

Part 3 – Section 8 – Employment Procedure Rules

1 RECRUITMENT AND APPOINTMENT

Declarations

- 1.1 Any candidate for any designation or appointment with the Council who knows that they are related to a Councillor or employee of the Council shall, when making an application, disclose, in writing, that relationship. A person who deliberately fails to disclose such a relationship shall be disqualified from designation or appointment and, if designated or appointed, shall be liable to dismissal.
- 1.2 Every Councillor and employee of the Council shall disclose any relationship known to them to exist between themselves and any person they know is a candidate for a designation or appointment by the Council.

Seeking support for appointment

- 1.3 Any candidate for designation or appointment who directly or indirectly seeks the support of a Councillor or officer of the Council in any designation or appointment shall be disqualified and, if designated or appointed, shall be liable to dismissal. A Councillor shall not solicit for any person in respect of any designation or appointment with the Council but may give a written testimonial of a candidate's ability, experience or character.
- 1.4 Persons shall be deemed to be related to a candidate or officer if they are a spouse, civil partner, partner (i.e. member of a couple living together) parent, parent-in-law, grandparent, child, step-parent stepchild, adopted child, grandchild, child of partner, brother, sister, uncle, aunt, nephew or niece or the spouse or partner of any of the preceding persons. This list is indicative, and a judgement will be made based on the closeness of the relationship.
- 1.5 In the case of a dispute under Rule 1.4 above about the status of a relationship in relation to an appointment, the Director for Business Transformation and Change will rule and such ruling will be applied.
- 1.6 The Director for Business Transformation and Change will ensure that the provisions of these Rules are reflected, as appropriate, in application forms or in any accompanying detailed procedures for each post, following advertisement.
- 1.7 No candidate so related to a Councillor or senior officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by them.

2 RECRUITMENT OF HEAD OF PAID SERVICES AND CHIEF OFFICERS

- 2.1 Where the Council proposes to appoint the Head of Paid Service or a chief officer, the Staffing Committee will act as the appointment panel.
- 2.2 The Assistant Director of HR&OD will, in consultation with the Chair of Staffing Committee:

- 2.2.1 draw up a statement specifying the duties of the post concerned and a specification of the qualifications or qualities to be sought in the person to be appointed;
 - 2.2.2 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
 - 2.2.3 make arrangements for a copy of the statement mentioned in paragraph 2.2.1 to be sent to any person on request.
- 2.3 The appointment panel will interview all qualified applicants for the post or select a short-list of such qualified applicants and interview those included on the short-list.
- 2.4 Where following the interviews the Committee is of the view that there is no suitable candidate, it will re-advertise the post.
- 2.5 No offer of an appointment or notice of dismissal in relation to the Head of Paid Service or a Chief Officer (as defined in Section 2(8) of the Local Government and Housing Act 1989) shall be given by the appointor or dismissor until:
- 2.6 the appointor or dismissor has notified the Monitoring Officer of the name of the person to be appointed or dismissed and any other particulars relevant to the appointment or dismissal;
- 2.7 the Monitoring Officer has notified each member of the Executive of:
- 2.7.1 the name of the person to be appointed or dismissed;
 - 2.7.2 any other particulars relevant to the appointment or dismissal which the appointor or dismissor has notified to the Monitoring Officer; and
 - 2.7.3 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 Monitoring Officer and
- 2.8 either:
- 2.8.1 the Leader has, within the period specified in the notice notified the Committee that neither s/he nor any other member of the Executive has any objection to the appointment or dismissal;
 - 2.8.2 the Monitoring Officer has notified the appointor or dismissor that no objection was received within that period from the Leader; or
 - 2.8.3 the appointor or dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

3 APPOINTMENT OF HEAD OF PAID SERVICE, THE MONITORING OFFICER AND THE CHIEF FINANCE OFFICER (S151 OFFICER)

- 3.1 Where the Council proposes to appoint to the Head of the Paid Service, the Monitoring Officer or the s151 Officer, the Staffing Committee shall include at least one Executive Councillor.

- 3.2 Advertisement for the post of Head of the Paid Service must be made externally.
- 3.3 The Council shall, where there is no material or “well founded” objection made by any other member of Executive, be asked to approve the appointment of the Head of Paid Service, the Monitoring Officer and the s151 Officer following the recommendation of the Staffing Committee, and the Council must approve the appointment before an offer of appointment is confirmed.
- 3.4 Where the Council does not approve the recommendation of the Committee, it shall indicate how it wishes to proceed.

