

# Constitution Committee

## Agenda

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**Date:** Thursday, 18th June, 2015  
**Time:** 2.00 pm  
**Venue:** Committee Suite 1, 2 & 3, Westfields, Middlewich Road,  
Sandbach CW11 1HZ

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The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 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 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT**

1. **Apologies for Absence**

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests in any item on the agenda.

3. **Public Speaking Time/Open Session**

In accordance with Procedure Rules Nos.11 and 35 a period of 10 minutes is allocated for members of the public to address the meeting on any matter relevant to the work of the body in question. Individual members of the public may speak for up to 5 minutes but the Chairman or person presiding will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers. Members of the public are not required to give notice to use this facility. However, as a matter of courtesy, a period of 24 hours' notice is encouraged.

Members of the public wishing to ask a question at the meeting should provide at least three clear working days' notice in writing and should include the question with that notice. This will enable an informed answer to be given.

4. **Minutes of Previous meeting** (Pages 1 - 4)

To approve the minutes of the meeting held on 26<sup>th</sup> March 2015.

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**Contact:** Paul Mountford, Democratic Services Officer  
**Tel:** 01270 686472  
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5. **Terms of Reference** (Pages 5 - 8)

The terms of reference of the Constitution Committee and its sub-committees are attached for information.

6. **Appointments to Outside Organisations** (Pages 9 - 12)

To make appointments to the Category 2 list of outside organisations.

7. **The Staff Employment Procedure Rules - Legislative Changes** (Pages 13 - 26)

To consider a report which addresses the legislative changes introduced by the Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015 and which seeks authority to make the required constitutional changes.

8. **Staffing Functions**

Report to follow.

**THERE ARE NO PART 2 ITEMS**

**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Constitution Committee**  
held on Thursday, 26th March, 2015 at Committee Suite 1, 2 & 3, Westfields,  
Middlewich Road, Sandbach CW11 1HZ

**PRESENT**

Councillor A Martin (Chairman)  
Councillor D Marren (Vice-Chairman)

Councillors G Baxendale, K Edwards, D Flude, P Groves, W Livesley,  
R Menlove, A Moran, B Murphy and P Whiteley

**Officers**

Anita Bradley, Head of Legal Services and Monitoring Officer  
Paul Mountford, Democratic Services Officer

**Apologies**

Councillors C Andrew, S Jones, D Newton and M Sherratt

**59 DECLARATIONS OF INTEREST**

There were no declarations of interest.

**60 PUBLIC SPEAKING TIME/OPEN SESSION**

There were no members of the public wishing to speak.

**61 MINUTES OF PREVIOUS MEETING****RESOLVED**

That the minutes of the meeting held on 29<sup>th</sup> January 2015 be approved as a correct record.

**62 THE COUNCIL'S DECISION-MAKING AND GOVERNANCE ARRANGEMENTS**

The Committee considered a report addressing a range of decision-making and governance issues and recommending appropriate changes to the Constitution.

The report sought to amend the terms of reference of the Staffing Committee to reflect properly the split between executive and non-executive functions within the Council's Constitution. It also sought to add greater flexibility to the decision-making powers of the Chief Executive and to reflect the current management structure within the Council.

Details of the proposed changes were set out in paragraphs 11 to 13 of the report and shown as tracked changes to the relevant extracts from the Constitution in Appendix 1.

The Committee also considered proposed changes to the arrangements for dealing with Notices of Motion at Council as set out in paragraph 14 of the report.

Finally, it was proposed that there should be a work programme overseen by the Committee to review the whole of the Constitution within the next 12 months. A proposed work programme was set out at Appendix 2 to the report.

### **RESOLVED**

That

1. the proposed changes to the terms of reference of the Staffing Committee as set out in Appendix 1 to the report be recommended to Council for approval subject to the following amendments:
  - (i) paragraph 2 under Statement of Purpose be amended by the addition of the following:

“(d) following any process leading to the receipt of additional benefits by senior officers, to review how the process was carried out.”
  - (ii) the performance indicators currently listed under paragraph 8 be retained as a minimum requirement.
2. the proposed changes to the powers of the Head of Paid Service in relation to staffing and other matters as set out in Appendix 1 to the report be recommended to Council for approval subject to the following amendment:
  - (i) paragraph 1.22 of the scheme of delegation to officers be amended to provide that the Chief Executive may consider and implement major staffing and organisational reviews subject to any restructuring arrangements affecting statutory posts being recommended to the Staffing Committee, and the terms of reference of the Staffing Committee be amended to reflect this requirement.
3. Council be recommended to instruct the Head of Legal Services to make the changes to the Constitution set out in Appendix 1;
4. Council be recommended to instruct the Head of Legal Services to make any minor corrections, amendments or contextual changes resulting from the above;

5. subject to 6 below, the work programme set out at Appendix 2 be adopted for the year 2015-16; and
6. a review of the arrangements relating to Notices of Motion be deferred at this time and the matter be included in the work programme for 2015-16.

