

OFFICER EMPLOYMENT PROCEDURE RULES

APPENDIX 9 – OFFICER EMPLOYMENT PROCEDURE RULES

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APPENDIX 9 – OFFICER EMPLOYMENT PROCEDURE RULES

1. Recruitment and appointment

1.1 Declarations

- (a) The Council requires any candidate for appointment as an officer under the Council to state in writing whether they are related to (or have a close personal relationship with) an existing Councillor or an employee of the Council.
- (b) Every Councillor and employee of the Council shall disclose to the relevant Director for the post any such relationship known to them to exist between themselves and a candidate for an appointment of which they are aware and that Director shall record such disclosure.
- (c) No candidate so related to a Councillor or employee will be appointed without the authority of the relevant Director or an officer nominated by him/her (unless the appointment falls to be made by Members).
- (d) Where such relationship to a Councillor or employee exists, the Councillor or employee concerned (if it is an appointment which falls to be made by Members) shall not take part in the consideration, or discussion of, or vote on, any question with respect to the appointment.

1.2 Seeking support for appointment

- (a) The Council will disqualify any applicant who directly or indirectly canvasses any Councillor or Officer for any appointment with the Council.
- (b) No Councillor will canvass for any person for any appointment with the Council although nothing in this paragraph precludes a Councillor from giving a written reference on a candidate's ability, experience or character for submission with or in connection with that candidate's application.

1.3 The effect of paragraphs 1.1(a) and 1.2(a) will be stated in any recruitment information.

2. Recruitment of Head of Paid Service (Chief Executive), Directors and Heads of Service

2.1 Where the Council proposes to appoint the Head of Paid Service or a Director or a Head of Service or any other statutory Chief Officer within the meaning of the Local Government and Housing Act 1989 (collectively known as Chief Officer-related posts) and it is not proposed that the appointment will be made exclusively from among their existing officers, the Appointments etc Panel (Panel) will on behalf of the Council be responsible for:

- (a) making arrangements for the drawing up of a statement specifying:
 - i. the salary range, role and responsibilities of the post concerned; and

- ii. any qualifications or qualities to be sought in the person to be appointed.

(b) making arrangements for an appropriate recruitment exercise to be undertaken.

3. Appointment etc of Head of Paid Service (Chief Executive), Directors and Heads of Service

3.1 Subject to 3.5, 3.7 and 3.8 below, the appointment of such Chief Officer – related posts, including acting appointments, shall be the responsibility of the Panel. A Panel may delegate such matters as it thinks fit to an officer.

3.2 Each Panel shall be appointed ad hoc and comprise six (or in the case of the Head of Paid Service, at least seven) members of the Council nominated, so far as is reasonably practicable, according to the political balance of the Council. Each Panel shall include at least two members of the Cabinet (or three in the case of the Head of Paid Service).

3.3 Each Panel shall comply with any necessary recruitment and selection arrangements, shall confirm a shortlist of qualified applicants and interview those shortlisted and forwarded for interview.

3.4 In each case (subject to 3.5 in respect of the Head of Paid Service), an offer of appointment may be made by or on behalf of the Panel but not until:

(a) The Assistant Director for Legal and Governance has notified each Member of the Cabinet of relevant particulars in relation to the proposed appointment; and

(b) either

- i. the Assistant Director for Legal and Governance, within one working day of such notification, has received no objection from the Leader of the Council, or has been notified by the Leader that neither he/she nor any other member of the Cabinet has any objection to the proposed appointment; or
- ii. the Panel is satisfied that any objection received within one working day of the notification is not material or is not well founded.

3.5 In the case of the appointment of the Head of Paid Service, the full Council must approve that appointment before any offer of appointment is made to that person.

3.6 Where no qualified person has applied or no qualified applicant is selected for interview by the Panel or the Panel does not make an appointment then (unless no appointment to the post is to be made) further arrangements will be made to undertake a recruitment exercise under paragraph 2 above.

- 3.7 Temporary redeployment of a Head of Service to another Head of Service post within the same Directorate may be authorised by the relevant Director subject to the written agreement of the Head of Paid Service and in consultation with the relevant Cabinet Member with Responsibility or the Leader.
- 3.8 Acting appointments at Head of Service level for a period no longer than 4 months may be approved by the Head of Paid Service, in consultation with the relevant Cabinet Member with Responsibility for the service in question.

4. Other appointments

4.1 Officers below Heads of Service

Appointments of officers other than those in Paragraph 3 (except assistants to political groups) are the responsibility of the Chief Officer responsible for the post (or his/her nominee) to which the appointment is to be made, and may not be made by councillors.

4.2 Assistants to political groups (if any)

4.2.1 This paragraph 4.2 shall apply when the Council resolves to exercise its powers under Section 9 of the Local Government and Housing Act 1989 to make appointments to posts, the duties of which are to provide assistance to members of a political group in the discharge of any of their functions as members of the Council.

4.2.2 Before proceeding to make any such appointment, the Council shall first decide:-

- (a) to create up to three posts (the actual number to be determined as required by Section 9) to which such an appointment can be made;
- (b) in accordance with sub-sections (3) and (4) of Section 9, the annual rate of remuneration for the post or posts and the date of termination of any appointment and all other terms and conditions of employment;
- (c) to allocate one such post to each political group which, within the meaning of and in accordance with Section 9, qualifies for one.

4.2.3 The Council, in making the decision in paragraph 4.2.2 above shall not:-

- (a) allocate such a post to a political group which does not qualify for one;
- (b) allocate more than one post to any one political group.

4.2.4 Any political group allocated such a post by the Council may from time to time fill that post in accordance with their wishes, but only:-

- (a) in accordance with the determination of the Council made in pursuance of paragraph 4.2.2(b) above, unless the political group to which the post is allocated indicate that they are content that the terms and conditions of any such post shall be less favourable than they would otherwise be;

(b) if the Council has, at the time the appointment is made, allocated such a post to each of the political groups which qualify for one.

