

Appendix 4

Staffing Committee – documents attached.

Part 3 – Responsibility for Functions – Staffing Committee

(Amendments taken to Committee shown as tracked changes in green.

Additions made by Committee shown highlighted yellow.

Amendments proposed by this report shown as track changes in purple.

Deletion made by this report shown highlighted in green.)

(Constitution pages 105-106)

Staff Employment Procedure Rules

(Amendments made by Committee shown in red. New deletions shown ruled through in black and additions in blue)

(Constitution pages 351-357)

APPENDIX 4

(Constitution pages 105/106)

(Original recommendations to Committee shown by changes/track changes in red and with original additions made by Committee at the meeting on 23rd March 2015 highlighted yellow.

Changes made in report to Committee 15th July 2015 shown track changed)

Changes made by the Constitution Committee meeting on the 15th July 2015 – deletions highlighted in green and additions shown in green font).

PART 3

RESPONSIBILITY FOR FUNCTIONS

STAFFING COMMITTEE

8 Members

Statement of Purpose

- 1 The Staffing Committee is a key component of Cheshire East's corporate governance. It provides an independent and high level focus on ~~the~~ Human Resources, Organisational Development and Health & Safety matters affecting ~~the~~ Council.
- 2 The purpose of the Staffing Committee is
(a) to provide independent assurance to the members of the adequacy of the HR service and staffing related matters.~~1.~~

(b) ~~to appoint Chief Officers~~with regard to the Head of Paid Service, Monitoring Officer and s151 Officer (Statutory Officers):
 - To undertake the recruitment and selection process in accordance with the Staff Employment Procedure Rules; and
 - Make a recommendation to the Council to approve the proposed appointment before an offer of appointment is made to that person.
(c) appoint/dismiss the Statutory Chief Officers, namely:
 - The Director of Children's Services (Chief Education Officer),
 - Director of Adult Social Services; and

- Director of Public Health.

including undertaking the recruitment and selection process.

(d) to appoint/dismiss the Executive Director of Economic Growth and Prosperity

including undertaking the recruitment and selection process.

~~(e) (e)~~ to approve “in year” salary or other benefit increases to the Head of Paid Service.

~~(d) (f)~~ following any process leading to the receipt of additional benefits by senior officers, to review how the process was carried out.

~~(e) to consider any restructuring arrangements affecting statutory posts recommended to the Committee by the Head of Paid Service.~~

Functions of the Committee

Recruitment and Selection

3 With regard to Statutory Officers:

- To undertake ~~the~~ recruitment and selection process in accordance with the Staff Employment Procedure Rules for the appointment of all permanent members of the Corporate Leadership Board; and
- make a formulating recommendations to the Council to approve the proposed appointment before an offer of regarding the appointment is made to that person and dismissal of the Head of Paid Service, Monitoring Officer and Chief Finance Officer.

4 To approve the designation of an officer to act as Monitoring Officer and Chief Finance Officer, in accordance with legislation and the appropriate procedures to make a recommendation to the Council to approve the dismissal of any of the Statutory Officers prior to notice being given to that person, and provided that the procedure set out in the Staff Employment Procedure Rules has been complied with.

5. appoint/dismiss Statutory Chief Officers and the Executive Director of Economic Growth and Prosperity.

HR Policies

65.1 To approve all human resources policies including pay and grading structures (except those that must be approved in law by the council and the implementation of national terms and conditions which will be undertaken by the Chief Executive/Head of Paid Service), employees' terms and conditions of employment, including changes to those terms and conditions and to

approve policies on how the Council exercises its functions under the Local Government Pension Scheme and any other relevant pension scheme.

65.2. To have the opportunity to review the Council's HR Policies and Procedures as required and to make recommendations to the Portfolio Holder. It is noted that the authority to approve HR Policies remains with the Executive To make recommendations to Council in relation to the annual Pay Policy Statement and any amendments to such statement.

65.3 To make recommendations to Council in relation to decisions affecting the remuneration of any new post whose remuneration is or is proposed to be or would become £100,000 p.a. or more.