The meeting commenced at 2.00 pm and concluded at 4.12 pm

Councillor A Martin (Chairman)

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**TERMS OF REFERENCE**  
**CONSTITUTION COMMITTEE**

**14 Members**

The Constitution Committee is responsible for:

1. overseeing, monitoring, co-ordinating and implementing the Council's administrative and political business, including electoral matters; administrative boundaries and parishing; support for and facilities for Members, including Members' learning and development and party groups for the purpose of their duties as councillors; and administrative arrangements for and the conduct of the Council and other meetings;
2. determining policies and conventions in relation to the political management of the Council, including statutory requirements concerning political balance and rights to information;
3. reviewing the Council's Constitution and recommending any changes to the Council;
4. advising the Council on, and overseeing the promotion of private legislation on behalf of the Council;
5. recommending to the Council, as appropriate, the appointment of Members to Committees and Sub-Committees (including any co-opted members other than in respect of overview and scrutiny committees);
6. appointing representatives to serve on outside bodies and organisations (including education bodies and establishments) not falling to the Cabinet to appoint;
7. overseeing and monitoring the Members' Allowance budget, including pensions, and keeping under review the scheme for the payment of allowances to Members through the appointment of an Independent Remuneration Panel to advise the Council on the adoption of the scheme and on any proposed amendments;
8. approving annual conference and seminar attendance;
9. making recommendations to the Council on civic issues, including those affecting the Mayor, Freeman and Aldermen;
10. approving reasons for absence for Members;
11. approving the overall seating plan for Council meetings.

### **Civic Sub-Committee**

8 Members

The Sub-Committee is responsible for:

- reviewing and making recommendations to the Constitution Committee on the Mayoralty, including the Mayoral Code of Practice;
- reviewing and making recommendations to the Constitution Committee on all matters relating to Honorary Aldermen and Freeman, including upon the benefits, rights and privileges to which they should be entitled;
- determining all matters relating to nationally significant events except for those matters which the Sub-Committee considers it appropriate to refer to the Constitution Committee for determination; and
- reviewing and making recommendations to the Constitution Committee on civic matters such as the Council's flag flying policy and civic regalia.

### **Community Governance Review Sub-Committee**

6 Members

The Sub-Committee is responsible for conducting a Borough-wide review of community governance arrangements for Cheshire East.

### **Appeals Sub-Committee**

5 Members drawn from a pool of 10

The Sub-Committee is responsible for:

1. Hearing and determining appeals lodged under the Marriage Acts.
2. Hearing and determining any appeals lodged with the Council for determination, as authorised under all relevant education legislation, excluding those duties falling to the Independent Appeals Panel (schools admissions and exclusions).
3. Hearing and determining any appeals lodged with the Council in respect of school transport.
4. Hearing and determining appeals from bus contractors in accordance with contract procedures.
5. Hearing and determining any appeals lodged with the Council as Social Services Authority, and as authorised under all relevant social services legislation.



### **Outside Organisations Sub-Committee**

6 Members

The Sub-Committee is responsible for

- overseeing the Council's appointments to outside organisations and making recommendations to the Constitution Committee or the Cabinet as appropriate; and
- reviewing the process for considering appointments to outside organisations and recommending any changes to the Constitution Committee.

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## CHESHIRE EAST COUNCIL

### Constitution Committee

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**Date of Meeting:** 18<sup>th</sup> June 2015  
**Report of:** Head of Governance and Democratic Services  
**Subject/Title:** Changes to Outside Organisations Appointments 2011-2015

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#### 1.0 Report Summary

- 1.1 The report invites the Committee to make appointments to the Category 2 list of outside organisations; these are appointments which have been allocated to the Constitution Committee to make. The list will be circulated before the meeting.
- 1.2 Outside organisation appointments made by the Council fall into 3 categories as follows:
- Category 1 – appointed by the Cabinet; these are top level strategic organisations at national, regional and local level.
  - Category 2 – appointed by the Constitution Committee; these organisations tend to be of a more local nature.
  - Category 3 – statutorily these have to be made by full Council

#### 2.0 Recommendations

That

- (1) the Committee confirm it is happy to continue with the current approach to appointing to outside organisations and for the casual vacancy procedure to be used in the event of changes in the mid-term period;
- (2) approval be given to the appointment of the representatives listed in the Appendix (to follow), the appointments to run until such time as the Council's representation is reviewed following the election of the new Council in 2019;
- (3) the appointments take immediate effect; and
- (4) notwithstanding (1) above, the Council retain the right to review the representation on any outside organisation at any time and for any reason.

