

Officer Employment Procedure Rules

1 General

- 1.1 Subject to rule 1.2 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 him/her.
- 1.2 Rule 1.1 shall not apply to the appointment or dismissal of, or disciplinary action against:
- i) The Head of the Paid Service;
 - ii) A statutory chief officer;
 - iii) A non-statutory chief officer;
 - v) A political or mayoral assistant.

2 General

2.1 Declarations

- 2.1.1 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 any Member or officer of the Council or of the partner of such person.
- 2.1.2 No candidate so related to any Member of the Council or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

2.2 Seeking support for appointment

- 2.2.1 The Council will disqualify any applicant who directly or indirectly seeks the support of any Member for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- 2.2.2 No Member will seek support for any person for any appointment with the Council nor give a written reference or testimonial.

3 Recruitment of Head of the 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:
- i) draw up a statement specifying:
 - the duties of the officer concerned; and
 - any qualifications or qualities to be sought in the person to be appointed.

- ii) 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
- iii) make arrangements for a copy of the statement mentioned in subparagraph 3.1 i) to be sent to any person on request.

4 Appointment of the Head of the Paid Service

4.1 The Full Council will approve the appointment of the Head of the Paid Service following the recommendation of such an appointment by a committee or sub-committee of the Council. That committee or sub-committee must include at least one member of the Executive.

[Regulation 4(2) Local Authorities (Standing Orders) Regulations 2001 and Schedule 1 of Local Authorities (Functions and Responsibilities) (Amendments) Regulations 2001].

4.2 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 Council's Appointments Committee will establish a sub-committee to appoint a chief officer. That sub-committee must include at least one member of the Executive.

[Local Authorities (Standing Orders) Regulations 2001]

5.2 Full Council must in accordance with Part 3 of the National Health Service Act 2006 (local authorities and the NHS), as amended by paragraph 30 of the Health and Social Care Act 2012, jointly with the Secretary of State, appoint an individual to have responsibility for all local authorities public health functions, including any conferred by regulation. The individual is to be an officer of the local authority, and is to be known as the Director of Public Health. In addition to the process set out in paragraph 5.1 above, the appointment of the Director of Public Health shall be made by the Council acting jointly with the Secretary of State's nominee.

5.3 An offer of employment as a chief officer or deputy chief officer shall only be made where no well-founded objection from the Elected Mayor or any other member of the Executive has been received.

[Regulation 5(c) Local Authorities (Standing Orders) Regulations 2001].

5.4 In these Rules, chief officers are defined as:

- i) the Chief Executive (as Head of the Paid Service)
- ii) the statutory chief officers, **save for statutory officers who are deputy chief officers**

- Corporate Director of Finance and Resources (as Chief Finance Officer);
- The Corporate Director of Legal, HR and Regulatory Services (as Monitoring Officer);
- Corporate Director of Health and Community Services (as Director of Adult Social Services);
- Corporate Director of Children and Young People's Services (as Director of Children's Services).
- Director of Public Health
- Group Director Place, Neighbourhoods and Housing
- Group Director Children, Adults and Community Health
- Group Director Finance and Corporate Resources

iii) the non-statutory chief officers which are:

- Officers for which the Chief Executive is responsible (other Corporate Directors);
- Officers in the Chief Executive's Directorate who report to or who are directly accountable to the Chief Executive by virtue of the nature of their duties;
- 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 In these Rules, deputy chief officers (**who may be statutory 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.

[NB. Definitions for chief officer and deputy chief officer positions are listed in paragraphs 3(a) to (d) Schedule 1. Regulation 3 Local Authorities (Standing Orders) (England) Regulations 2001].

5.6 Rules 5.4 and 5.5 do not apply to officers whose duties are solely secretarial and clerical or are in the nature of support services.

5.7 Appointments to all deputy chief officer posts (**who may be statutory officers**) and the Scrutiny Officer shall be the responsibility of the Head of the Paid Service or a person nominated by him/her. The relevant Executive Lead Member will be invited to sit on the Appointments Panel.

5.8 Where an appointment is the responsibility of the Appointments Subcommittee, all processes associated with the appointment up to the final panel interviews shall be the responsibility of the Head of the Paid Service or an officer authorised by him/her.

6 Procedure for the appointment of Chief Officers and Deputy Chief Officers

6.1 Appointments Committee membership - Full Council, at the annual meeting, will establish an Appointments Committee. That committee will establish a sub-committee to appoint to a chief officer post.

