

Appendix 9 - Officer Employment Procedure Rules

1. Recruitment and Appointment

(a) 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 relevant chief officer or an officer nominated by him/her.

(b) Seeking support for appointment.

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

2. Recruitment of Head of Paid Service and Executive Directors

Where the Council proposes to appoint an Executive Director 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 (1) to be sent to any person on request.

3. **Appointments**

- (a) Subject to the paragraphs below and the exceptions detailed therein, appointment of officers (other than assistants to political groups) is the responsibility of the Head of Paid Service as delegated to Executive Directors for their service area under the Officer Scheme of Delegations at Appendix 1, and such appointments may not be made by Councillors.
- (b) **Assistants to Political Groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.
- (c) Paragraph (a) above does not apply to the appointment or dismissal of, or disciplinary action against:
 - (i) The Head of Paid Service
 - (ii) Statutory chief officers within the meaning of section 2(6) of the 1989 Act (politically restricted posts) save where the appointment is on a temporary basis of no more than 6 months at a grade whereby the annual salary does not total £100,000 or more;
 - (iii) Non-statutory chief officers within the meaning of section 2(7) of the 1989 Act;
 - (iv) Deputy chief officers within the meaning of section 2(8) of the 1989 Act save where the appointment is on a temporary basis of no more than 6 months at a grade whereby the annual salary does not total £100,000 or more;
 - (v) Any person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).
- (d) The full Council will approve the appointment of the Head of Paid Service and Executive Directors following the recommendation of such an appointment by a politically balanced Panel of at least three members formed of the Cabinet Member or Members holding the relevant portfolio or portfolios, the Shadow Cabinet Members and additional Members from the Appointments and Conditions of Service Committee as necessary to balance the Panel. 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. Arrangements for forming the Panel will be undertaken by the Director of Organisation Development and Policy.

- (e) The full council may only make or approve the appointment of the Head of Paid Service where no well-founded objection from any member of the Cabinet has been received.
- (f) A politically balanced Panel of at least three members formed of the Cabinet Member or Members holding the relevant portfolio or portfolios, the relevant Shadow Cabinet Members and additional Members from the Appointments and Conditions of Service Committee as necessary to balance the Panel, will appoint the Council's Monitoring Officer and other officers falling within paragraph (c) above, except the Director of Public Health. The Panel must include at least one member of the Cabinet. 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. Arrangements for forming the Panel will be undertaken by the Director of Organisation Development and Policy in conjunction with the Head of Paid Service; or by the Head of Paid Service if the appointment is of the Director of Organisation Development and Policy. .
- (g) **Appointment of the Director of Public Health:** A Panel comprising the following will appoint the Director of Public Health:
 - (i) A Councillor as determined by the Director of Organisation Development and Policy;
 - (ii) the Executive Director for Adult Care or an officer nominated by him/her
 - (iii) an externally facilitated assessor appointed following consultation with the Faculty of Public Health and agreed by Public Health England
 - (iv) The Regional Director of Public Health or his/her nominated deputy

(v) A senior NHS representative to be determined by the Executive Director for Adult Care

(h) An offer of employment regarding appointments detailed in paragraphs (f) and (g) shall only be made where no well-founded objection from any member of the Cabinet has been received.

4. Disciplinary Action and Dismissal

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.

