

Staffing Committee

Agenda

Date: Tuesday, 20th May, 2008
Time: 10.00 am
Venue: The Board Room, Town Hall, Macclesfield

The agenda is divided into 2 parts. Part A is taken in the presence of the public and press. Part B items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

PART A – MATTERS WHICH DO NOT CONTAIN CONFIDENTIAL OR EXEMPT INFORMATION

1. Apologies for absence
2. Declarations of Interests
3. Terms of Reference (Pages 1 - 10)

Responsibilities of the Staffing Committee and Staff Employment Rules, attached.

PART B - PRESS AND PUBLIC EXCLUDED

4. Exclusion of the Press and Public

The reports relating to the remaining items on the agenda have been withheld from public circulation and deposit pursuant to Section 100(B)(2) of the Local Government Act 1972 on the grounds that the matters may be determined with the press and public excluded.

The Staffing Committee may decide that the press and public be excluded from the meeting during consideration of the following items pursuant to Section 100(A)4 of the Local Government Act 1972 on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 3 and 4 of Part 1 of Schedule 12A to the Local Government Act 1972 and public interest would not be served in publishing the information.

(Paragraph 3 concerns information relating to the financial or business affairs of any particular person (including the authority holding that information) Paragraph 4 concerns information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.)

5. Recruitment of Chief Executive (To Follow)

This page is intentionally left blank

EXTRACT OF PART 3 OF THE DRAFT CONSTITUTION**7 Responsibility of the Staffing Committee**

1. Undertaking the selection process for the appointment, and formulating recommendations to the Shadow Council in relation to:
 - the appointment and dismissal of the Head of the Paid Service;
 - the designation of an officer to act as Interim Monitoring Officer and Interim Chief Finance Officer;
 - the appointment/dismissal of Appointed Monitoring Officer and Appointed Chief Finance Officer;

in accordance with the Cheshire (Structural Changes) Order 2008 in accordance with the appropriate procedures set out in the Staff Employment Procedure Rules;
2. undertaking the selection, appointment and dismissal processes for any other staff in accordance with the appropriate procedures set out in the Staff Employment Procedure Rules;
3. hearing and determining any appeals by staff under the Shadow Council's approved personnel policies and procedures including through any appointed Sub-Committee;
4. hearing and dealing with disputes registered with the Shadow Council by recognised Trade Unions.

This page is intentionally left blank

STAFF EMPLOYMENT PROCEDURES

1 General

- 1.1 The Shadow Council has limited powers in connection with the employment and designation of staff. It relies upon staff resources provided by all of the Cheshire local authorities to carry out its work. These Rules must therefore be read in that context.
- 1.2 Staff within the organisation are employed, appointed, designated or engaged on behalf of the whole Shadow Council and not by parts of the organisation or individuals.
- 1.3 The employment, appointment, designation or engagement of all staff will be in compliance with the law and any policies and practices of the Shadow Council.
- 1.4 Persons employed, appointed, designated or engaged by contractors under specific agreements or contracts are not staff of the Shadow Council, but are employees engaged by the contractor.
- 1.5 The Shadow Council will provide the necessary resources to support the appointed officer structure.
- 1.6 Generally (except for certain senior staff appointments) the function of appointment and dismissal of, and taking disciplinary action against a member of staff of the Shadow Council must be discharged on behalf of the authority by the Head of the Paid Service or by an officer nominated by him.

2 Recruitment and Appointment of Staff

- 2.1 Subject to the provisions of these Procedures, the recruitment, designation and appointment of staff will be conducted in accordance with the law and the Shadow Council's policies and procedures.
- 2.2 Any candidate for any designation or appointment with the Shadow Council who knows that he/she is related to a Member or employee of the Shadow Council shall, when making application, disclose, in writing, that relationship to the Joint Implementation Team Lead Officer for HR. 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.
- 2.3 Every Member and employee of the Shadow Council shall disclose to the Joint Implementation Team Lead Officer for HR any relationship known to him/her to exist between him/herself and any person he/she knows is a candidate for a designation or appointment by the Shadow Council.

- 2.4 Any candidate for designation or appointment who directly or indirectly seeks the support of a Shadow Councillor or officer of the Shadow Council in any designation or appointment shall be disqualified and, if designated or appointed, shall be liable to dismissal. A Shadow Councillor shall not solicit for any person in respect of any designation or appointment with the Shadow Council, but may give a written testimonial of a candidate's ability, experience or character.
- 2.5 Persons shall be deemed to be related to a candidate or officer if they are a spouse, partner (i.e. member of a couple living together) parent, parent-in-law, grandparent, child, 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.
- 2.6 In the case of a dispute under paragraph 2.5 above about the status of a relationship in relation to an appointment, the Joint Implementation Team Lead Officer for HR will rule and such ruling will be applied.
- 2.7 The Joint Implementation Team Lead Officer for HR 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.