4 DISCIPLINARY ACTION - HEAD OF PAID SERVICE, THE MONITORING OFFICER AND THE CHIEF FINANCE OFFICER (S.151 OFFICER)

- 4.1 A Designated Statutory Officer of the Council (the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer (S.151 Officer) (a ‘DSO’) may not be dismissed by the Council unless the procedure set out in this Rule 4 has been complied with. Subject to this Rule 4, the Staffing Committee has delegated authority to take disciplinary action against a DSO and to dismiss Chief Officers who are not a DSO on disciplinary grounds.
- 4.2 Any proposal to dismiss the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer must be taken by Council following the recommendation of such dismissal by the Staffing Committee.
- 4.3 Where the Staffing Committee meets to consider the taking of disciplinary action against the Head of Paid Service or a chief officer, the Committee must include at least one member of the Executive.
- 4.4 In accordance with the Model Disciplinary Procedure in the JNC Handbook for Chief Executives, meetings shall be convened by the Monitoring Officer (in consultation with the Chair of the Staffing Committee) and the Monitoring Officer shall, in consultation with the Chair of the Staffing Committee, filter out and deal with allegations that are clearly unfounded, trivial or can best be dealt with under some other procedure. Where allegations involve the Monitoring Officer, this role shall be fulfilled by the Chief Executive.
- 4.5 The Council must invite relevant independent persons to be considered for appointment to an Independent Persons Panel, with a view to appointing at least two such persons to the Panel.
- 4.6 “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 authority or authorities as the Council considers appropriate.
- 4.7 Subject to Rule 4.5, the Council must appoint to the Independent Persons Panel such relevant independent persons who have accepted an invitation issued in accordance with Rule 4.2 in accordance with the following priority order:
 - 4.7.1 a relevant independent person who has been appointed by the Council and who is a local government elector;

- 4.7.2 any other relevant independent person who has been appointed by the Council;
- 4.7.3 a relevant independent person who has been appointed by another authority or authorities
- 4.8 The Council is not required to appoint more than two relevant independent persons in accordance with Rule 4.4 but may do so.
- 4.9 The Council must appoint any Independent Persons Panel at least 20 working days before the relevant meeting.
- 4.10 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:
 - 4.10.1 any advice, views or recommendations of the Independent Persons Panel
 - 4.10.2 the conclusions of any investigation into the proposed dismissal; and
 - 4.10.3 any representations from the relevant officer.
- 4.11 Any remuneration allowances or fees paid by the Council to an independent person appointed to the Independent Persons Panel must not exceed the level of remuneration, allowance or fees payable to that independent person in respect of that person's role as an independent person under the Localism Act 2011.

5 DISMISSAL OF HEAD OF PAID SERVICE, THE MONITORING OFFICER AND THE CHIEF FINANCE OFFICER (S.151 OFFICER)

- 5.1 Dismissal of the Designated Statutory Officers of the Council (the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer (S.151 Officer) (the 'DSOs') will be dealt with in accordance with the Council's agreed policy. The requirements of the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) and the Model Disciplinary Procedure and Guidance as set out in the JNC Conditions of Service Handbook have been followed in this regard.
- 5.2 The decision to dismiss a DSO must be taken by the Council, following the recommendation of such dismissal by the Staffing Committee. The Committee when making such a recommendation must include at least one member of the Executive. Any decision to dismiss must be taken only after consideration of:
 - 5.2.1 advice, views or recommendations from the Staffing Committee sitting as an Independent Panel;
 - 5.2.2 the conclusions of any independent investigation into the proposed dismissal;
 - 5.2.3 any representation from the Officer; and
 - 5.2.4 any advice, views or recommendations from the Independent Persons Panel.

6 APPOINTMENT AND DISMISSAL OF OTHER CHIEF OFFICERS

- 6.1 Subject to Rule 6.3, the appointment of a **chief officer** who is not a **DSO** will be determined by the Staffing Committee. When making the appointment, the Committee must include at least one Executive Councillor.
- 6.2 Subject to Rule 5.2, the dismissal of a chief officer is the responsibility of the Staffing Committee. The Committee when dismissing a chief officer must include at least one Executive Councillor.
- 6.3 The Director of Public, Customer and Community Wellbeing is a joint appointment with the Secretary of State for Health and Social Care, and appointments and dismissals must be agreed with that office, acting through the Regional Director of the Office for Health Improvement and Disparities.

7 OTHER OFFICERS

- 7.1 The function of appointment and dismissal of, and taking disciplinary action against, any officer other than the Head of Paid Service or a chief officer is the responsibility of the Head of Paid Service or their nominee, and, (save in respect of deputy DSOs as defined in Section 2(8) of the Local Government and Housing Act 1989), may not be discharged by Councillors. This is a requirement of the Local Authorities (Standing Orders) (England) Regulations 2001.
- 7.2 Any disciplinary action will be taken in accordance with the Council's Disciplinary Policy and Procedure, as adopted from time to time.

8 NO DIRECTIONS TO BE GIVEN TO PERSONS MAKING APPOINTMENTS OR TAKING DISCIPLINARY ACTION

- 8.1 Save as specifically provided for elsewhere in these Rules, neither the Council nor the Executive or its Committees or Overview and Scrutiny meeting or an individual Councillor, nor any other person shall directly or indirectly:
 - 8.1.1 give directions to any person taking any step in relation to an appointment to a post in the paid service of the Council as to the identity of the person to be appointed;
 - 8.1.2 give directions about the taking of any disciplinary action in relation to a person in the paid service of the Council; or
 - 8.1.3 otherwise interfere with the making of such an appointment or the taking of disciplinary action.