

## REVISED PART 8.4 Councils Constitution

**Officer Employment Procedure Rules****1. Legislation**

- 1.1 The Council's Recruitment and Selection Policy and Procedures are governed by extensive employment and discrimination legislation.
- 1.2 These Employment Procedure Rules incorporate the provisions of The Local Authorities (Standing Orders) (England) Regulations 1993 ('the 1993 Regulations') and The Local Authorities (Standing Orders) (England) Regulations 2001 ('the 2001 Regulations') as amended for the purposes of selecting, appointing and dismissing Chief Officers.

**2. General Responsibilities**

- 2.1 The function of appointment and dismissal of and taking disciplinary action against any officer of the council other than Chief Officers (as defined in paragraph 2.2) below must be discharged on behalf of the authority by the Head of the Paid Service or by an officer nominated by him/her.
- 2.2 For the purposes of these Rules, Chief Officer(s) means:
- the Head of the Paid Service;
  - a statutory chief officer within the meaning of section 2(6) of the Local Government and Housing Act 1989;
  - a non-statutory chief officer within the meaning of section 2(7) of that Act; and
  - a deputy chief officer within the meaning of section 2(8) of that Act.<sup>1</sup>
- 2.3 Subject to the provisions set out below, the functions of the Remuneration Committee are to:
- (i) appoint Chief Officers (as defined above) ; and
  - (ii) determine the terms and conditions on which Chief Officers hold office; and
  - (iii) determine the dismissal of Chief Officers in accordance with these rules; and
  - (iv) decide appeals under the discipline, grievance and regrading claims procedures for all officers of the council subject to the provisions of these rules.

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<sup>1</sup> The definition of a "Deputy Chief Officer" means a person who, as respects all or most of the duties of his/her post, is required to report directly or is directly accountable to one or more chief officer. This definition applies to a number of senior employees in the Council, as determined by the Head of Paid Service, who for the purpose of these procedure rules, are designated "Deputy Chief Officers".

- 2.4 Where a committee of the authority is discharging, on behalf of the authority, the function of the appointment or dismissal of any Chief Officer at least one member of the cabinet must be a member of that committee or subcommittee. The Remuneration Committee consists of six members of the council and must include at least two members of the cabinet.
- 2.5 In educational establishments with delegated budgets the duties and responsibilities of the employer fall partly to governing bodies under the relevant Education legislation.
- 2.6 Chief Officers have authority over all matters relating to staff (other than matters relating to other Chief Officers) in their directorates including all resources and services in those directorates and must obtain the advice and agreement of the Director of Human Resources and OD where proposed action might have corporate or wide-ranging implications e.g., grading of posts, redundancies, dismissals, etc.
- 2.7 General personnel policies, changes to overall establishments and grading structures, are the responsibility of the Cabinet, subject to any policy which for the time being the Council has directed should be reserved for its approval.
- 2.8 The Director of Human Resources and OD is responsible for advising on issues of personnel policy and practice.
- 2.9 Chief Officers are responsible for ensuring the promotion of and adherence to the Council's personnel policies in their own directorates.

### **3. Recruitment and Appointment**

- 3.1 The functions of selecting and appointing any officer of the council other than Chief Officers must be discharged on behalf of the authority by the Head of the Paid Service or by an officer nominated by him/her.<sup>2</sup>
- 3.2 Candidates for appointment to any post within the council will be required to declare whether they are related to an existing member or officer of the council; any candidate making such a declaration will not be appointed without the independent authorisation of the relevant director or Head of Paid Service as appropriate.
- 3.3 No member will seek support for any person for any appointment.
- 3.4 The council shall disqualify any applicant who directly or indirectly seeks the support of any member for any appointment with the council.

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<sup>2</sup> Schedule 1(II) para 2 2001 Regulations

- 3.5 All jobs will be open to competition and appointments will be made on merit except as provided for in the council's employment policies and its recruitment and selection procedures and all appointments will be made in accordance with those policies and procedures.