65.4 To make decisions in relation to proposed severance packages with a value of £100,000 or more.

Appeals

76 For a Staffing Appeals Sub Committee:

- to consider appeals against dismissal from Statutory Chief Officers and Non-Statutory Chief Officers.
- at the discretion of the Head of Paid Service in consultation with the Chair of the Staffing Committee, to consider appeals on the grounds of grievance or dismissal from Staff, in the following circumstances:

- Appeals against dismissal
- Appeals against grievance
- Appeals against policy (but only the first appeal where the appeals are based on the same issues/circumstances)
- Group appeals covering more than one Department
- Appeals which have initially been heard by the Chief Executive, e.g. appeals raised by members of the Senior Management Team
- Exceptionally where both sides agree referral to Members is appropriate

to consider appeals from Staff in the following circumstances:

- Appeals against dismissal
- Appeals against grievance
- Appeals against policy (but only the first appeal where the appeals are based on the same issues/circumstances)

Corporate Leadership Board Appraisal Board

7 To establish and oversee an Appraisal Board for all members of the Corporate Leadership Board.

Organistional ~~HR~~ Performance

- 8 To receive ~~regular updates on~~HR and Health & Safety performance ~~informationmeasures, as detailed below, on a quarterly basis~~ in order to assess the effectiveness of current Human Resources, Organisational Development and Health & Safety ~~policies and practices~~arrangements. These will include as a minimum:

- Headcount Data
- Sickness Absence
- Turnover
- HR Casework (including disciplinary, grievance and capability)
- Health and Safety Accidents Records
- Health and Safety Training

(Constitution pages 129/131/134-136)

(Original recommendations to Committee track changes in red, additions made by Committee highlighted yellow.

New additions for report to Committee 15.07.2015 shown track changed blue and deletions shown highlighted in pink

Changes made at Committee on 15.07.15 deletions shown highlighted in green and additions in green font.).

SCHEME OF DELEGATION TO SENIOR OFFICERS

1.0 INTRODUCTION

- 1.10 Any power delegated or cascaded under this Scheme can be exercised by the Chief Officer and in all cases by the Chief Executive personally. The Chief Executive may take the powers of any Chief Officer and delegate it elsewhere for a temporary period.

STAFFING

- 1.22 The Chief Executive in consultation with the Leader and the Chair of Staffing Committee is authorised to consider and implement major staffing pay and organisational reviews and to report the outcome to Staffing Committee.

122A Subject to the exceptions below, the Head of Paid Service is authorised:

- to appoint and dismiss the Chief Officers subject to and in accordance with the Staff Employment Procedure Rules,
- to deal with the full range of employment and staff management issues as set out above in relation to Chief Officers.

Exceptions:

Recruitment and dismissal of Statutory Officers, Statutory Chief Officers and the Executive Director of Growth and Prosperity shall be undertaken only via Staffing Committee, including the approval of job descriptions and person specifications.

- 1.22BA Chief Officers are authorised to deal with the full range of employment and staff management issues, below Chief Officer Corporate Leadership Board level including but not limited to appointments, terms and conditions (other than those negotiated nationally) training, discipline, dismissal, performance, progression, promotion, shifts and working hours, grievance, grading, emoluments, expenses, allowances, sick pay, leave, equal opportunities and health and safety in accordance with approved policies and the Staff Employment Procedure Rules. This delegation shall not include:

- making a post redundant,
- conducting appeals against dismissal
- conducting appeals on the outcome of grievance hearings

Note: Recruitment of Chief Officers shall be undertaken only via Staffing Committee, including the approval of job descriptions and person specifications

1.23 Chief Officers are authorised, subject to prior notification of the Head of HR and Organisational Development and prior consultation with all appropriate parties affected by the decision, including any Trade Union, to implement changes to staffing structures except where the restructure:

Involves the loss of one or more posts not currently vacant
 Involves the regrading of posts or the grading of new posts
 Involves the changes to existing National or Local Agreements and policies
 Cannot be achieved within delegated powers in respect of budgets

This delegation will be exercised in accordance with paragraph 1.8 of the scheme of delegation to officers approved by Council on the 14th May 2014 which reads as:

“Before taking delegated decisions, all officers are under a duty to satisfy themselves that they have the duly delegated power to do so and that they have undertaken appropriate consultation, including consultation with Portfolio Holders. Appropriate advice must be taken where the matter involves professional or technical considerations that are not within the officer’s sphere of competence.”

Decisions in respect of matters identified as exceptions above are delegated to the Chief Operating Officer in consultation with the Head of Human Resources and Organisational Development for determination.

- 1.23 The Chief Executive and Chief Officers are authorised, subject to the advice of appropriate officers prior notification of the Head of Human Resources and Organisational Development and prior consultation with all appropriate parties affected by the decision, including any Trade Union, to implement changes to staffing structures.

Except where the restructure:

- Involves the loss of one or more posts not currently vacant
- Involves the re-grading of posts or the grading of new posts
- Involves changes to existing National or Local Agreements and policies
- Cannot be achieved within delegated powers in respect of budgets

Decisions in respect of matters identified as exceptions above are delegated to the Chief Operating Officer in consultation with appropriate officers **the Head of Human Resources and Organisational Development** for determination.

