behalf of the Council, the function of dismissal of the Head of the Paid Service, Chief Finance Officer or Monitoring Officer. The full Council must however approve that dismissal before notice of dismissal is given to him/her.

5.3 Notice of dismissal of the Head of the Paid Service, Chief Finance Officer or Monitoring Officer must not be given until:

(a) the Staffing Committee has notified the Senior HR Manager that it wishes to dismiss the officer and any other particulars which the Staffing Committee considers are relevant to the dismissal;

(b) the Senior HR Manager has notified every member of the Cabinet of:

(i) the fact that it wishes to dismiss the officer;

(ii) any other particulars relevant to the dismissal which the Staffing Committee has notified to the Senior HR Manager ;

(iii) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the Senior HR Manager; and

(c) either –

(i) the Leader has within the period specified in the notice under subparagraph

(b) (iii), notified the Senior HR Manager that neither he/she nor any member of the Cabinet has any objection to the dismissal;

(ii) the Senior HR Manager has notified the Staffing Committee that no objection was received by him/her within that period from the Leader on behalf of the Cabinet to the Senior HR Manager;

(iii) the Staffing Committee is satisfied that any objection received from the Leader within that period is not well founded or material. In this regard, where necessary, the advice of the Director of Governance (or if appropriate an alternative legal adviser) should be sought.

- 5.3 Where following the above procedure there are no objections to the proposed dismissal or the objections are not upheld, the Staffing Committee will:
- (a) follow the procedure set out in paragraph 5.4; and
  - (b) recommend the dismissal to a meeting of the full Council
- 5.4 (a) This procedure applies if the Staffing Committee proposes disciplinary action involving the dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer.
- (b) Where this procedure applies, the Staffing Committee will provide the Independent Persons Panel with the matters provided to members of the Cabinet and any other particulars relevant to the dismissal that the Staffing Committee considers appropriate or that the Panel may reasonably require.
  - (c) The Independent Persons Panel will meet to consider what, if any, advice, views or recommendations to give to the full Council.
  - (d) The Council may pay such remuneration, allowances or fees to an Independent Person appointed to the Panel as it thinks appropriate but the payment must not exceed the level of remuneration, allowances or fees payable to that Independent Person in respect of his or her role as an independent person under the Localism Act 2011.
  - (e) Full Council will not meet to consider whether or not to approve the proposal of the Staffing Committee to dismiss the officer until a period of at least 20 working days has elapsed from the appointment of the Independent Persons Panel.
  - (f) Before full Council takes a vote at a meeting on whether or not to approve such a dismissal, they 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 officer.
- 5.5 If the full Council approve the recommendation of the Staffing Committee, then notice of dismissal can be issued. Where the full Council do not approve the recommendation, they shall indicate how they wish to proceed.

## 6. Dismissal of Chief Officers (Statutory and Non-Statutory) and Deputy Chief Officers

6.1 Subject to the Rules relating to the dismissal of the Head of the Paid Service, Chief Finance Officer or Monitoring Officer, the Staffing Committee is designated as the Committee discharging, on behalf of the Council, the function of dismissal of statutory and non-statutory Chief Officers and the appropriate Director is responsible for the dismissal of a Deputy Chief Officer.

6.2. Notice of dismissal of any such Chief Officer or Deputy Chief Officer must not be given until:

(a) the Staffing Committee or Director has notified the Senior HR Manager of the name of the person it wishes to dismiss;

(b) any other particulars which the Staffing Committee or Director considers are relevant to the dismissal;

(c) The Senior HR Manager has notified every member of the Cabinet of:

(i) the name of the person the Staffing Committee or Director wishes to dismiss;

(ii) any other particulars relevant to the dismissal which the Staffing Committee or Director has notified to the Senior HR Manager;

(iii) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the Senior HR Manager ;

and

(d) either –

(i) the Leader has within the period specified in the notice under subparagraph

(b) (iii), notified the Senior HR Manager that neither he/she nor any member of the Cabinet has any objection to the dismissal;

(ii) the Senior HR Manager has notified the Staffing Committee or Director that no objection was received by him/her within that period from the Leader on behalf of the Cabinet to the Senior HR Manager ;

(iii) the Staffing Committee or Director is satisfied that any objection received from the Leader within that period is not well founded or material. In this regard, where necessary, the advice of the Director of Governance (or if appropriate an alternative legal adviser) should be sought.

6.3 Where following the above procedure there are no objections to the proposed dismissal or the objections are not upheld, the Staffing Committee or Director may issue the notice of dismissal.

## **7. Saving Regarding the Hearing of Appeals**

7.1 Nothing in these Rules 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 authority; or

(b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.