

# **Part 9.5**

# **Officer Employment Procedure Rules**

# Officer Employment Procedure Rules

These Rules define how the Council will appoint Officers and take any necessary action in relation to their employment with the Authority. The Council has designated certain Officers as Statutory Officers and/or Chief Officers. There are different rules on how the Authority recruits, appoints, takes disciplinary action and dismisses different levels of Officers.

## 1. Definitions

- 1.1 “Statutory Chief Officer” means the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer, the Director of Adult Social Services and the Director for Children’s Services. These officers shall be taken to be within section 2(6) of the Local Government and Housing Act 1989 “the 1989 Act” as statutory Chief Officers
- 1.2 "Chief Officer" has the same meaning as defined in section 2 of the 1989 Act means:
  - 1.2.1 a person for whom the Head of Paid Service is directly responsible;
  - 1.2.2 a person who, as respects all or most of the duties of their post, is required to report directly (or is directly accountable) to the Head of Paid Service; and
  - 1.2.3 any person who, as respects all or most of the duties of their post, is required to report directly (or is directly accountable) to the Local Authority themselves, the Executive or any Committee or Sub-Committee of the Authority, whose duties are not solely secretarial or clerical, or otherwise in the nature of support services;
  - 1.2.4 “Deputy Chief Officer” has the same meaning as in section 2(8) of the 1989 Act
- 1.3 “Proper Officer” means the Chief Executive unless the appointment is for the Head of Paid Service when the Proper Officer shall be the Monitoring Officer

## 2. Recruitment and Appointment

- 2.1 The Council has drawn up procedures which include a requirement that any candidate for an appointment as an officer must state in writing whether they have **any** relationship with any councillor or officer of the Council;

- 2.2 No candidate so related to a Councillor or a senior officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by the Chief Officer.
- 2.3 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.
- 2.4 No Councillor will seek support for any person for any appointment with the Council.

### **3. Recruitment of Head of Paid Service and Chief Officers**

- 3.1 Where the Council proposes to appoint the Chief Executive or a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing Officers or by delegated authority the Council's Employment Committee shall establish a Sub-Committee to act as the appointment panel. At least one member of the Executive must be a member of the Committee.
- 3.2 The Panel will;
  - (a) draw up a statement including the following:
    - (i) the duties of the Officer concerned; and
    - (ii) 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; and
  - (c) make arrangements for a copy of the procedures mentioned in paragraph (a) to be sent to any person on request.

### **4. Appointment of Chief Officers and Deputy Chief Officers – “Relevant Officers”**

- 4.1 This procedure has been included as required by the Local Authorities (Standing Orders)(England) Regulations 2001
- 4.2 The “appointer” means in relation to the appointment of a relevant officer, the Committee, Sub-Committee or officer making the appointment, or in the case of the appointment of the Head of Paid Service, Monitoring Officer or Section 151 Officer, making a recommendation to the Council
- 4.3 The appointer shall not make an offer of appointment in relation to any of the relevant officers until;

- (a) The appointer has notified the proper officer of the name of the person to whom the Committee wishes to make the offer and any other particulars which the Committee considers are relevant to the appointment;
- (b) The proper officer has notified every member of the Executive of the authority of:
  - (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 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 Executive to the proper officer; and
- (c) Either:
  - (i) The Leader has, within the period specified, notified the Proper Officer that neither they nor any other member of the Executive has any objection to the making of the offer;
  - (ii) The Proper Officer has notified the Committee that no objection was received by them within that period from the Leader; or
  - (iii) The Proper Officer is satisfied that any objection received from the Leader within that period is not material or is not well founded.

## **5. Other Appointments**

5.1 Appointment of Officers below Chief Officer is the responsibility of the Head of Paid Service, an officer nominated by him/her, or an officer acting in accordance with the Officer Delegation Scheme. The Head of Paid Service has the delegated authority to appoint the Assistant Chief Executive.

## **6. Disciplinary Action**

6.1 No disciplinary action may be taken in respect of the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer while alleged misconduct is investigated and considered, provided that this does not preclude the suspension of the officer on full pay for the purpose of investigating the alleged misconduct, and such suspension does not constitute disciplinary action; any such suspension must be reviewed no later than the expiry of 2 months beginning on the day on which the suspension takes effect.

6.2 Councillors shall not be involved in disciplinary action against any officer below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct.

## **7. Dismissals**

7.1 Councillors shall not be involved in the dismissal of any officer below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct.

