

11. OFFICER EMPLOYMENT PROCEDURE RULES

These Officer Employment Procedure Rules embody the requirements of the Local Government and Housing Act 1989, the Local Authorities (Standing Orders) Regulations 1993, the Local Authorities' (Standing Orders) (England) Regulations 2001 and Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 which require the adoption of certain Standing Orders. These Employment Procedure Rules constitute those Standing Orders.

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;

"disciplinary action" has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001 and 2015;

"Head of Paid Service" is the officer designated under Section 4(1) of the 1989 Act

"Statutory Chief Officer" has the meaning set out in Section 2 (6) of the 1989 Act and for this Council will be the Executive Head of Finance (Section 151 Officer);

"Non-Statutory Chief Officer" means a person who reports to the Head of Paid Service or who is directly accountable to the local authority as set out in Section 2 (7) of the 1989 Act and for this Council will be the Executive Director, and Monitoring Officer.

"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 include all Executive Heads of Service (other than the Sec 151 Officer), Heads of Service and the Corporate Managers;

"member of staff" means a person appointed to or holding a paid office or employment under the authority; and

"proper officer" means an officer appointed by the authority for the purposes of the provisions in this Part and for this Council will be the Head of Service with responsibility for Human Resources (Corporate Manager – People).

Definition of Chief Officers for the purposes of pay awards

For the purposes of pay awards the following roles are classed as Chief Officers: Managing Director, Executive Director, Executive Heads of Service and Heads of Service.

2. RESPONSIBILITY FOR STAFF APPOINTMENTS, DISMISSAL, AND DISCIPLINARY ACTION – GENERAL PROVISIONS

General

- 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 All appointments must follow the Council's recruitment and selection procedure and be made on merit and in compliance with the law and any agreed policies and procedures of the Council.
- 2.3 The functions 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 Paid Service (Managing Director) or by an officer nominated by him or her, except as set out in provisions below. A summary of the arrangements for appointments is attached to these procedure rules at Appendix A.
- 2.4 All officers must adhere to the Officer Code of Conduct (set out in Part 5 of the Constitution).

3. APPOINTING THE HEAD OF PAID SERVICE

- 3.1 The Head of Paid Service is appointed by the Corporate Governance, Audit and Standards Committee, subject to confirmation by the full Council.
- 3.2 Where the Council proposes to appoint a Head of Paid Service and it is not proposed that the appointment be made exclusively from among its existing Officers, the Council will:
 - (a) 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;
 - (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 paragraph (a) to be sent to any person on request; and
 - (d) select from the applications a short list of qualified candidates.
- 3.3 The Corporate Governance, Audit and Standards Committee shall appoint a Member Panel, including at least one member of the Cabinet, to interview candidates and come to a view as to the most suitable person to recommend for the position.

- 3.4 Before an offer of appointment is made by the Corporate Governance, Audit and Standards Committee for the role of Head of Paid Service, the Committee must notify the Proper Officer (Corporate Manager – People), who it wishes to appoint and any other information that is considered relevant to the appointment.
- 3.5 The proper officer must notify every member of the Cabinet:
- (i) the name of the person to whom the Committee wishes to make the offer;
 - (ii) any other particulars relevant to the appointment which the Committee 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 on behalf of the Cabinet to the proper officer; and

An offer of appointment must wait until:

- (iv) the Leader has, within the period specified in the notice under (iii) above, notified the proper officer that neither s/he nor any other member of the Cabinet has any objection to the making of the offer;
 - (v) the proper officer has notified the Committee that no objection was received by them within that period from the Leader; or
 - (vi) the Committee is satisfied that any objection received from the Leader within that period is not material or is not well-founded.
- 3.6 Where, following the above procedure, there are no objections to the proposed appointment or any objections are not upheld, the Corporate Governance, Audit and Standards Committee will recommend that person for appointment to the next meeting of the Council. If the Council approves the recommendation, then a formal offer of appointment can be made.
- 3.7 Where the Council does not approve the recommendation of the Corporate Governance, Audit and Standards Committee, it shall indicate how it wishes to proceed.

