

## **Appendix 9 - Officer Employment Procedure Rules**

### **Recruitment and Appointment**

#### **1. Declarations**

- i. 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.
- ii. 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/her.

#### **2. Seeking support for appointment**

- i. Subject to Rule 2 (iii), 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 Rule will be included in any recruitment information.
- ii. Subject to Rule 2 (iii), no Councillor will seek support for any person for any appointment with the Council.
- iii. Nothing in Rules 2 (i) and (ii) above will preclude a councillor from giving a reference for a candidate for submission with an application for appointment.

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

When the Council proposes to appoint a Chief Officer as defined in the Local Authorities (Standing Orders) Regulations 1993 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 Rule 3 (a) to be sent to any person on request.

4. (1) Where a post has been advertised as provided in Rule 3 (b) the Council shall:
  - a. interview all qualified applications for the post, or
  - b. select a shortlist of such qualified applicants and interview those included on the shortlist.(2) Where no qualified person has applied, the Council shall make further arrangements for advertisement in accordance with Rule 3 (b).
5. Where the duties of a chief officer include the discharge of functions of two or more local authorities in pursuance of Section 101 (5) of the Local Government Act 1972 –
  - i. The steps taken under Rules 3 and 4 may be taken by a joint committee of those authorities, a sub-committee of that committee or a chief officer of any of the authorities concerned;
  - ii. Any chief officer may be appointed by such a joint committee, a sub-committee of that committee or a committee or subcommittee of any of those authorities.

## **6. Appointment and Dismissal**

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;

“executive” and “Leader” have the same meaning as in the Articles of the Constitution;

“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 council for the purposes of the provisions in this Part.

7. Subject to the following rules 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 Council, by the Head of Paid Service or by an officer nominated by him/her. Decisions regarding action against these officers may not be made by Councillors.

8. Rule 7 shall not apply to the appointment or dismissal of, or disciplinary action against 'Chief Officers' namely –
- a. the officer designated as the Head of 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;
  - e. a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups). Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

Officers who solely provide secretarial, clerical or support services are not regarded as a non-statutory chief officer or a deputy chief officer.

Within the Council's management structure the Chief Officers are as follows:

| Statutory definition  | Position  |
|---|---|
| The officer designated as the head of the authority's paid service.   | Managing Director   |
| <p>A statutory chief officer within the meaning of section 2(6) of the Local Government and Housing Act 1989 (politically restricted posts)</p> <p>(za) the director of children's services appointed under section 18 of the Children Act 2004 and the director of adult social services appointed under section 6(A1) of the Local Authority Social Services Act 1970</p> <p>(zb) the director of public health appointed under section 73A(1) of the National Health Service Act 2006;</p> <p>(d) the officer having responsibility, for the purposes of section 151 of the Local Government Act 1972 for the administration of the authority's financial affairs.</p> | <p>(za)<br/>ED Children's Services<br/>ED Adult Social Care and Health</p> <p>(zb) Director of Public Health</p> <p>(d) Director of Finance</p> |
| A non-statutory chief officer within the meaning of section 2(7) of the 1989 Act  |   |

|   |  |
|---|--|
| <p>(a) a person for whom the head of the authority's paid service is directly responsible;</p> <p>(b) a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the head of the authority's paid service; and</p> <p>(c) any person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the local authority themselves or any committee or sub-committee of the authority.</p> | <p>(ab)</p> <p>All direct reports to HoPS<br/>ED Place<br/>ED Corporate Services and Transformation</p>  |
| <p>A deputy chief officer within the meaning of section 2(8) of the 1989 Act</p> <p>A person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers.</p>   | <p>Any officer reporting directly to:<br/>ED Children's Services<br/>ED ASCH<br/>ED CST<br/>ED Place<br/>Director of Public Health<br/>Director of Finance</p> |
| <p>A person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups)</p>   | <p>Not applicable.</p>   |

## 9. Appointment of Head of Paid Service

- a. The Full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a politically balanced panel. The Panel must comprise of at least three members formed of the Cabinet Member or Members holding the relevant portfolio or portfolios, the Shadow Cabinet Member(s) and additional Member(s) from the Appointments and Conditions of Service Committee as necessary to balance the Panel.
- b. Where the Cabinet Member holding one of the relevant portfolios or one of the Shadow Cabinet Members is unable to attend, they may be substituted for a Member of the Appointments and Conditions of Service Committee, provided that the Panel includes at least one member of the Cabinet and remains politically balanced.
- c. Arrangements for forming the Panel will be undertaken by the Director of People and Organisational Change or by an officer nominated by him/her.
- d. The Full Council may only make or approve the appointment of the Head of Paid Service where the procedure set out in Annex 1 has been completed.