3 Responsibilities for Human Resources Matters

- 3.1 Subject to any matters reserved to the Shadow Council, the Cabinet is responsible for the development of corporate personnel policies and for determining and monitoring such policies and for the operational implementation of those policies, including the development of practices and procedures to support those policies.

4 Responsibility of the Staffing Committee

- 4.1 The responsibilities of the Staffing Committee are set out in this Constitution within "Responsibility for Functions" and these Rules.
- 4.2 Subject to the provisions of these Rules, the Committee is also responsible for hearing and determining appeals under the Shadow Council's employment-related policies, the suspension of sick pay and the review and determination of matters relating to any fixed term contracts. In determining these matters the Committee will have regard to the appropriate provisions of this procedure. The Committee may agree to discharge some of these functions through a Sub-Committee.
- 4.3 The Cabinet Member with responsibilities for individual Departments or Services and the associated resources is required to ensure that corporate personnel policies and procedures are applied by the Shadow Council, including training, matters relating to discipline, workforce performance management, and grievance (other than determining appeals).

5 Appointment of Head of the Paid Service

- 5.1 The appointment of head of the paid service is subject to specific requirements as set out below.
- 5.2 Where the Shadow Council proposes to appoint to the Head of the Paid Service, the Staffing Committee will oversee the arrangements for filling the vacancy. For this purpose the Committee shall include at least one Member of the Cabinet in its membership.
- 5.3 The Staffing Committee shall:
- draw up a statement specifying the duties of the officer concerned and any qualifications or guidelines to be sought in the person to be appointed;
 - 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;
 - make arrangements for a copy of the statement mentioned above to be sent to any person on request;
 - where a post has been advertised as required above, the Committee will select from the applications a short list of qualified candidates and will then interview those included in the short list.
- 5.4 Following the interview of candidates, the Committee will come to a view as to the most suitable person for the position.
- 5.5 The Committee must advise the Joint Implementation Team Lead Officer for HR of:
- the name of the person in question;
 - any other particulars which the Committee consider are relevant to the appointment.
- 5.6 Within two clear working days of receiving the notification in 5.5 above, the Joint Implementation Team Lead Officer for HR will notify each Member of the Cabinet of:
- the information notified under paragraph 5.5 above;
 - 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 Joint Implementation Team Lead Officer for HR; such period shall not exceed five clear working days.

5.7 An offer of appointment must wait until:

- the Leader has, within the period of the notice under paragraph 5.6 above, notified the Committee through the Joint Implementation Team Lead Officer for HR that neither he/she nor any Member of the Cabinet has any objection to the making of the offer; or
- the Joint Implementation Team Lead Officer for HR has notified the Committee that no objections have been received by her within the period of the notice under 5.6 above; or
- the Committee is satisfied that any objection received from the Leader within the notice period is not material or is not well founded. In this regard, where necessary, the advice of the County Solicitor and Monitoring Officer should be sought.

5.8 Where following the above procedure there are no objections to the proposed appointment or any objections are not up-held, the Committee will recommend that person for appointment at the next meeting of the full Shadow Council or at a specially convened meeting of the Shadow Council. If the Shadow Council approve the recommendation, then a formal offer of appointment can be made.

5.9 Where following the interviews the Committee are of the view that there is no suitable candidate, it will re-advertise the post.

5.10 Where the Shadow Council do not approve the recommendation of the Committee, it shall indicate how it wishes to proceed.

6 Appointment/dismissal of Head of Paid Service, Statutory Chief Officers, Non-Statutory Chief Officers and Deputy Chief Officers

The requirements of the Local Authorities (Standing Orders)(England) Regulations 2001 ("the Regulations") will be adhered to in respect of those posts which fall within the definitions of Head of paid Service, Statutory Chief Officer, Non-Statutory Chief Officer and Deputy Chief Officer. The requirements of the Regulations include the following, which is an extract from those Regulations:

Part II

Authority with Leader and Cabinet Executive

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;

"executive" and "executive leader" have the same meaning as in Part II of 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 or, as the case may be, must approve that dismissal before notice of dismissal is given to him.

(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 sub-paragraph (a), (b), (c) or (d) of paragraph 3, at least one member of the executive must be a member of that committee or sub-committee.

5

(1) *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.*

(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 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 executive of the authority 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 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 executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither he nor any other member of the executive 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 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.*

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, 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 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 executive 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 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.*

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.*

7 Less senior appointments/dismissals

Where any appointments are made to less senior positions than those referred to in paragraph 6 above, or where such persons are dismissed, these shall be the responsibility of the head of the paid service, or another officer to whom he/she has delegated that responsibility.

This page is intentionally left blank