5. Disciplinary Action against the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer (a relevant officer)

- (i) Where an allegation is made against the Head of Paid Service Monitoring Officer or Chief Finance Officer (a relevant officer) relating to conduct or capability or some other substantial issue that requires consideration, the matter will be considered by a Panel formed from the Appointments and Conditions of Service Committee, which, in turn will advise the Council and make recommendations.
- (ii) The Panel will consider and action suspension, where appropriate. Any suspension must not last longer than two months, unless an extension is recommended by a suitably qualified and independent investigator.
- (iii) The Panel, including the independent persons, will operate as the Panel required by the Local Authorities (Standing Orders) (England) (amendment) Regulations.
- (iv) The Panel will include two or more independent non-voting persons appointed in accordance with s28(7) of the Localism Act 2011, who accept the invitation in 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 independent person who has been appointed by the Council; and
 - (c) an independent person who has been appointed by another Council or Councils.
- (v) A relevant officer may only be dismissed by the full Council and may not be dismissed unless the procedure set out in the following paragraphs is complied with.
- (vi) At least twenty working days before the relevant meeting, namely, the meeting at which the Council will consider whether to approve any proposal to dismiss. The Panel will consider whether potential disciplinary, dismissal, capability or other substantial issues require investigation and whether the relevant officer should be suspended.
- (vii) The Panel will inform the relevant officer of the allegations and allow him/her to respond in writing and in person. The Panel will then decide whether no further action is required or if the matter requires an investigation by a suitably qualified and/or independent person and the Panel will use its best endeavours to agree this person with the officer.
- (viii) The Panel will review the results of the investigation to consider what action if any, is appropriate, after hearing the views of the relevant officer, and report its recommendations. The independent persons must express their views but do not have a vote on whether the case should progress to full Council to consider dismissal.
- (ix) Where dismissal is recommended, the Panel will provide advice, views or recommendations to full Council for the Council to vote on whether it approves the proposal to dismiss. The relevant officer will be provided with all relevant papers or documents in advance of the meeting and allowed to make their representations. Written representations may also be given by the relevant officer in advance of the meeting.
- (x) Notice of dismissal must not be given before the matter has been considered by full Council and full Council must not approve any recommendation of dismissal of a relevant officer without considering:
 - (a) any advice, views or recommendations of the Panel
 - (b) the conclusions of any investigations into the proposed dismissal; and
 - (c) any representations from the relevant officer.

- (xi) In relation to an appeal, as the Authority has approved the dismissal, there is no one in the Authority who has the power to overturn the dismissal decision. In this respect and as set out above, the relevant officer will have the opportunity to make representations in writing and in person to the Panel, before any dismissal recommendation has been made and thereafter will have the opportunity to make written representations to full Council to be considered at the relevant meeting.
- (xii) Any discussion at meetings of the full Council or the Panel under these rules regarding an individual officer would be conducted under the exempt part of the meeting.

5. Action against the Director of Public Health

In 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.

Before terminating the appointment of a Director of Public Health, the Council will consult with the Secretary of State.

6. Procedure for seeking objections

In respect of any proposal to appoint or dismiss an officer to a post falling within paragraph (c) (i) – (iv) above, shall only be made where no well-founded objection from any member of the Cabinet has been received. No offer of appointment must be made and no notice of dismissal must be given until:

- (i) The Panel or officer proposing to appoint or dismiss must notify the Director of Organisation Development and Policy of the name of the person to whom it is proposed the offer is made or notice given, together with any other relevant particulars;
- (ii) The Director of Organisation Development and Policy must notify every member of Cabinet of:
 - (a) The name of the person to whom it is proposed the offer of employment is made or notice is given;
 - (b) Any other relevant particulars
 - (c) The period within which any objection to the making of the offer of employment or the giving of notice of dismissal is to be made by the

Leader on behalf of the Cabinet to the Director of Organisation Development and Policy; and

(iii) Either:

- (a) The Leader has, within the period specified in the notice under subparagraph (ii) (c), notified the Panel or officer appointing or proposing to dismiss that neither he nor any other member of the Cabinet has any objection to the making of the offer;
- (b) The Director of Organisation Development and Policy has notified the Panel or officer that no objection was received by him/her within that period from the Leader; OR
- (c) The Panel or officer appointing or proposing to dismiss is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

7. Action against Officers other than those stipulated in paragraph 3 (c)

Any action against these officers is the responsibility of the Head of Paid Service as delegated to Executive Directors for their service area under the Officer Scheme of Delegations at Appendix 1, and decisions regarding action against these officers may not be made by Councillors.