## **10. Appointment of Statutory Chief Officers**

- a. A politically balanced panel will appoint a Statutory Chief Officer (excluding the Director of Public Health whose appointment will be dealt with in accordance with Rule 12). The Panel must comprise of at least three members formed of the Cabinet Member or Members holding the relevant portfolio or portfolios, the Shadow Cabinet Member(s) and additional Member(s) from the Appointments and Conditions of Service Committee as necessary to balance the Panel.
- b. Where the Cabinet Member holding one of the relevant portfolios or one of the Shadow Cabinet Members is unable to attend, they may be substituted for a Member of the Appointments and Conditions of Service Committee, provided that the Panel includes at least one member of the Cabinet and remains politically balanced.
- c. Arrangements for forming the Panel will be undertaken by the Director of People and Organisational Change or by an officer nominated by him/her.
- d. The above shall not apply where an appointment is on a temporary basis of no more than 12 months at a grade whereby the annual salary does not total £100,000 or more or has been approved by Council. Such a temporary appointment will be approved by the Head of Paid Service in consultation with the Chair and Vice-Chair of the Appointments and Conditions of Service Committee.
- e. Any offer of employment as a Statutory Chief Officer shall only be made where the procedure set out in Annex 1 has been completed.
- f. Any appointment of a Statutory Chief Officer will be reported to the next meeting of Council for information.

## **11. Appointment of Non-Statutory Chief Officers and Deputy Chief Officers**

- a. A politically balanced panel will appoint Non-Statutory Chief Officers.
- b. A politically balanced panel will appoint the following Deputy Chief Officers:
  - Directors (excluding the Director of Public Health whose appointment will be dealt with in accordance with Rule 12).
- c. The appointment of all other Deputy Chief Officers is the responsibility of the Head of Paid Service or an officer nominated by him/her.
- d. The Panel must comprise of at least three members formed of the Cabinet Member or Members holding the relevant portfolio or portfolios, the Shadow Cabinet Member(s) and additional Member(s) from the

Appointments and Conditions of Service Committee as necessary to balance the Panel.

- e. Where the Cabinet Member holding one of the relevant portfolios or one of the Shadow Cabinet Members is unable to attend, they may be substituted for a Member of the Appointments and Conditions of Service Committee, provided that the Panel includes at least one member of the Cabinet and remains politically balanced.
- f. Arrangements for forming the Panel will be undertaken by the Director of People and Organisational Change or by an officer nominated by him/her.
- g. Where appointments are to be made by a politically balanced panel, as set out in paragraphs (a) and (b) above, this process shall not apply where an appointment is on a temporary basis of no more than 12 months at a grade whereby the annual salary does not total £100,000 or more or has been approved by Council. Such a temporary appointment will be approved by the Head of Paid Service in consultation with the Chair and Vice-Chair of the Appointments and Conditions of Service Committee.
- h. Any offer of employment as a Non-Statutory Chief Officer or Deputy Chief Officer shall only be made where the procedure set out in Annex 1 has been completed.
- i. Any appointment of a Non-Statutory Chief Officer as set out in (a) above will be reported to the next meeting of Council for information.

## **12. Appointment of Director of Public Health**

- a. The Council, acting jointly with the Secretary of State, appoints the Director of Public Health.
- b. A Panel comprising the following will appoint the Director of Public Health:
  - i. a Councillor (that must be a Cabinet Member) as determined by the Director of People and Organisational Change.
  - ii. the Executive Director for Adult Social Care and Health or an officer nominated by him/her of sufficient seniority
  - iii. an externally facilitated assessor appointed following consultation with the Faculty of Public Health and the Regional director for health improvement and disparities or his/her nominated deputy
  - iv. the Regional director for health improvement and disparities or his/her nominated deputy

- v. A senior NHS representative to be determined by the Executive Director for Adult Social Care and Health
- c. An offer of employment shall only be made where the procedure set out in Annex 1 has been completed.

### **13. Appointment of Political Assistants**

- a. Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

### **14. Disciplinary Action and Dismissal**

- a. Disciplinary action means any action occasioned by alleged misconduct which, if proved, would according to the usual practice of the authority be recorded on the Officer's personal file, and includes proposals for dismissal for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the Council has undertaken to renew such a contract.
- b. Chief Officers listed in Rule 8 may be suspended whilst an investigation takes place into alleged misconduct. Any suspension must not last longer than two months, unless an extension is recommended by a suitably qualified and independent investigator.
- c. The procedure set out in Annex 2 must be followed in relation to any disciplinary action against the Head of Paid Service, Monitoring Officer or Chief Financial Officer.

### **15. Disciplinary action against and dismissal of Head of Paid Service, Monitoring Officer and Chief Finance Officer (a relevant officer)**

- a. A Panel formed from the Appointments and Conditions of Service Committee will discharge the function of the dismissal of the officer designated as the Head of Paid Service, the Monitoring Officer, or the Chief Financial Officer.
- b. The Full Council may only approve the dismissal where the procedure set out in Annex 2 and 3 has been completed.