#### **4. Recruitment and Appointment of the Head of Paid Service, and Other Chief Officers**

- 4.1 The Remuneration Committee shall be the appropriate body for the purposes of the recruitment and appointment of any Chief Officer, subject to clause 3.2 below.
- 4.2 The Head of Paid Service has authority over the selection and appointment of any Deputy Chief Officer, and an offer of employment cannot be made until:
- (a) the Proper Officer has notified at least three (3) members of the Remuneration Panel of –
    - (i) the name of the person and any other particulars relevant to the appointment to whom the Head of Paid Service wishes to make the offer; and
    - (ii) within a period specified in the notice, no less than 3 members of the Remuneration Panel have notified the Proper Officer of any objection to the appointment; and
    - (iii) the Proper Officer is satisfied that any objection received from the Chair of the Remuneration Panel within that period is not material or is not well-founded; then
    - (iv) an offer of employment can then be made;
  - b) Or
    - (i) At least 3 objections to the proposed appointment are made which the Proper Officer considers are material and well founded, in which case the appointment is subject to the rules for the appointment of Chief Officers as set out below.
- 4.3 Every appointment of any Chief officer shall be made by the Remuneration Committee.
- 4.4 Every interim appointment of any Chief officer shall be made by the Head of Paid Service or by an officer nominated by him/her.
- 4.5 Subject to these rules, every appointment of any deputy chief officer shall be made by the Head of Paid Service or by an officer nominated by him/her.

- 4.6 Where the Council proposes to appoint any Chief Officer ( save for Head of Paid Service ( Chief Executive) and it is not proposed that the appointment be made exclusively from among its existing officers, the Council will:
- (i) draw up a statement specifying the duties of the officer concerned and any qualifications or qualities to be sought in the person to be appointed; and
  - (ii) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
  - (iii) make arrangements for a copy of the statement as to canvassing mentioned below to be sent to any person on request. The head of paid service or his nominee shall make arrangements for the long listing, short listing and interview of applicants.
- 4.7 The period within which any objection to the making of the offer is to be notified to the Proper Officer. The standard period will be 3 working days but may be shortened by the Chair of the Remuneration Panel where necessary for the proper discharge of the council's functions, subject to a minimum period of 24 hours.
- 4.8 Where the appointment is to a Chief Officer post, the Head of Paid Service or their nominee will carry out all steps related to the appointment following consultation with the leader of the council or their nominee.
- 4.9 Where the appointment is to the post of head of paid service, the Remuneration Committee will nominate an officer to carry out all the steps related to the appointment following consultation with the leader of the council or his nominee.
- 4.10 The short-listing and interview of candidates for Chief Officer posts will be carried out by the Remuneration Committee or its sub-committee.
- 4.11 Where the appointment is for the Director of Public Health this process is undertaken jointly with the Secretary of State for Health.
- 4.12 The Remuneration Committee shall be advised by the head of paid service
- 4.13 For the appointment of the head of paid, the Remuneration Committee shall be advised by the Proper Officer.
- 4.14 The Remuneration Committee (in relation to the appointment of the head of paid service) and the Head of Paid Service in relation to those Chief officers to be appointed by the Remuneration Committee or by the Head of Paid Service may appoint external recruitment consultants to assist or advise the committee.

- 4.15 Where three or more candidates are interviewed for a post and there is not a majority of votes cast at the relevant meeting of the Remuneration Committee in favour of one candidate, the candidate receiving the least number of votes shall be disregarded and a fresh vote taken and so on until one candidate receives a majority of the votes.
- 4.16 For the appointment of the Head of Paid Service, Section 151 Officer and Monitoring Officer, the Remuneration Committee will make a recommendation to full council and no offer of employment can be made until full council approval has been given.
- 4.17 Proper Officer means in relation to the appointment of any Chief Officer the Monitoring Officer, or a person nominated by them or if there is conflict then the Proper Officer will be the Head of Paid Service, or a person nominated by them.
- 4.18 An offer of an appointment to a Chief Officer must not be made until<sup>3</sup>
- (a) the authority, or the appointing committee, sub-committee or officer ("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 Cabinet 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 Leader of the Council on behalf of the Cabinet to the Proper Officer; and
  - (c) either -
    - (i) the Leader of the Council has, within the period specified in the notice under sub-paragraph (ii), notified the appointor that neither he/she nor any other member of the Cabinet has any objection to the making of the offer; or
    - (ii) the Proper Officer has notified the appointor that no objection was received by him/her within that period from the Leader of the Council; or