### **3.0 Reasons for Recommendations**

- 3.1 It is important for the Council to appoint to outside organisations to ensure that it continues to represent the interests of both the authority and the wider community.
- 3.2 Appointments are normally made for the duration of the Council, which is 2015-2019, although it may sometimes be necessary or desirable for them to be reviewed during that time in order to take into account changes or vacancies that arise.
- 3.3 There is a casual vacancies procedure for dealing with changes or vacancies that arise from time to time and it will continue to be used for the small number that might occur during this period.

### **4.0 Wards Affected**

- 4.1 Not applicable

### **5.0 Local Ward Members**

- 5.1 Not applicable.

### **6.0 Policy Implications**

- 6.1 None identified.

### **7.0 Rural Implications**

Member representation on a number of the outside organisations detailed in the Appendix will make a positive contribution to many rural communities across the Borough.

### **8.0 Financial Implications**

- 8.1 None identified.

### **9.0 Legal Implications**

- 9.1 Whilst membership of outside bodies carries with it the potential for personal liability for elected Members undertaking such roles as ancillary to their status as a Councillor, particularly in respect of trusteeships, Cheshire East Borough Council has resolved to put in place for elected Members the maximum indemnity which is allowed by law.
- 9.2 Section 111 of the Local Government Act 1972 empowers local authorities to do any thing which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions, and Section 2 of the Local Government Act 2000 empowers them to do anything they

consider likely to achieve the object of the promotion of the economic, social or environmental well-being of their area. In addition there is now the general power of competence under the Localism Act 2011. These are the main provisions which the Council would rely on to appoint members to outside bodies/select those bodies to which they are appointed.

## **10.0 Risk Management**

<b>Risk</b>	<b>Mitigation</b>
Failure to appoint Members to outside organisations could have a direct or indirect impact on the outside organisations.	The operation of a procedure for making timely appointments to outside organisations.
Cheshire East Council is unable to influence key stakeholders.	Operation of a satisfactory scheme of appointment to ensure Council representation.

## **11.0 Background and Options**

- 11.1 The Constitution Committee last made appointments to the list of Category 2 outside organisations in June 2011 and Members were appointed to serve until such time as representation was reviewed following the election of a new Council in 2015. This has avoided there being a hiatus caused by representation ceasing in the period between the elections and the appointments being made.
- 11.2 By making appointments last until such time as they are reviewed following the election of the new Council in 2019 this difficulty will again be avoided.
- 11.3 As a general rule the term of office should be commensurate with the needs of the organisation to which the member is appointed. However, continuity of representation is also important and by appointing for the duration of the life of the Council it is ensured that their expertise and experience are not lost to the organisation. This approach has worked very well for the last four years. The Committee will, however, want to retain the flexibility to review appointments at any time for any reason to ensure that the most appropriate member represents the council.
- 11.4 There is a casual vacancies procedure for dealing with changes or vacancies that arise from time to time and it will continue to be used for the small number that might occur throughout the appointment period.
- 11.5 When making appointments to outside organisations there is no requirement to adopt the rules of proportionality applicable to the distribution of committee seats.

## **12.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer. There are no specific background documents.

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# CHESHIRE EAST COUNCIL

## Constitution Committee

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**Date of Meeting:** 18<sup>th</sup> June 2015

**Report of:** Head of Legal Services and Monitoring Officer

**Subject/Title:** The Staff Employment Procedure Rules – Legislative Changes

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### 1.0 Report Summary

1.1 This report addresses the legislative changes introduced by the Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015 and seeks authority to make the required constitutional changes.

1.2 Under the Local Authorities (Standing Orders)(England) Regulations 2001 (the 2001 regulations) councils must include certain standing orders in their constitutions, including certain provisions relating to staffing. The 2015 regulations remove the requirement for the involvement of a “designated independent person” in any proposed disciplinary action against the Chief Executive, Monitoring Officer or Chief Finance Officer. They also introduce new requirements for the procedure to be followed in such cases which councils must include in their constitutions.

### 2.0 Recommendations

2.1 That Council be recommended that

1. the amended Staff Employment Procedure Rules as set out in Appendix 1 to this report be included in the Constitution;
2. the Head of Legal Services be instructed to make the changes in the Constitution set out in appendix 1 of this report; and
3. the Head of Legal Services be instructed to make any minor corrections, amendments or contextual changes resulting from the above.

### 3.0 Reasons for Recommendations

3.1 The recommendations of this report are made in order to comply with Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015 (the 2015 regulations). Under those regulations the council is required to make the changes at its first ordinary meeting after the 11th May 2015. Under the council's constitution the proposed changes must first go to the Constitution Committee.