4. DESIGNATING THE ROLE OF SECTION 151 CHIEF FINANCE OFFICER AND MONITORING OFFICER

- 4.1 The roles of Section 151 Chief Finance Officer and Monitoring Officer will be designated by the Council.

5. APPOINTING OTHER CHIEF OFFICERS (STATUTORY AND NON-STATUTORY) AND DEPUTY CHIEF OFFICERS

- 5.1 Before an offer of appointment is made by the appointer (as set out in Appendix A) to the following posts, the appointer must notify the proper officer (Corporate Manager – People), who it wants to appoint and anything else that the appointer considers is relevant to the appointment:

- a statutory chief officer within the meaning of section 2(6) of the Local Government and Housing Act 1989, which for the Council means the Executive Head of Finance

- a non-statutory chief officer within the meaning of section 2(7) of the Local Government and Housing Act 1989, which for the Council means the Executive Directors and Monitoring Officer role.
- A deputy chief officer within the meaning of section 2(8) of the Local Government and Housing Act 1989 which means those posts that report to a statutory or non-statutory chief officer and for the Council includes Heads of Service and the Corporate Managers.

5.2 The proper officer must notify every member of the Cabinet:

- (i) the name of the person to whom the appointer wishes to make the offer;
- (ii) any other particulars relevant to the appointment which the appointer 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 on behalf of the Cabinet to the proper officer; and

An offer of appointment must wait until:

- (iv) the Leader has, within the period specified in the notice under (iii) above, notified the proper officer that neither s/he nor any other member of the Cabinet has any objection to the making of the offer;
- (v) the proper officer has notified the appointer that no objection was received by them within that period from the Leader; or
- (vi) the appointer is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

6. APPOINTMENT OF POLITICAL ASSISTANTS

6.1 Provisions are contained in Section 9 of the Local Government and Housing Act 1989 to appoint political assistants to assist a political group in the discharge of any of their functions as Members of the Council. No such appointment shall be made until the Council has allocated such a post to each political group which qualifies for such a post under that Section, and no more than one such post shall be allocated to any political group. The terms and conditions of appointments to all such posts shall be the same.

6.2 Appointments shall be made from time to time in accordance with the wishes of the political group to which the post has been allocated and on the terms and conditions agreed by the Council subject to requirements in the Regulations that the appointments are made on an annual basis and subject to salary restrictions. Functions and responsibilities of the Council may not be delegated to such posts.

7. DISCLOSURE OF RELATIONSHIPS WITH COUNCILLORS AND OFFICERS

- 7.1 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 an existing Councillor or officer of the Council; or of the partner of such persons.
- 7.2 No candidate so related to a Councillor or an officer will be appointed without the authority of the Head of Paid Service or an officer nominated by him or her.
- 7.3 Subject to paragraph 4.5, 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).
- 7.4 Subject to paragraph 4.5, no Councillor will seek support for any person for any appointment with the Council.
- 7.5 Nothing in paragraphs 4.3 and 4.4 above will preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment provided that Councillor has no role in the decision process of recruitment / appointment to that position.

8 DISCIPLINARY ACTION AND DISMISSAL

- 8.1 Any disciplinary action taken against an officer shall be carried out in accordance with the Council's agreed policies and procedures.

Head of Paid Service, Chief Finance Officer and Monitoring Officer

- 8.2 In paragraph 8.3 "Head of Paid Service", "Monitoring Officer" and "Chief Finance Officer" have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2001 and "designated independent person" has the same meaning as in regulation 7 of those Regulations.
- 8.3 A Member Panel appointed by the Corporate Governance, Audit and Standards Committee will be responsible for proposals to dismiss the Head of Paid Service, Monitoring Officer or Section 151 Chief Finance Officer.
- 8.4 Any disciplinary action short of dismissal will be the responsibility of the Member Panel. However, no disciplinary action may be taken, except as set out in para. 8.5 below, in respect of the Head of Paid Service, the Monitoring Officer or the Section 151 Chief Finance Officer, 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.
- 8.5 Further to 8.4 above, the Member Panel may agree to suspend a Head of Paid Service, Chief Finance Officer or Monitoring Officer for the purpose of investigating alleged misconduct, 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.

