

## **OFFICER EMPLOYMENT, DISCIPLINARY ACTION AND DISMISSAL PROCEDURE RULES**

### **1. Recruitment and Appointment – Declarations**

- 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 an existing Councillor, Officers of the Council, or of the partner of such persons.
- 1.2 No candidate so related to a Councillor or an Officer will be appointed without the authority of the relevant Chief Officer or an Officer nominated by them.

### **2. Recruitment and Appointment – Seeking Support for Appointment**

- 2.1 Subject to paragraph 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.
- 2.2 Subject to paragraph 2.3, no Councillor will seek support for any person for any appointment with the Council.
- 2.3 Nothing in paragraphs 2.1 or 2.2 above will preclude a Councillor from giving a written reference for a candidate in connection with an application for employment.

### **3. Recruitment of 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:
  - (a) Draw up a statement specifying:
    - (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 statement mentioned in paragraph 3.1(a) to be sent to any person on request.

#### **4. Appointment, Disciplinary Action and Dismissals of Staff**

4.1 The function of appointing and dismissing staff and setting the terms and conditions of employment is allocated by statute to Council rather than Cabinet. The Council has adopted mandatory Standing Orders, as set out in these Procedure Rules, the effect of which is as follows:

- (a) All appointments, disciplinary action and dismissals of staff below the post of Assistant Director, must be conducted at officer level without any participation by Councillors.
- (b) For Assistant Directors and above, Councillors can be involved in appointments, disciplinary action and dismissals. This may be through an Employment Committee, which must include at least one member of Cabinet but, where the decision relates to the appointment or dismissal of the Head of Paid Service (Chief Executive), Chief Finance Officer or Monitoring Officer, the Procedure Rules outlined below must be followed.
- (c) Normally the appointment and discipline of Assistant Directors will be the responsibility of the Head of Paid Service. Appointment and discipline of the Head of Paid Service, Chief Finance Officer or Monitoring Officer, whilst ultimately the responsibility of Full Council will be undertaken as outlined below.
- (d) For the appointment or dismissal of Assistant Directors and above, Cabinet is given a right of objection. The person or body taking the decision must inform Cabinet who they propose to appoint or dismiss, together with supporting information, and the Leader can then object on Cabinet's behalf. There is no right of veto, but material objections should be taken into account by the decision maker.
- (e) In respect of the Head of Paid Service, Chief Finance Officer and Monitoring Officer, if the Council wishes to investigate any allegations of serious misconduct or incompetence, which might lead to dismissal, the Council must invite relevant independent persons to be considered for appointment to a Panel, with a view to appointing at least two such persons to that Panel. (A relevant independent person means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority Considers appropriate). This procedure does not apply to redundancy or ill health dismissals.

## **Mandatory Standing Orders**

### **1. Appointment, Disciplinary Action and Dismissal of Staff**

#### 1. In this Part-

“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;

“Cabinet” and “Cabinet leader” have the same meaning as in Part II or the 2000 Act;

“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.

#### 2. Subject to paragraphs 3 and 7, 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 officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service) as the head of the authority’s paid service or by an officer nominated by him.

#### 3. Paragraph 2 shall not apply to the appointment or dismissal of, or disciplinary action against –

(a) the officer designated as the head of the authority’s paid service;

(b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);

(c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;

(d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act; or

(e) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups)

4. (1) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment or dismissal of an officer designated as the head of the authority's paid service, the authority must approve that appointment before an offer of appointment is made to him/her or, as the case may be, must approve that dismissal before notice of dismissal is given to him/her.
- (2) Where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the function of the appointment or dismissal of any officer referred to in subparagraph (a), (b), (c) or (d) or paragraph 3, at least one member of the executive must be a member of that committee or sub-committee.
5. (1) In this paragraph, "appointer" means, in relation to the appointment of a person as an officer of the authority, the authority or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the authority, the committee, subcommittee or officer, as the case may be.
- (2) An offer of an appointment as an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be made by the appointer until:-
  - (a) the appointer has notified the proper officer of the name of the person to whom the appointer wishes to make the offer and any other particulars which the appointer 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 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 executive leader on behalf of the executive to the proper officer; and

- (c) either -
  - (i) the cabinet leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointer that neither he nor any other member of the cabinet has any objection to the making of the offer;
  - (ii) the proper officer has notified the appointer that no objection was received by him within that period from the cabinet leader; or
  - (iii) the appointer is satisfied that any objection received from the cabinet leader within that period is not material or is not well-founded.
  
- 6. (1) In this paragraph, “dismissor” means, in relation to the dismissal of an officer of the authority, the authority or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the authority, that committee, subcommittee or other officer, as the case may be.
  
- (2) Notice of the dismissal of an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be given by the dismissor until –
  - (a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor 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 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 executive leader on behalf of the executive to the proper officer; and

- (c) either -
  - (i) the cabinet leader has, within the period specified in the notice under sub-paragraph (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 cabinet leader; or
  - (iii) the dismissor is satisfied that any objection received from the cabinet leader within that period is not material or is not well-founded.

7. Nothing in paragraph 2 shall prevent a person from serving as a member of any committee or sub-committee established by the authority 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.

## **2. Disciplinary Action**

In the following paragraphs: -

- (a) “the 2011 Act” means the Localism Act 2011
- (b) “chief finance officer”, “disciplinary action”, “head of the authority’s paid service” and “monitoring officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001 (c);
- (c) “independent person” means a person appointed under section 28(7) of the 2011 Act;
- (d) “local government elector” means a person registered as a local government elector in the register of electors in the authority’s area in accordance with the Representation of the People Acts;
- (e) “the Panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 (d) for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;

- (f) “relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and
  - (g) “relevant officer” means the chief finance officer, head of the authority’s paid service or monitoring officer, as the case may be.
1. A relevant officer may not be dismissed by an authority unless the procedure set out below is complied with.
  2. The authority must invite relevant independent persons (to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.
  3. In paragraph 2 above “relevant independent person” means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.
  4. Subject to 5 below, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 2 in accordance with the following priority order
    - (a) a relevant independent person who has been appointed by the authority and who is a local government elector;
    - (b) any other relevant independent person who has been appointed by the authority;
    - (c) a relevant independent person who has been appointed by another authority or authorities.
  5. An authority is not required to appoint more than two relevant independent persons in accordance with paragraph 4 but may do so.
  6. The authority must appoint any Panel at least 20 working days before the relevant meeting.
  7. Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular:-
    - (a) any advice, views or recommendations of the Panel;
    - (b) the conclusions of any investigation into the proposed dismissal; and
    - (c) any representations from the relevant officer.

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