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<sup>3</sup> Schedule 1(II) para 5 2001 Regulations

- (iii) the appointor is satisfied that any objection received from the Leader of the Council within that period is not material or is not well-founded.<sup>4</sup>

- 4.19 The full Council will approve the appointment of the Head of Paid Service and Monitoring Officer and S151 Officer following a recommendation as to such an appointment by the Remuneration Committee or it's a sub-committee.
- 4.20 Where the Remuneration Committee or subcommittee of the Remuneration Committee appoints Chief officers, in doing so it shall receive and take into account the advice of the Head of Paid Service.

## 5. Interim Posts

- 5.1 The Head of Paid Service will make such interim arrangements for the appointment of officers including chief officers to interim posts as may be necessary from time to time to ensure that the statutory functions of the council are adequately fulfilled, subject to consultation with both the Chair and Deputy Chair of the Remuneration Panel.
- 5.2 Directors will make such interim arrangements under contract for services for the appointment of officers other than chief officers to interim posts as may be necessary from time to time to ensure functions of the council are adequately fulfilled subject to consultation with the Head of Paid Service.
- 5.3 For the purposes of this rule, 'Interim' means temporary or fixed term or acting up opportunities.

## 6. Disciplinary Action and Dismissal

- 6.1 Officers are responsible for the operation of the Council's disciplinary procedures, subject to the advice where appropriate of the Director of Human Resources and OD, with the aim of helping an employee to improve his/her performance or conduct. This responsibility may be delegated via service managers with advice from the appropriate Human Resources Business Partners.
- 6.2 An employee who fails to fulfil the requirements of their employment contract because of incapacity through ill health, repeated misconduct or gross misconduct, shall be liable to dismissal in accordance with the appropriate procedures and subject to the concurrence of the Director of Human Resources and OD.

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<sup>4</sup> It will be a matter for the Remuneration Committee to determine in each case whether any objection is material and/or well-founded having been advised by the Monitoring Officer, having regard to the relevance of any such objection to the suitability of the candidate for that role, not being matters which relate to a protected characteristic under s.4 of the Equality Act 2010. The terms "material" and "well-founded" shall bear their normal dictionary meanings.

- 6.3 The function of taking disciplinary action and dismissal against any officer of the council other than Chief Officers must be discharged on behalf of the authority by the Head of the Paid Service or by an officer nominated by him/her
- 6.4 The function of taking disciplinary action and dismissal against any Chief Officer must be discharged on behalf of authority by the Remuneration Committee and in accordance the rules set out below.<sup>5</sup>

## 7. Disciplinary Action and Dismissal - Chief Officers

- 7.1 The following rules apply to the dismissal of a Chief officer of the council save for the Head of Paid Service (Chief Executive), s151 Officer (Director of Finance) and Monitoring Officer ( Director Law and Governance).
- 7.2 The Remuneration Committee shall be the appropriate body for the purposes of the Dismissal of Chief Officers.
- 7.3 <sup>6</sup>Paragraph 6.5 below, “dismissor” means, in relation to the dismissal of an officer of the council referred to in paragraph 4.2, Council or, where a committee, is discharging the function of dismissal on behalf of the council, that committee, as the case may be.
- 7.4 Proper Officer means in relation to the dismissal of a Chief Officer means the Monitoring Officer or by a person nominated by them or if there is conflict then Proper Officer will be the Head of Paid Service, or a person nominated by them.
- 7.5 Notice of the dismissal of a Chief Officer 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 cabinet 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 leader on behalf of the cabinet to the proper officer; and
  - (c) either:

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<sup>5</sup> Schedule 1(II) para 3 2001 Regulations

<sup>6</sup> Schedule 1(II) para 6 2001 Regulations

- (i) the leader has, within the period specified in the notice notified the dismissor that neither they nor any other member of the cabinet has any objection to the dismissal;
- (ii) the proper officer has notified the dismissor that no objection was received by them within that period from the leader; or
- (iii) the dismissor is satisfied that any objection received from the leader within that period is not material or is not well-founded.<sup>7</sup>

## **8. Disciplinary action and Dismissal – Head of Paid Service, Section 151 Officer and Monitoring Officer ( Statutory Chief Officer)**

- 8.1 The Remuneration Committee has power to decide whether to investigate any allegation of misconduct by a statutory chief officer, and all matters relating to the conduct of the investigation and/or any subsequent disciplinary process.

## **9. Suspension**

- 9.1 The Head of Paid Service, Monitoring Officer and a S151 Officer may be suspended on full pay whilst an investigation takes place into alleged misconduct.
- 9.2 The decision to suspend the Head of Paid Service will be the Monitoring Officer and the Director of Human Resources and OD with the Leader of the Council. The decision to suspend the Monitoring Officer and s151 Officer will be the Head of Paid Service and the Director of Human Resources and OD.

## **10. Dismissal**

- 10.1 The Remuneration Committee may take disciplinary action short of dismissal or recommend to full council that the Head of Paid Service or the S151 Officer or the Monitoring Officer be dismissed.
- 10.2 Only full council can approve the dismissal of the Head of Paid Service, the S151 Officer or the Monitoring Officer.
- 10.3 The disciplinary procedure involves four stages: an Investigating and Disciplinary Committee, an Appeals Committee, the Independent Panel and the Council.

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<sup>7</sup> It will be a matter for the Remuneration Committee to determine in each case whether any objection is material and/or well-founded, having regard to the relevance of any such objection to the suitability of the candidate for that role, not being matters which relate to a protected characteristic under s.4 of the Equality Act 2010. The terms "material" and "well-founded" shall bear their normal dictionary meanings.

- 10.4 The Remuneration Committee is a politically balanced committee comprising six members, at least two of whom will be a member of the Cabinet. Arrangements for flexibility will be required, including the use of reserve members or substitutes, if a member of the Committee has a conflict of interest in the matter to be considered.
- 10.5 The Investigating and Disciplinary Committee (IDC) is a committee comprising three elected members from the Remuneration Committee and at least one of whom will be a member of cabinet.
- 10.6 The Appeals Committee is a committee comprising three members selected from the Remuneration Committee and at least one of whom will be a member of the Cabinet, who have not been involved in the IDC. It hears appeals against action short of dismissal, and decides either to confirm the action, impose no sanction or a lesser sanction.
- 10.7 The Independent Panel is an advisory panel comprising at least two independent persons appointed by the Council. The Independent Panel is only used if the IDC, having received the report of the independent investigator and held a hearing, is minded recommending dismissal to full Council.
- 10.8 If the recommendation is for any action short of dismissal such as a written warning, the Remuneration Committee has the power to impose this without referring to either the Independent Panel or full Council. The relevant officer can then appeal the sanction to the Appeals Committee.
- 10.9 If the Remuneration Committee recommendation is dismissal, then the Independent Panel will hold a hearing where it will listen to both the chair of the IDC and the relevant officer and a report from an independent investigator and will then give their advice/views/recommendations to Council. The matter then goes to full Council for a decision. The relevant officer is allowed to put his or her case to Council before a decision is taken.
- 10.10 The head of paid service, section 151 officer and Monitoring Officer may not be dismissed unless the procedures as set out in these rules are complied with. The Head of Paid Service will be the proper officer for these purposes except where the disciplinary action or dismissal relates to the Head of Paid Service in which case the leader of the council will nominate another Chief officer to carry out these steps in accordance with the JNC for chief officers' model procedures.
- 10.11 The IDC and Appeals committee will also hear grievances by the Head of Paid Service.
- 10.12 The investigating and disciplinary committee (IDC) will meet at least 20 working days before the full Council meeting and will consider whether to dismiss.