### **16. Disciplinary of other Statutory Chief Officers, Non-Statutory Chief Officers and Deputy Chief Officers**

- a. A Panel formed from the Appointments and Conditions of Service Committee will discharge the function of the dismissal of Statutory Chief Officers (excluding Director of Public Health).

- b. A Panel formed from the Appointments and Conditions of Service Committee will discharge the function of the dismissal of Non-Statutory Chief Officers.
- c. A Panel formed from the Appointments and Conditions of Service Committee will discharge the function of the dismissal of the following Deputy Chief Officers:
- Directors (excluding the Director of Public Health whose appointment will be dealt with in accordance with Rule 17).
- d. The dismissal of all other Deputy Chief Officers is the responsibility of the Head of Paid Service or an officer nominated by him/her.
- e. Notice of dismissal may only be given where the procedure set out in Annex 3 has been completed.
- f. Disciplinary action against other Statutory Chief Officers, Non-Statutory Chief Officers and Deputy Chief Officers is the responsibility of the Head of Paid Service or an officer nominated by him/her as in the tables below.

### Executive Directors

| Process                           | What is the stage and who would deal with this?  |   |   |
|-----------------------------------|--|---|---|
| Disciplinary Procedure            | Investigation<br><br><b>Undertaken by the Managing Director or by an Independent Person commissioned by the Managing Director</b>  | Disciplinary Hearing<br><br><b>Managing Director or Panel of ACOS</b>   | Appeals<br><br><b>Panel of ACOS</b>                 |
| Grievance Procedure               | Informal Stage<br><br><b>Undertaken by the Managing Director or by an Independent Person commissioned by the Managing Director</b> | Formal Stage 1<br><br><b>Managing Director or Panel of ACOS</b>   | Formal Stage 2 (Appeal)<br><br><b>Panel of ACOS</b> |
| Harassment and Bullying Procedure | Informal Stage 1<br><br><b>Undertaken by the Managing Director or by an Independent Person</b>                                     | Formal Stage 1 Investigation – if substantiated disciplinary procedure<br><br><b>Managing Director or Panel of ACOS</b> | Formal Stage 2 (Appeal)<br><br><b>Panel of ACOS</b> |

|   |  |   |  |
|---|--|---|--|
|   | <b>commissioned by the Managing Director</b>           |   |  |
| Performance Capability Procedure                | Stage 1 (Informal Meeting)<br><b>Managing Director</b> | Stage 2 (Formal Meeting)<br><b>Managing Director or Panel of ACOS</b> | Stage 3 (Capability Hearing) – Dismissal or other Action<br><b>Panel of ACOS</b> |
| Attendance Management and Ill Health Capability | Stage 1 (Informal Meeting)<br><b>Managing Director</b> | Stage 2 (Formal Review)<br><b>Managing Director or Panel of ACOS</b>  | Stage 3 (Capability Hearing) – Dismissal or other Action<br><b>Panel of ACOS</b> |

### Directors (excluding Director of Public Health)

| Process   | What is the stage and who would deal with this?         |  |   |
|---|---|--|---|
| Disciplinary Procedure                          | Investigation<br><b>Executive Director</b>              | Disciplinary Hearing<br><b>Managing Director</b>   | Appeals<br><b>Panel of ACOS</b>   |
| Grievance Procedure                             | Informal Stage<br><b>Executive Director</b>             | Formal Stage 1<br><b>Managing Director</b>   | Formal Stage 2 (Appeal)<br><b>Panel of ACOS</b>   |
| Harassment and Bullying Procedure               | Informal Stage 1<br><b>Executive Director</b>           | Formal Stage 1 Investigation – if substantiated disciplinary procedure<br><b>Managing Director</b> | Formal Stage 2 (Appeal)<br><b>Panel of ACOS</b>   |
| Performance Capability Procedure                | Stage 1 (Informal Meeting)<br><b>Executive Director</b> | Stage 2 (Formal Meeting)<br><b>Executive Director or Managing Director</b>                         | Stage 3 (Capability Hearing) – Dismissal or other Action<br><b>Managing Director or Panel of ACOS</b> |
| Attendance Management and Ill Health Capability | Stage 1 (Informal Meeting)<br><b>Executive Director</b> | Stage 2 (Formal Review)<br><b>Executive Director or Managing Director</b>                          | Stage 3 (Capability Hearing) – Dismissal or other Action<br><b>Managing Director or Panel of ACOS</b> |

### 17. Action against the Director of Public Health

- a. When considering any disciplinary or dismissal action against the Director of Public Health, the Council will have regard to the provisions of the Health and Social Care legislation and any associated guidance issued by the Secretary of State.
- b. Before terminating the appointment of a Director of Public Health, the Council will consult with the Secretary of State.
- c. Notice of dismissal may only be given where the procedure set out in Annex 3 has been completed.