6.2 Appointment process - The following process will apply after the Appointments Sub-committee has interviewed all shortlisted candidates:-

- i) If the sub-committee agrees on a candidate suitable for the post, they will indicate their 'provisional intention to make an offer' to the Head of the Paid Service.
- ii) the sub-committee will inform the Head of the Paid Service of the name of the candidate to whom they wish to make an offer together with any relevant particulars which the sub-committee considers relevant in making the appointment.
- iii) The Head of the Paid Service will notify each member of the Executive of:
 - the name of the person the Appointments Sub-committee wishes to make an offer to;
 - any other particulars relevant to the appointment notified by the Sub-committee; and
 - the period within which any objection to the making of the offer is to be made by the Elected Mayor on behalf of any member of the Executive.
- iv) The notification will be by email and the period of objection will be 2 working days. If the period of objection is to be shortened, then notification will be by telephone and email.
- v) If:
 - the Elected Mayor notifies the Appointments Sub-committee that neither s/he or any other member of the Executive has an objection to an offer being made; or
 - the Head of the Paid Service notifies the Appointments Sub-committee that no objection has been received from the Elected Mayor within the objection period;
 - the 'provisional intention to make an offer' will become a firm offer and the offer made without the need for the Sub-committee to re-convene.
- vi) If an objection is received from the Elected Mayor, the Appointments

Sub-committee will re-convene to consider the objection. If the Appointments Sub-committee is satisfied that any objection received from the Elected Mayor is not material, or is not well founded, they will confirm their decision and a formal offer will be made.

- vii) See paragraph 5.2 above for the additional requirements for the appointment of the Director of Public Health.

7 Other appointments

- 7.1 **Officers below deputy chief officer** - Appointment of officers below deputy chief officer (other than assistants to the Elected Mayor and political groups) is the responsibility of the Head of the Paid Service or his/her nominee, and may not be made by 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 **Assistants to the Mayor** - An Assistant to the Elected Mayor may only be appointed by the Elected Mayor.

8 Disciplinary Action – to be updated in line with new regulations

- 8.1 The Head of Paid Service, the Monitoring Officer or the Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and will last no longer than two months.
- 8.2 Where it appears to the Council that an allegation of misconduct by the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer requires an investigation then an investigator will be appointed to carry out the investigation and compile an investigation report. The investigator appointed may be independent of the Council.
- 8.3 The appointment of a specific investigator should be agreed between the Council and the relevant officer.
- 8.4 The investigator may recommend that a suspension of the relevant officer be continued for a period beyond the two month period in order to complete the investigation.
- 8.5 The investigator may inspect any documents relating to the conduct of the relevant officer which are in the possession of the Council, or which the Council has the power to authorise him or her to inspect.
- 8.6 The investigator may ask any member of the Council's staff to answer questions concerning the conduct of the relevant officer.
- 8.7 The investigator will then forward the investigation report to the Independent Panel for consideration.

- 8.8 The Council will pay reasonable remuneration to the investigator together with any costs incurred by him/her in completing the investigation.
- 8.9 The Independent Panel will be a committee appointed by the Council under section 102(4) of the Local Government Act 1972 for the purpose of advising the Council on matters relating to the dismissal of relevant officers of the Council.
- 8.10 The Council will invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two Independent Persons to the Panel.
- 8.11 The Independent Panel will be comprised of at least two Independent Persons who have accepted an invitation as either of the following:
- (a) An independent person who has been appointed by the Council and who is a local government elector;
 - (b) Any other independent person who has been appointed by the Council; and
 - (c) An independent person who has been appointed by another council or councils.
- 8.12 The Council must appoint the Independent Panel at least 20 working days before the relevant Full Council meeting.
- 8.13 The Independent Panel will consider the investigator's report and will then provide Full Council with any advice, views and recommendations that it has on any disciplinary action or dismissal. The conclusions of the Independent Panel will be included in a formal report to Council together with the investigator's report.
- 8.14 The Independent Panel will provide the relevant officer with advance copy of the report in order that any representations can be made (Do we need to have a time limitation on receipt of representations).
- 8.15 Full Council will then consider the recommendations of the Independent Panel and determine whether any disciplinary action or dismissal should be taken.
- 8.16 The involvement of Members in disciplinary action is as follows:
- (i) Members of the Council will not be involved in disciplinary action or dismissal against any officer below chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct;
 - (ii) The Council's disciplinary, capability and related procedures, as adopted from time to time, may allow a right of appeal to Members in respect of disciplinary action or dismissal;

- (iii) Members, as part of full Council will be involved in the consideration and determination of disciplinary action or dismissal against the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer of the Council following receipt of advice, views and recommendations from an Independent Panel;
 - (iv) Members of Appointments Committee (or designated Sub Committee) will be involved in the consideration and determination of disciplinary action or dismissal against other statutory chief officers of the Council.
- 8.17 Formal notice of dismissal shall not be given until the dismissor has notified the Head of Paid Service (or where the officer to be dismissed is the Head of 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.
- 8.18 The Mayor and Cabinet will be consulted on any proposed dismissal of a chief officer other than those where the power of dismissal is reserved for full Council. The Mayor and Cabinet will be afforded a defined period to provide any views on the proposed dismissal.
- 8.19 With regard to the dismissal of the Director of Public Health, if the Secretary of State believes that the Director of Public Health is not properly carrying out any Secretary of State function that has been delegated to the local authority s/he can direct the authority to review the Director of Public Health's performance, to consider taking particular steps, and to report back. This power does not extend to the Director of Public Health's performance of the local authority's own health improvement duties. The Council must consult the Secretary of State before dismissing its Director of Public Health. The authority may suspend its Director of Public Health from duty and the Secretary of State cannot veto its final decision on dismissal.