

## **PART 4 – CODES AND PROTOCOLS**

### **2. Officer Employment Procedure Rules**

#### **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 (as amended);

“Head of Paid Service”, “Chief Finance Officer”, “Monitoring Officer” and “disciplinary action” have the same meanings 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 by the Council under section 28(7) of the Localism Act 2011 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 Council 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 in accordance with Schedule 3 of 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 Council and who is a local government elector in the Council’s area;
- (b) any other independent person who has been appointed by the Council;
- (c) an independent person who has been appointed by another council or councils.

“Statutory Chief Officer” has the same meaning as set out in section 2(6) of the 1989 Act and for this council will be the Deputy Chief Executive (People), the Chief Operating Officer (the Chief Finance Officer/Section 151 Officer and the Director of Governance (the Monitoring Officer));

“Non-Statutory Chief Officer” means a person who reports or who is directly accountable to the Head of Paid Service, to the Council, or any committee or sub-committee of the Council as set out in section 2(7) of the 1989 Act (other than persons whose duties are solely secretarial or clerical or are otherwise in the nature of support services) and for this council will be any other Deputy Chief Executives appointed by the Council who are not Statutory Chief Officers;

“Deputy Chief Officer” means a person who for most or all of their 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 will 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 Paid Service or by an officer nominated by them.
- 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 Paid Service;
  - (b) a Statutory Chief Officer;
  - (c) a Non-Statutory Chief Officer;
  - (d) a Deputy Chief Officer.
- 2.5 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.
- 2.6 The Chief Executive shall be responsible for the appointment of the Chief Operating Officer and the Director of Governance and the appropriate Chief Officer (statutory or non-statutory) 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. It should be noted that the designation of statutory officers such as the section 151 Officer and the Monitoring Officer must also be authorised by full Council before the offer of employment is made.
- 2.7 The Staffing Committee is responsible for the function of taking disciplinary action other than dismissal in respect of the Head of Paid Service, Chief Finance Officer or Monitoring Officer.
- 2.8 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.

- 2.9 The Head of Organisational Development and Human Resources shall ensure that the provisions contained in Clause 2.8 are reflected in application forms or in any accompanying detailed procedures for any post advertised.
- 2.10 The Head of Organisational Development and Human Resources in consultation with the Leader shall be responsible for the suspension of the Head of Paid Service. The Head of Paid Service shall be responsible for the suspension of any Chief Officer. The appropriate Chief Officer (statutory or non-statutory) shall be responsible for the suspension of any Deputy Chief Officer.

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

- 3.1 Where the Council proposes to appoint the Head of 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 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 Head of Organisational Development and Human Resources of:
- (a) the name of the person in question;
  - (b) any other particulars that the committee consider are relevant to the appointment.
- 3.5. Within five clear working days of receiving the notification in 3.4 above, the Head of Organisational Development and Human Resources 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 Head of Organisational Development and Human Resources; 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 Head of Organisational Development and Human Resources that neither they nor any member of the Cabinet has any objection to the making of the offer;
- (b) the Head of Organisational Development and Human Resources has notified the committee that no objections have been received by them 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 Full Council approves the recommendation, then a formal appointment can be made.

3.8. Where following interviews the committee is of the view that there is no suitable candidate, it will re-advertise the post.

3.9. Where Full Council does not approve the recommendation of the committee, it shall indicate how it wishes 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 (statutory or non-statutory) or a 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 Chief Officer (statutory or non-statutory) shall be responsible for the appointment of a Deputy Chief Officer.

4.2. The Staffing Committee, the Chief Executive or the Chief Officer 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 Chief Officer will come to a view as to the most suitable person or the position.
- 4.4 The Staffing Committee, the Chief Executive or the Chief Officer must advise the Head of Organisational Development and Human Resources of:
- (a) the name of the person in question;
  - (b) any other particulars that the committee, the Chief Executive or Chief Officer consider are relevant to the appointment.
- 4.5 Within five clear working days of receiving notification in 4.4 above, the Head of Organisational Development and Human Resources 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 Head of Organisational Development and Human Resources; 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, the Chief Executive or the Chief Officer through the Head of Organisational Development and Human Resources that neither they nor any member of the Cabinet has any objection to the making of the offer; or
  - (b) the Head of Organisational Development and Human Resources has notified the Staffing Committee, the Chief Executive or the Chief Officer that no objections have been received by them within the period of notice set out in 4.5 above; or
  - (c) the Staffing Committee, the Chief Executive or the Chief Officer 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; or
  - (d) In respect of the Section 151 Officer and the Monitoring Officer, until Full Council has approved the statutory designation in accordance with Part 2 paragraph 4(o) of the Constitution.
- 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 Chief Officer is of the view that there is no suitable candidate the post must be re-advertised.

## 5. Dismissal of the Head of 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 Paid Service, Chief Finance Officer or Monitoring Officer. Full Council must, however, approve that dismissal before notice of dismissal is given to them.
- 5.3 Notice of dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer must not be given until:
- (a) the Staffing Committee has notified the Head of Organisational Development and Human Resources that it wishes to dismiss the officer and any other particulars that the Staffing Committee considers are relevant to the dismissal;
  - (b) the Head of Organisational Development and Human Resources 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 Head of Organisational Development and Human Resources;
    - (iii) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the Head of Organisational Development and Human Resources; and
  - (c) either:
    - (i) the Leader has within the period specified in the notice under subparagraph (b)(iii), notified the Head of Organisational Development and Human Resources that neither they nor any member of the Cabinet has any objection to the dismissal;
    - (ii) the Head of Organisational Development and Human Resources has notified the Staffing Committee that no objection was received by them within that period from the Leader on behalf of the Cabinet;
    - (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.
- 5.4 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 5.5; and
  - (b) recommend the dismissal to a meeting of Full Council
- 5.5 (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 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 their 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.

5.6 If Full Council approves the recommendation of the Staffing Committee, then notice of dismissal can be issued. Where Full Council does not approve the recommendation, it shall indicate how it wishes 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 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 Chief Officers (statutory and non-statutory) and the appropriate Chief Officer (statutory and non-statutory) 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 Chief Officer has notified the Head of Organisational Development and Human Resources of the name of the person they wish to dismiss;
  - (b) any other particulars which the Staffing Committee or Chief Officer considers are relevant to the dismissal;
  - (c) The Head of Organisational Development and Human Resources has notified every member of the Cabinet of:
    - (i) the name of the person the Staffing Committee or Chief Officer wishes to dismiss;

(ii) any other particulars relevant to the dismissal which the Staffing Committee or Chief Officer has notified to the Head of Organisational Development and Human Resources;

(iii) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the Head of Organisational Development and Human Resources; and

(d) either:

(i) the Leader has within the period specified in the notice under subparagraph (b)(iii), notified the Head of Organisational Development and Human Resources that neither they nor any member of the Cabinet has any objection to the dismissal;

(ii) the Head of Organisational Development and Human Resources has notified the Staffing Committee or Chief Officer that no objection was received by them within that period from the Leader on behalf of the Cabinet;

(iii) the Staffing Committee or Chief Officer 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 Chief Officer 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.