### 4.0 Wards Affected

4.1 Not directly applicable.

## **5.0 Local Ward Members**

5.1 Not directly applicable.

## **6.0 Policy Implications**

6.1 The changes required by the regulations affect the procedures set out in the 2001 regulations about disciplinary action that can be taken against the Head of Paid Service, Monitoring Officer and Chief Finance Officer only.

## **7.0 Financial Implications**

7.1 The removal of the requirement to appoint a designated independent person before taking any disciplinary action against the Head of Paid Service, Monitoring Officer and Chief Finance Officer should reduce the cost of any such process if it is required.

## **8.0 Legal Implications**

8.1 The 2015 regulations require the council to make the changes to its constitution that are set out in this report.

## **9.0 Risk Management**

9.1 Not directly applicable.

## **10.0 Background**

10.1 This report addresses the legislative changes introduced by the 2015 regulations and seeks authority to make the required constitutional changes. Under the 2001 regulations the council was required to incorporate certain standing orders into its constitution including standing orders about the procedures for considering disciplinary action against the Chief Executive, Monitoring Officer or Chief Finance Officer. Before doing so the council was required to appoint a designated independent person to report to it.

10.2 The 2015 regulations remove the requirement for the involvement of a “designated independent person” in any proposed disciplinary action against the Chief Executive, Monitoring Officer or Chief Finance Officer. They also introduce new requirements for the procedure to be followed in such cases which councils must include in their constitutions.

10.3 The 2015 regulations make it a requirement for the dismissal of the Chief Executive, Monitoring Officer or Chief Finance Officer to be approved by the full council before notice of dismissal is given. This is already the position under the council’s constitution where the terms of reference of the Staffing Committee include:



*To undertake the recruitment and selection for the appointment of all members of the Corporate Leadership Board and formulating recommendations to the Council regarding the appointment and dismissal of the Head of Paid Service, Monitoring Officer and Chief Finance Officer.*

- 10.4 The 2015 regulations remove the need to appoint a designated independent person before taking any disciplinary action against the 3 statutory officers referred to above. Instead the council must comply with a new procedure which is set out in the new standing orders the council is required to adopt. These have been incorporated into the revised version of the Staff Employment Procedure Rules attached as Appendix 1.
- 10.5 Under those rules the council must appoint at least two independent persons to the Staffing Committee or any sub-committee for when that committee or sub-committee considers the dismissal of any of the 3 statutory officers.
- 10.6 The regulations define “independent person” as those appointed by the council or another council as independent persons under the standards regime. Priority must be given to independent persons in a particular order. Firstly, those who are also local government electors. Although the regulations do not say that they must be a local government elector for the council concerned it is likely that this is what was meant. Secondly independent persons who have been appointed by the council. Thirdly, independent persons who have been appointed by any other authority.
- 10.7 Any decision-making body due to consider the dismissal of one of the 3 statutory officers must be appointed at least 20 working days before the date of the meeting at which the matter will be considered.
- 10.8 Before making a decision the full council must take into account any advice, views or recommendations of the decision-making body, the conclusions of any investigation into the proposed dismissal and any representations from the relevant officer.
- 10.9 Because a fair dismissal procedure must normally include the right of an internal appeal against dismissal it will be important to establish where in the disciplinary process the panel which includes the independent persons will be positioned. At this stage it is only changes required to the council’s constitution, including the Staff Employment Procedure Rules, which need to be implemented at the first ordinary meeting of the council following the May 2015 elections and upon which this committee needs to make recommendations. The precise disciplinary procedure can be evolved later by the Staffing Committee in consultation with affected staff.
- 10.10 Whatever process is chosen it will need to incorporate the legal right of the Cabinet members to object to a proposal to dismiss. A notice of dismissal cannot be given until either:
- the Leader has notified the dismissor that no member of the Cabinet has any objection to the dismissal;
  - no objection has been received within a prescribed period or

- the dismissor is satisfied that any objection received within that period is not material or is not well-founded.

## **11.0 Access to Information**

11.1 The background papers relating to this report can be inspected by contacting the report writer:

Name: Anita Bradley, Head Legal Services and Monitoring Officer  
Designation: Head of Legal Services and Monitoring Officer  
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## **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.

### **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 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 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 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 Head of Human Resources 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 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.

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 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.

- 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 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.
- 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 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.

**76 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.*

## ~~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.~~

## 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.”

## **Consequential changes to Constitution as a result of the Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015**

Under “Functions of the Full Council:

~~4.4.1~~ 4.4.13 appointing the Council’s Monitoring Officer and Section 151 Officer and, ~~if appropriate,~~ approving their dismissal; [p.26]

Under “Responsibilities of Council:

13. will appoint/dismiss the Head of Paid Service, ~~appoint/dismiss the Monitoring Officer and Chief Finance Officer,~~ designate an officer to act as Monitoring Officer and ~~an officer to act as~~ Chief Finance Officer. [p.56]

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