The delegations in paragraph 1.23 will be exercised in accordance with paragraph 1.8 of the scheme of delegation to senior officers.

- 1.24 **The Chief Executive** and Chief Officers are authorised to enter into reciprocal arrangements for the authorisation and appointment of Officers to facilitate cross-border co-operation in the discharge of delegated functions with any other local authority and to transfer enforcement functions to another enforcement authority, subject to approval by Cabinet.
- 1.33 Whenever legislation is amended or replaced by new provisions, then the relevant delegated authority in this scheme applies to those new provisions. **Whenever new legislation relevant or related to the functions exercised by the Chief Officer is introduced that Officer will have the delegated authority to exercise powers or otherwise take action under that legislation until such time as the Council, Cabinet, a committee or the Chief Executive decides who to allocate responsibility for the new legislation to.**

NOTE: It is expected that formal delegation will be approved within 6 months.

1.0 CHIEF EXECUTIVE

- 2.1 The Council's Chief Executive is the Council's Head of Paid Service appointed by Council. Under Section 4 of the Local Government and Housing Act 1989 the responsibility of the Head of Paid Service is to make proposals to the Authority **about** the manner in which the discharge of the Authority's functions are co-ordinated and the numbers, grades and organisation of staff required and the proper management of those staff. In respect of the Chief Executive role the responsibility is to develop for Member approval a strategic vision and to provide strategic leadership for the Council.
- 2.2 ~~Within the following areas-~~ **The Chief Executive is empowered to operate all the sServices of the councilAuthority and except where powers, duties and functions are delegated to a member decision-making body or Cabinet memberelsewhere by the Council, to exercise all powers, duties and functions of the council, including those delegated to other officers** but not limited to the following:
- 2.3 To act as the Authority's Proper Officer in respect of the following under the Local Government Act 1972 unless stated:
- Declaration of acceptance of office by chairman, vice-chairman or Councillor (Section 83)

- Receipt of resignation of office by person elected (Section 84)
 - Keeping the roll of Freemen (Section 248 (2))
 - Convening Council meeting to fill casual vacancy in office of chairman (Section 88(2))
 - Signature of summons to Council meetings and receipt of notices to which summons to meeting is to be sent (Schedule 12 para 4)
 - Receipt of notice of casual vacancy of Councillor (Section 80 (1) (b) of the Local Government Act
 - The Electoral Registration Officer for the registration of electors under Section 8 of the Representation of the People Act 1983
 - The Returning Officer for the election of Councillors for the District and Parishes within the District under Section 35 of the Representation of the People 1983 Act
 - The Acting Returning Officer at UK Parliamentary elections; the Local Returning Officer at European Parliamentary Elections and for the Police and Crime Commissioner Elections
 - Compile list of Politically Restricted Posts under Section 2 of the Local Government and Housing Act 1989
 - Receipt of Notices relating to political groups (Section 15 – 17 of the Local Government and Housing Act 1989)
- 2.4 To be the Authority's principal officer representative and to promote its good image and reputation
- 2.5 To undertake the communications, marketing and media functions of the authority and promote good public relations
- 2.6 To exercise the powers and responsibilities of any Chief Officer in his or her absence.
- 2.7 To lead and direct the strategic management of the Authority
- 2.8 To ensure the effective pursuit and achievement of the Authority's objectives
- 2.9 To ensure the Authority's activities are carried out with maximum effectiveness and efficiency
- 2.10 To discharge emergency planning and civil protection functions

- 2.11 To take such steps (including the incurring of expenditure where necessary) as may be required in the event of any national or local emergency requiring immediate action by the Authority
- 2.12 To sign settlement agreements for employees/ex-employees, in consultation with the Leader of the Council and Chairman of the Staffing Committee
- 2.13 Subject to 1.23 above, ~~To~~ to approve the pay, terms and conditions of service and training of any employee except where an approval would be contrary to the provisions of the annual Senior Officer Pay Policy Statement which is reserved to the full Council or where an approval falls within the responsibilities of the Staffing Committee or would be contrary to the employment policies of the Council.
- 2.14 ~~To determine the number, grade, title and nature of temporary staff, including Chief Officers, appointed by the Council.~~
- 2.15 To make decisions affecting the remuneration of any existing post whose remuneration is or is proposed to be or would become £100,000 p.a. or more In consultation with the Leader and Chairman of the Staffing Committee..

