

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 Head of Finance (Section 151 Officer) and the Monitoring Officer (Solicitor to the Council);

"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 Corporate Directors.

"Deputy Chief Officer" means a person who for most or all of his 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 Heads of Service other than the Statutory Chief Officers;

"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 Personnel Services.

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. All appointments shall be made on merit and in compliance with the law and any agreed policies and procedures of the Council.
- 2.2 Subject to paragraph 2.3 the functions and duties contained within Section 112 Local Government Act 1972, including 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 or by an officer nominated by him or her.
- 2.3. Paragraph 2.2 shall not apply to the appointment or dismissal of, or disciplinary action against:–
- (a) the officer designated as the Head of Paid Service;
 - (b) a Statutory Chief Officer;
 - (c) a Non-Statutory Chief Officer;
 - (d) a Deputy Chief Officer; or
 - (e) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).
- 2.4 Responsibility for the appointment of the officers set out in (a) – (e) above is set out in the scheme of delegation, and a summary of the arrangements is attached at Appendix A.
- 2.5. Where the Licensing and General Purposes Committee (which shall for the purposes of the appointment include the Leader and the Cabinet member for Corporate Services) is discharging, on behalf of the authority, the function of the appointment of an officer designated as the Head of Paid Service, the full Council must approve that appointment before an offer of appointment is made to him or her.
- 2.6 Where a Panel consisting of four Members appointed by the Licensing and General Purposes Committee is discharging, on behalf of the authority, the function of the appointment or dismissal of any officer referred to in subparagraph (b), (c) or (d) of paragraph 2.3, the Leader and/or the Cabinet Member for Corporate Services must be a member of that Panel.

3. RECRUITMENT OF HEAD OF PAID SERVICE, CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS

- 3.1 Where the Council proposes to appoint a Head of Paid Service, Chief Officer or Deputy 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 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 and interview those included in the short list.

Procedure for Appointments

3.2 In this paragraph, "appointor" 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, that committee, sub-committee or officer, as the case may be.

3.3 An offer of an appointment as an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 2.3 must not be made by the appointor until:-

- (a) the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
- (b) the proper officer has notified every member of the Cabinet:
 - (i) the name of the person to whom the appointor wishes to make the offer;
 - (ii) any other particulars relevant to the appointment which the appointor 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
- (c) either –
 - (i) the Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither s/he nor any other member of the Cabinet has any objection to the making of the offer;
 - (ii) the proper officer has notified the appointor that no objection was received by him within that period from the Leader; or
 - (iii) the appointor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

Appointment of Political Research Assistants

- 3.4 (a) This Procedure Rule 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. 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.
- (b) No such appointment shall be made in respect of any political group which does not qualify for a post under that Section. Not more than one such post shall be allocated to any political group and the terms and conditions of appointments to all such posts shall be the same.
- (c) 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.

4. DISCLOSURE OF RELATIONSHIP

- 4.1 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.
- 4.2 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.
- 4.3 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).
- 4.4 Subject to paragraph 4.5, no Councillor will seek support for any person for any appointment with the Council.
- 4.5 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.

5 DISCIPLINARY ACTION AND DISMISSAL

- 5.1 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

- 5.2 In paragraph 5.3 "Head of Paid Service", "Monitoring Officer" and "Head of Finance" are Relevant Officers and have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and "relevant independent person" has the same meaning as in regulation 4 of those Regulations.

- 5.3 No disciplinary action to dismiss may be taken in respect of the Head of Paid Service, the Monitoring Officer or the Head of Finance, except after having taken into account any advice, views or recommendations of a Panel appointed by the Council comprising relevant independent persons, the conclusions of any investigation into the proposed dismissal and any representations from the protected officer concerned as set out in the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

- 5.4 Any decision to dismiss a Statutory Chief Officer must be taken by vote at a meeting of the full Council.

Non-Statutory Chief Officers and Deputy Chief Officers

- 5.5 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.

- 5.6 Notice of the dismissal of an officer referred to in sub-paragraph (c) or (d) of paragraph 2.3 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 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

(c) either:-

- (i) the 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 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.

5.7 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.

APPOINTMENT OF STAFF

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

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| Head of Paid Service | Licensing and General Purposes Committee and the Leader of the Council and Cabinet Member for Corporate Services, subject to confirmation by the Full Council |
| Section 151 Office (Chief Finance Officer) and Monitoring Officer | Member Panel consisting of four Members, including the Cabinet Member for Corporate Services and the Leader of the Council, subject to confirmation by the Licensing and General Purposes Committee |
| Corporate Directors | Member Panel consisting of four Members, including the Cabinet Member for Corporate Services and the Leader of the Council, subject to confirmation by the Licensing and General Purposes Committee |
| Heads of Service (other than Statutory Chief Officers) | Member Panel consisting of four Members including the Cabinet Member for Corporate Services or in his/her absence another Cabinet Member |
| Deputy Chief Officers who are not Heads of Service | Head of Service, subject to confirmation by the Chief Executive or Director, and the Cabinet Member for Corporate Services |
| Other politically restricted posts | Head of Service |
| All other Posts | Head of Service |