#### **18. Dismissal of Assistants to Political Groups**

- (a) Dismissal of an assistant to a political group shall be made in accordance with the wishes of that political group.

## **Annex 1 – Appointment of Head of Paid Service and Chief Officers**

1. This procedure applies to the appointment of the officers as listed in Rule 8(a)-(d). It has been incorporated into these Standing Orders, as required by the Local Authorities (Standing Orders) (England) Regulations 2001.

2. (1) In this paragraph, “appointor” means, in relation to the appointment of a person as an officer of the Council, the Council or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the Council, that committee, sub-committee 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 Rule 8 must not be made by the appointor until—

(a) the appointor has notified the Director of People and Organisational Change (or the Assistant Director of HR where the Director is absent or unable to act) 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 Director of People and Organisational Change (or the Assistant Director of HR where the Director is absent or unable to act) has notified every member of the Cabinet of—

(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 Director of People and Organisational Change (or the Assistant Director of HR where the Director is absent or unable to act); 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 Cabinet to the Director of People and Organisational Change (or the Assistant Director of HR where the Director is absent or unable to act); and

(c) either—

(i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither they nor any other member of the Cabinet has any objection to the making of the offer;

(ii) the Director of People and Organisational Change (or the Assistant Director of HR where the Director is absent or unable to act) has notified the appointor that no objection was received within that period from the executive leader; or

(iii) the appointor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.

## **Annex 2 – Disciplinary action against the Head of Paid Service, Monitoring Officer or Chief Financial Officer.**

1. This procedure applies to disciplinary action taken against the Head of Paid Service, Monitoring Officer or Chief Finance Officer. It has been incorporated into these Standing Orders, as required by the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended).
2. 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. “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 Council’s area in accordance with the Representation of the People Acts;
  - e. “the Panel” means a committee appointed by the Council under section 102(4) of the Local Government Act 1972 for the purposes of advising the Council on matters relating to the dismissal of relevant officers of the Council;
  - f. “relevant meeting” means a meeting of the Council 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 Paid Service or Monitoring Officer, as the case may be.
3. A relevant officer may not be dismissed by the Council unless the procedure set out in the following paragraphs is complied with.
4. The matter will be considered by a Panel formed from the Appointments and Conditions of Service Committee, which, in turn will provide advice, views and/or recommendations to the Council.
5. The Council 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.

6. In paragraph 5 “relevant independent person” means any independent person who has been appointed by the Council or, where there are fewer than two such persons, such independent persons as have been appointed by another Council or authorities as the Council considers appropriate.
7. Subject to paragraph 6, the Council must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 5 in accordance with the following priority order—
  - a. a relevant independent person who has been appointed by the Council and who is a local government elector;
  - b. any other relevant independent person who has been appointed by the Council;
  - c. a relevant independent person who has been appointed by another Council or authorities.
8. The Council is not required to appoint more than two relevant independent persons in accordance with paragraph 5 but may do so.
9. The Council must appoint any Panel at least 20 working days before the relevant meeting.
10. Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the Council must take into account, in particular—
  - a. any advice, views or recommendations of the Panel;
  - b. any representations from the relevant officer; and
  - c. the conclusions of any investigation into the proposed dismissal.
11. 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 independent person in respect of that person's role as independent person under the 2011 Act.

### **Annex 3 – Dismissal of Head of Paid Service and Chief Officers**

1. This procedure applies to the dismissal of the officers as listed in Rule 8 (a)-(d). It has been incorporated into these Standing Orders, as required by the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended).
2. (1) In this paragraph, “dismissor” means, in relation to the dismissal of an officer of the Council, the Council or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the Council, that committee, sub-committee 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 Rule 8 must not be given by the dismissor until—
    - a) the dismissor has notified the Director of People and Organisational Change or the Assistant Director of HR where the Director is absent or unable to act) 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 Director of People and Organisational Change or the Assistant Director of HR where the Director is absent or unable to act) has notified every member of the Cabinet 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 Director of People and Organisational Change (or the Assistant Director of HR where the Director is absent or unable to act); and
      - iii. the period within which any objection to the dismissal is to be made by the executive leader on behalf of the Cabinet to the Director of People and Organisational Change (or the Assistant Director of HR where the Director is absent or unable to act); and
    - c) either—
      - i. the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither they nor any other member of the Cabinet has any objection to the dismissal;

- ii. the Director of People and Organisational Change (or the Assistant Director of HR where the Director is absent or unable to act); has notified the dismissor that no objection was received within that period from the executive leader; or
- iii. the dismissor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.