(Constitution pages 351 - 357)

(Original recommendations to Committee in red, new deletions shown ruled through in black and additions in blue).

STAFF EMPLOYMENT PROCEDURE RULES

1 General

- 1.1 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.
- 1.2 The employment, appointment, designation or engagement of all staff will be in compliance with the law and any policies and practices of the Council.
- 1.3 Persons employed, appointed, designated or engaged by contractors under specific agreements or contracts are not staff of the Council, but are employees engaged by the contractor.
- 1.4 The Council will provide the necessary resources to support the appointed officer structure.
- 1.5 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 Council must be discharged on behalf of the authority by the Head of the Paid Service or by an officer nominated by him/her.

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 Council's policies and procedures.
- 2.2 Any candidate for any designation or appointment with the Council who knows that he/she is related to a Member or employee of the Council shall, when making application, disclose, in writing, that relationship to the Head of Human Resources. 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 Council shall disclose to the Head of Human Resources 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 Council.
- 2.4 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.

- 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 Head of Human Resources will rule and such ruling will be applied.
- 2.7 The Head of Human Resources 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 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.~~

3 Responsibility of the Staffing Committee

- 3.1 The responsibilities of the Staffing Committee are set out in this Constitution within "Responsibility for Functions" and these Rules.
- 3.2 Subject to the provisions of these Rules, the Committee is also responsible for hearing and determining appeals [as set out in the Staffing Committee Terms of Reference](#) under the 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.
- 3.3 [Subject to any matters reserved to the Council, the Staffing Committee is responsible for the approval of corporate personnel policies and for determining and monitoring such policies and for the operational implementation of those policies.](#)
- 3.4 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 Council, including training, matters relating to discipline, workforce performance management, and grievance. ~~(other than determining appeals).~~

4 Appointment of Head of the Paid Service

- 4.1 The appointment of Head of the Paid Service is subject to specific requirements as set out below.
- 4.2 Where the 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.
- 4.3 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.
- 4.4 Following the interview of candidates, the Committee will come to a view as to the most suitable person for the position.
- 4.5 The Committee must advise the Head of Human Resources of:
- the name of the person in question;
 - any other particulars which the Committee consider are relevant to the appointment.
- 4.6 Within two clear working days of receiving the notification in 5.5 above, the Head of Human Resources 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 Head of Human Resources; such period shall not exceed five clear working days.
- 4.7 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 Head of Human Resources that neither he/she nor any Member of the Cabinet has any objection to the making of the offer; or

- the Head of Human Resources has notified the Committee that no objections have been received by him or 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 Head of Legal Services and Monitoring Officer should be sought.
- 4.8 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 Council or at a specially convened meeting of the Council. If the Council approve the recommendation, then a formal offer of appointment can be made.
- 4.9 Where following the interviews the Committee are of the view that there is no suitable candidate, it will re-advertise the post.
- 4.10 Where the Council do not approve the recommendation of the Committee, it shall indicate how it wishes to proceed.

6. **~~Less senior appointments/dismissals~~**

~~Where any appointments are made to less senior positions than those referred to in paragraph 7 below, 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.~~

5 **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 **as amended by the Local Authorities (Standing Orders)(England)(Amendment) Regulations 2014 and 2015** ("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 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 that person.

(1A) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the dismissal of an officer designated as the head of the authority's paid service, as the authority's chief finance officer, or as the authority's monitoring officer, the authority must approve that dismissal before notice is given to that person. (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.*

Schedule

1.

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 authority’s area in accordance with the Representation of the People Acts;*

(e) “*the Panel*” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;

(f) “*relevant meeting*” means a meeting of the authority 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 the authority's paid service or monitoring officer, as the case may be.

2.

A relevant officer may not be dismissed by an authority unless the procedure set out in the following paragraphs is complied with.

3.

The authority 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.

4.

In paragraph 3 “*relevant independent person*” means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.

5.

Subject to paragraph 6, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 3 in accordance with the following priority order—

(a) a relevant independent person who has been appointed by the authority and who is a local government elector;

(b) any other relevant independent person who has been appointed by the authority;

(c) a relevant independent person who has been appointed by another authority or authorities.

6.

An authority is not required to appoint more than two relevant independent persons in accordance with paragraph 5 but may do so.

7.

The authority must appoint any Panel at least 20 working days before the relevant meeting.

8.

Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular—

(a) any advice, views or recommendations of the Panel;

(b) the conclusions of any investigation into the proposed dismissal; and

(c) any representations from the relevant officer.

9.

Any remuneration, allowances or fees paid by the authority 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.”