

APPENDIX 2 - PROPOSED NEW 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~~Head of Strategic 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 Council shall disclose to the ~~Head of Human Resources~~Head of Strategic 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 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 Strategic HR will rule and such ruling will be applied.
- 2.7 The ~~Head of Human Resources~~Head of Strategic 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 Responsibility of the Staffing Committee

- 3.1 ~~In addition to these rules, the responsibilities of the Staffing Committee are set out in the Staffing Committee's Terms of Reference under the "Responsibilities for Functions" Section of 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. 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.~~[DD1]
- 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.

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~~Head of Strategic HR 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 4.5 above, the ~~Head of Human Resources~~Head of Strategic HR will notify each Member of the Cabinet of:

- the information notified under paragraph 4.5 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~~Head of Strategic HR; 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 4.6 above, notified the Committee through the ~~Head of Human Resources~~Head of Strategic HR 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~~Head of Strategic HR has notified the Committee that no objections have been received by her within the period of the notice under 4.6 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 Director of Legal Services 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.

5.0 ~~Appointment of~~ Dismissal of Head of Paid Service, Statutory Chief Officers and Executive Director of Place, Non-Statutory Chief Officers and Deputy Chief Officers

5.1 The provisions of Clause 1.5 shall not apply to any proposal to dismiss the Head of Paid Service, Statutory Chief Officers or the Executive Director of ~~Growth and Prosperity~~Place. This shall be the responsibility of the Staffing Committee, save that any dismissal of Head of Paid Service, the Chief Finance Officer (Section 151 Officer) or Monitoring Officer must be approved by full Council, following a decision of the Investigation and Disciplinary Committee and consideration by the Independent Persons Panel. Any disciplinary action short of dismissal against the Head of Paid Service, Section 151 Officer, or Monitoring Officer shall be the responsibility of the Investigation and Disciplinary Committee.

5.2 For the avoidance of doubt, action short of dismissal against the Head of Paid Service, Section 151 Officer, or Monitoring Officer shall include a decision to suspend the same. Such a decision shall be the responsibility of the Investigation and Disciplinary Committee.

5.32 The Investigation and Disciplinary Committee is designated as the Committee discharging, on behalf of the Council, the function of dismissal of the Head of the Paid Service, Chief Finance Officer, or Monitoring Officer. The full Council must however approve that dismissal before notice of dismissal is given to him/her.

5.43 Notice of dismissal of the Head of the Paid Service, Chief Finance Officer, or Monitoring Officer must not be given until:

(a) the Investigation and Disciplinary Committee has notified the ~~Head of Human Resources~~ **Head of Strategic HR** that it wishes to dismiss the officer and any other particulars which the Investigation and Disciplinary Committee considers are relevant to the dismissal;

(b) the ~~Head of Human Resources~~ Head of Strategic HR has notified every member of the Cabinet of:

(i) the fact that the Investigation and Disciplinary Committee wishes to dismiss the officer;

(ii) any other particulars relevant to the dismissal which the Investigation and Disciplinary Committee has notified to the ~~Head of Human Resources~~ Head of Strategic HR;

(iii) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the ~~Head of Human Resources~~ Head of Strategic HR; and

(c) either –

(i) the Leader has within the period specified in the notice under subparagraph (b) (iii), notified the ~~Head of Human Resources~~ Head of Strategic HR that neither he/she nor any member of the Cabinet has any objection to the dismissal;

(ii) the ~~Head of Human Resources~~ Head of Strategic HR has notified the Investigation and Disciplinary Committee that no objection was received by him/her within that period from the Leader on behalf of the Cabinet to the ~~Head of Human Resources~~ Head of Strategic HR;

(iii) the Investigation and Disciplinary Committee is satisfied that any objection received from the Leader within that period is not well founded or material. In this regard, where necessary, the advice of the ~~Head~~ Director of Legal Services and ~~Monitoring Officer~~ (or, if appropriate an alternative legal adviser) should be sought.

~~5.53~~ Where following the above procedure there are no objections to the proposed dismissal or the objections are not upheld, the Investigation and Disciplinary Committee will:

(a) follow the procedure set out in paragraph 5.85; and

(b) recommend the dismissal to a meeting of the full Council.

~~5.65~~ (a) This procedure applies if the Investigation and Disciplinary Committee proposes disciplinary action involving the dismissal of the Head of Paid Service, Chief Finance Officer, or Monitoring Officer.

(b) Where this procedure applies, the Investigation and Disciplinary Committee will provide the Independent Persons Panel with the matters provided to members of the Cabinet and any other particulars relevant to the dismissal that the Investigation and Disciplinary Committee considers appropriate or that the Panel may reasonably require.

(c) The Independent Persons Panel will meet to consider what, if any, advice, views or recommendations to give to the full Council.

(d) The Council may pay such remuneration, allowances or fees to an Independent Person appointed to the Panel as it thinks appropriate but the payment must not exceed the level of remuneration, allowances or fees payable to that Independent Person in respect of his or her role as an independent person under the Localism Act 2011.

(d) Full Council will not meet to consider whether or not to approve the proposal of the Investigation and Disciplinary Committee to dismiss the officer until a period of at least 20 working days has elapsed from the appointment of the Independent Persons Panel.

(e) Before full Council takes a vote at a meeting on whether or not to approve such a dismissal, they must take into account, in particular—

(i) any advice, views or recommendations of the Independent Persons Panel;

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

(iii) any representations from the officer.

~~5.76~~ If the full Council approve the recommendation of the Investigation and Disciplinary Committee, then notice of dismissal can be issued. Where the

full Council do not approve the recommendation, they shall indicate how they wish to proceed

- 5.87** 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.

(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 dismisser that no objection was received by him within that period from the executive leader; or

(iii) the dismisser 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."