- 10.13 An “*independent person*” means any independent person who has been appointed by the council and who has accepted an invitation issued by the Monitoring Officer in accordance with the following priority order -
- (a) a relevant independent person who has been appointed by the authority under section 28(7) of the Localism Act 2011 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.
- 10.14 Before the taking of a vote at the relevant meeting on whether to approve such a dismissal, Council must take into account, in particular -
- (a) any advice, views or recommendations of the independent advisory panel;
  - (b) the conclusions of any investigation into the proposed dismissal; and
  - (c) any representations from the relevant officer.

## **11. Training**

- 11.1 All officers and members who take part in the recruitment process must have completed the Council's recruitment and selection training or be trained to the satisfaction of the Director of Human Resources.

## **HUMAN RESOURCE MATTERS**

### **12. Directorate Structural Changes**

- 12.1 Chief Officers have the authority to modify their directorate structures to reflect changing needs, to transfer posts within the approved establishment subject to the concurrence of the Director of Human Resources and OD Major changes to directorate structures and establishments require the approval of the Cabinet.
- 12.2 Chief Officers are responsible for the management of redundancies and redeployment, subject to the concurrence of the Director of Human Resources.

### **13. Salaries and Remuneration**

- 13.1 Changes to the salaries and remuneration of Chief Officers require the approval of the Remuneration Committee or a sub-committee of that

committee following consultation with the Director of Human Resources and OD and the appropriate Cabinet Member.

- 13.2 The grading of jobs subject to the terms and conditions of the National Joint Council for Local Government Services will be determined by the Council's Job Evaluation Process in accordance with the local agreement of 8 May 2003.
- 13.3 The Council's Pay Policy will apply to salaries and remuneration of Chief Officers.

## **14. Appraisal and Management Development**

- 14.1 The Director of Human Resources and OD is responsible for the development of effective arrangements for appraisal and management development, including the provision of a management development programme for designated managers on the basis of management competence needs identified by a Chief Officer.
- 14.2 Chief Officers are responsible for the conduct of appraisals and management of employees' development and performance.

## **15. Health and Safety**

- 15.1 The Director of Human Resources and OD is responsible for producing corporate policy and for monitoring the effectiveness of Health and Safety management.
- 15.2 Each Chief Officer is responsible for producing policies and methods of working which ensure the Health and Safety of his/her directorate's employees. Managers and supervisors are responsible for ensuring compliance with these policies and for ensuring employees comply with rules and standards.

## **16. Equal Opportunities**

- 16.1 The Director of Human Resources and OD is responsible for ensuring the effective operation of the employment provisions of the Council's Comprehensive Equality Policy.
- 16.2 Officers are responsible for ensuring the promotion of equal opportunities in employment within their directorates in accordance with the Council's policies and for monitoring progress and providing information to the Director Human Resources and OD. Managers and supervisors are responsible for ensuring that employees are aware of their responsibility to avoid unfair discrimination.

**17. Employee Relations and Communications**

- 17.1 Individual Officers, in conjunction with the Director of Human Resources and OD, are responsible for ensuring good working relations with employees and the recognised trade union representatives of the workforce. Officers are responsible for informing and consulting both employees and appropriate recognised trade unions about issues which affect the staff in their directorates and are responsible for local joint consultative working groups.
- 17.2 The Council's Grievance Procedure sets out arrangements for settling grievances at the lowest possible level in the organisation. Where agreement is not reached within the directorate the Director of Human Resources and OD is to be consulted.
- 17.3 Provisions and guidance on relations and communication between members of the Council and staff are contained in the Protocol on Member/Officer Relations.

**18. Protocol for Employees Working Part-Time and/or Temporarily for, or Providing Consultancy to, other Bodies or Councils**

- 18.1 Annex 2 to these Rules is a Protocol which members of staff wishing to take up such forms of employment while employed by the County Council are expected to observe.