4.2.5 Whenever any such post has been allocated and is vacant the Assistant Director for Legal and Governance shall, in accordance with the wishes of the political group to which it is allocated and, in accordance with any policies or practices established by the Council to regulate the filling of any post, fill that post and appoint to it such person as that group shall indicate, provided that the said group may indicate that the said vacancy should be advertised in up to three newspapers or periodicals of their choice.

4.2.6 For the avoidance of doubt, if any post or appointment the subject of this paragraph involves a proposal to appoint to a Chief Officer-related post (within the meaning of the Local Authorities (Standing Orders) (England) Regulations 2001 as amended), then any such appointment shall (in addition to complying with the requirements of these Rules) also comply with the requirements of paragraph 2 and 3 above.

[Note – the Council has not resolved to appoint Political Assistants.]

5. Disciplinary action and dismissal

5.1 Disciplinary action means any action occasioned by alleged misconduct which, if proved, would according to the usual practice of the authority be recorded on the Officer's personal file, and includes proposals for dismissal for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the Council has undertaken to renew such a contract.

Officers below Head of Service

5.2 Disciplinary action against and dismissal of Officers (other than those Chief Officer-related posts defined in paragraph 2) is the responsibility of the Chief Officer (or his/her nominee) responsible for the post held by the Officer, and may not, subject to paragraph 5.9 below, be carried out or discharged by Councillors.

Chief Officer-related posts

5.3 Subject to 5.5, Disciplinary action (other than suspension as below) against and dismissal of such officers defined in paragraph 2 shall be the responsibility of a Panel constituted in accordance with Paragraph 3.2. The appropriate line manager of the officer concerned or the Panel may suspend that officer pending any appropriate investigations or hearings. The Head of Paid Service may be suspended only by the Panel. Matters relating to the terms and conditions and capability of Chief Officer-related posts (other than day to day management and the provisions of paragraph 6) shall also be the responsibility of the Panel.

5.4 Subject to 5.5, notice of dismissal of such officers may be given by the Panel, but not until:

(a) the Assistant Director for Legal and Governance has notified each Member of the Cabinet of relevant particulars in relation to the proposed dismissal; and

(b) either

- i. the Assistant Director for Legal and Governance has, within one working day of such notification, received no objection from the Leader of the Council, or has been notified by the Leader that neither he/she nor any other member of the Cabinet has any objection to the proposal; or
- ii. the Panel is satisfied that any such objection received from the Leader within one working day of the notification is not material or is not well-founded.

5.5 In the case of the dismissal of the Head of Paid Service, the Chief Financial Officer or the Monitoring Officer, full Council must approve the dismissal before notice of dismissal is given to that person. The Head of Paid Service, the Chief Financial Officer and the Monitoring Officer may not be dismissed in respect of disciplinary action unless the procedure set out in paragraphs 5.6 – 5.8 is complied with.

5.6 A Panel must be appointed in accordance with the provisions of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 for the purposes of advising the Council on matters relating to the dismissal of the Head of Paid Service, Monitoring Officer or Chief Financial Officer in respect of disciplinary action. That Panel shall be an ad hoc Special Appointments etc Panel together with 2 Independent Persons as full voting members of that Panel. 'Independent Persons' are those appointed by the Council under Section 28 (7) of the Localism Act 2011 and their remuneration, allowances or fees for membership of the Panel must not exceed that payable in respect of their role under that section.

5.7 Independent Persons must be invited to be considered for appointment with a view to appointing 2 of them to the particular Panel. The Council must appoint to such a Panel (such appointment to be made by the Chairman of the Standards and Ethics Committee) 2 Independent Persons who have accepted such an invitation in accordance with the following priority order:

- (a) an Independent Person appointed by the Council who is a local government elector
- (b) an Independent Person appointed by the Council who is not a local government elector, and
- (c) an Independent Person appointed by another authority or authorities.

5.8 The Special Appointments etc Panel must be appointed at least 20 working days before the meeting of Council which is to consider whether or not to approve a proposal to dismiss the officers referred to in paragraph 5.5 in respect of disciplinary action. Before the taking of a vote at such a meeting of Council on whether or not to approve such a dismissal, Council must take into account in particular:

- (a) any advice, views or recommendations of that Special Appointments etc Panel;
- (b) the conclusions of any investigations into the proposed dismissal; and
- (c) representations from the relevant officer.

Involvement of Councillors

- 5.9 Councillors will not take any disciplinary action against or dismiss any officer below Head of Service although they may assist any management investigation or inquiry into alleged misconduct, and the Council's disciplinary, capability and related procedures as adopted from time to time may allow a right of appeal to a Panel of Members in respect of disciplinary action or dismissal.

6. Powers of Chief Officers in relation to employment matters

- 6.1 Subject to the preceding paragraphs of these rules Chief Officers have delegated authority, in accordance with the scheme of delegation to officers and in pursuance of any policies, practices and procedures which the Council may from time to time have in place, to take decisions relating to staffing and personnel matters unless specific decisions are removed from Chief Officers, and may delegate these powers to other officers. Specifically so excluded is the determination of any decisions in respect of the Chief Officer – related posts relating to the exercise of the Council's discretion in respect of the Local Government Pension Scheme.
- 6.2 The Head of Paid Service has delegated authority, in consultation with the relevant Cabinet Member with Responsibility for the service in question, to approve a honorarium or acting up allowance (e.g. to recognise temporary additional responsibilities where appropriate) to a Head of Service or Director for a period not exceeding 12 months. Any extension of such arrangements beyond 12 months would require the authority of the Appointments etc Panel.