7.2 Where the Committee or Sub-Committee is discharging its function in relation to the dismissal of the Head of Paid Service or a Chief Officer, that Committee or Sub-Committee shall include at least one member of the Executive

## **8. Dismissal of Head of Paid Service, Monitoring Officer or Chief Finance Officer – “Relevant Officers”**

8.1 This procedure has been incorporated in accordance with the Local Authorities (Standing Orders) (England)(Amendment) Regulations 2015.

8.2 The Council must invite independent persons appointed under Section 28(7) of the Localism Act 2011 “the 2011 Act” to be considered for appointment to the Panel with a view to appointing two Independent Persons to the Panel.

8.3 In paragraph 9.2, “independent person” means any independent person who has been appointed by the Council or, where there are fewer than two independent persons, such independent persons as have been appointed by another authority to authorities as the Council considers appropriate.

8.4 The Council may appoint more than two independent persons.

8.5 The Council must appoint the Panel at least 20 working days before the full Council meets to consider whether or not to approve a proposal to dismiss a relevant officer.

8.6 Any remuneration, allowances or fees paid by the Council to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that person in respect of that person’s role as an independent person under the 2011 Act.

8.7 Where the Committee or Sub-Committee is discharging its function in relation to the dismissal of the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer, the full Council must approve any recommendation of dismissal before notice of dismissal is given.

8.8 The Council may not approve any recommendation of dismissal of the Head of Paid Service, the Monitoring Officer of the Chief Finance Officer without first having taken into account, in particular:

- Any advice, views or recommendations of the Panel
- The conclusions of any investigation into the proposed dismissal; and
- Any representations from the relevant officer

**9. Dismissal of Head of Paid Service, Chief Officer and Deputy Chief Officer – “Relevant Officers”**

9.1 This procedure has been included as required by the Local Authorities (Standing Orders)(England) Regulations 2001

9.2 The “dismissor” means in relation to the appointment of a relevant officer, the Committee, Sub-Committee or officer making the dismissal, or in the case of the dismissal of the Statutory Chief Officers, making a recommendation to the Council

9.3 Notice of dismissal of a relevant officer shall not be given by the dismissor until;

- (a) The dismissor has notified the proper officer of the name of the person to whom the Committee wishes to dismiss and any other particulars which the Committee considers are relevant to the dismissal;
- (b) The proper officer has notified every member of the Executive of the authority of:
  - (i) The name of the person to whom the Committee wishes to dismiss;
  - (ii) Any other particulars relevant to the dismissal which the Committee 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
- (c) Either:
  - (i) The Leader has, within the period specified, notified the Proper Officer that neither they nor any other member of the Executive has any objection to the dismissal;
  - (ii) The Proper Officer has notified the Committee that no objection was received by them within that period from the Leader; or

- (iii) The Proper Officer is satisfied that any objection received from the Leader within that period is not material or is not well founded.

## **10. Director of Public Health**

- 10.1 The appointment of the Director of Public Health who is appointed in pursuance of Section 73A (7) of the National Health Service Act 2006 (inserted by section 30 of the Health and Social Care Act 2012) is the responsibility of the Employment Committee, subject to the approval of the appointment by the Secretary of State for Health.
- 10.2 The Employment Committee may terminate the appointment of the Director of Public Health having followed the relevant procedures and following prior consultation with the Secretary of State for Health.

## **11. Temporary and Interim Appointments**

- 11.1 When a post of Chief Officer (other than the Head of Paid Service) becomes vacant and, for whatever reason, it is desired to fill the vacancy for a limited period, the Head of Paid Service will consult the Leader, the relevant Portfolio Holder(s) and the Leader of the Opposition on the options for making an appointment.
- 11.2 If the Chief Executive decides to seek to make a temporary appointment otherwise than through an agency, and the term of the proposed appointment is longer than six months, then the process will be in accordance with these Rules. If the proposed term is six months or shorter, then the Chief Executive will make the appointment, subject to Rule 5 (Executive involvement).
- 11.3 If the Chief Executive decides to seek to make an interim appointment through an agency, and the term of the proposed appointment is longer than six months, then the Chief Executive will consult the Leader, the relevant Portfolio Holder(s) and the Leader of the Opposition, and then comply with Rule 5, before making an appointment. If the proposed term is six months or shorter, then the Chief Executive will make the appointment, subject to Rule 5 (Executive involvement).
- 11.4 If the vacant post is that of the Head of Paid Service, then Council will decide how it wishes to proceed.

**End of Officer Employment Rules**

**March 2021**