- 8.6 Any decision to dismiss a Statutory Chief Officer must be taken by vote at a meeting of the full Council. This must follow a recommendation of the Member Panel comprising relevant independent persons, and which takes into account the conclusion of any investigation into the proposed dismissal and any representations from the relevant offer concerned. It must also follow the procedures in para. 8.7 below.
- 8.7 Notice of dismissal of one of the Statutory Officers must not be given until the Member Panel has notified the proper officer that it wishes to dismiss the officer and any other particulars which the Panel considers are relevant to the dismissal.

The proper officer must notify every member of the Cabinet: -

- (i) the name of the person who the Panel wish to dismiss;
- (ii) any other particulars relevant to the dismissal which the Panel has notified to the proper officer; and
- (iii) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Executive to the proper officer; and

And either:-

- (i) the Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the Panel that neither he nor any other member of the Executive has any objection to the dismissal;
- (ii) the proper officer has notified the Panel that no objection was received by him within that period from the Leader; or
- (iii) the Panel is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

Non-Statutory Chief Officers and Deputy Chief Officers

- 8.9 The Head of Paid Service shall be responsible for disciplinary action and dismissal of non-statutory chief officers and deputy chief officers. In this part, "dismissor" means, in relation to the dismissal of an officer of the authority, the Head of Paid Service.
- 8.10 Notice of the dismissal of an officer referred to in paragraph 5.8 must not be given by the dismissor until:-

The proper officer has notified every member of the Cabinet:-

- (i) the name of the person who the dismissor wishes to dismiss;
- (ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
- (iii) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Executive to the proper officer; and

And either:-

- (i) the Leader has, within the period specified in the notice under subparagraph (b)(iii), notified the dismissor that neither he nor any other member of the Executive has any objection to the dismissal;
- (ii) the proper officer has notified the dismissor that no objection was received by him within that period from the Leader; or
- (iii) the dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

8.11 Councillors will not usually be involved in the dismissal of any officer below Head of Service except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though 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 dismissals.

APPENDIX A**APPOINTMENT OF STAFF**

Responsibility for staff appointments shall be in accordance with the following schedule:

Post	Appointer
Head of Paid Service	Corporate Governance, Audit and Standards Committee, subject to confirmation by the Council. The Committee will appoint a cross party Member Panel including the Leader of the Council and the Cabinet Member with responsibility for Corporate Services to oversee the arrangements for filling the vacancy.
Section 151 Officer (Executive Head of Finance) (Statutory Chief Officer within the meaning of section 2(6) of LGHA 1989)	Appointment Panel consisting of four Members, including the Cabinet Member with responsibility for Corporate Services and the Leader of the Council. The designation of an officer as the Council's Section 151 Chief Finance Officer to be confirmed by the Council
Designation of Monitoring Officer	The designation of an officer as the Council's Monitoring Officer to be confirmed by the Council
Executive Directors (Non-Statutory Chief Officers within the meaning of section 2(7) of LGHA 1989)	Appointment Panel consisting of four Members, including the Cabinet Member for Corporate Services and the Leader of the Council, subject to confirmation by the Corporate Governance, Audit and Standards Committee
Executive Heads of Service, Heads of Service and Corporate Managers (Deputy Chief Officers within the meaning of section 2(8) of LGHA 1989)	Head of Paid Service
Deputy Chief Officers who are not Heads of Service or Corporate Managers	Head of Service/Executive Head of Service, subject to confirmation by Executive Director
Other politically restricted posts	Head of Service/Executive Head of Service
All other Posts	Head of Service/Executive Head of Service