

## **ANNEX 16 - OFFICER EMPLOYMENT PROCEDURE RULES**

### **1. Definitions and Status**

#### 1.1 In these Rules:

**“the 1989 Act”** means the Local Government and Housing Act 1989;

**“the 1993 Regulations”** means the Local Authorities (Standing Orders) Regulations 1993 (as amended);

**“the 2000 Act”** means the Local Government Act 2000;

**“the 2001 Regulations”** means the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended);

**“the 2011 Act”** means the Localism Act 2011;

**“appointor”** means, in relation to the appointment of a person as an officer of the Council, the Full Council or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the Council, that committee, sub-committee or officer, as the case may be;

**“Chief Finance Officer”, “disciplinary action”, and “Monitoring Officer”** have the same meaning as in, and **“Head of Paid Service”** has the same meaning as “head of the authority’s paid service” in, Regulation 2 of the 2001 Regulations;

**“Chief Officer”**, for the purposes of Procedure Rule 2, has the same meaning as in Regulation 1 of the 1993 Regulations, but, for all other purposes, means a statutory Chief Officer or a non- statutory Chief Officer;

**“Deputy Chief Officer”** has the same meaning as in Section 2(8), as qualified by Section 2(9), of the 1989 Act;

**“dismissor”** means, in relation to the dismissal of an officer of the Council, the Full Council or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the Council, that committee, sub-committee or other officer, as the case may be;

**“Executive”** and **“Executive Leader”** have the same meaning as in Part 1A of the 2000 Act;

**“Independent Person”** means a person appointed under section 28(7) of the 2011 Act;

**“local government elector”** means a person registered as a local government elector in the register of electors in the Council’s area in accordance with the Representation of the People Acts;

**“member of staff”** means a person appointed to or holding a paid office or employment under the Council;

**“non-statutory Chief Officer”** has the same meaning as in Section 2(7), as qualified by Section 2(9), of the 1989 Act;

**“the Panel”** means the Disciplinary (Statutory Officers) Panel, being a committee appointed by the Council from time to time as required 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;

**“proper officer”** means an officer appointed by the Council for the purposes of the provisions of Part II of Schedule 1 to the 2001 Regulations;

**“relevant Independent Person”** in Procedure Rule 4 means any Independent Person who has been appointed by the Council or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the Council considers appropriate;

**“relevant meeting”** means a meeting of the Council to consider whether or not to approve a proposal to dismiss a Relevant Officer;

**“Relevant Officer”** means the Chief Finance Officer, the Head of Paid Service or the Monitoring Officer, as the case may be;

**“specified senior officer”** means any of the officers referred to in Paragraph 3.2 (a) to (d) of these Procedure Rules;

**“statutory Chief Officer”** has the same meaning as in Section 2(6), of the 1989 Act.

- 1.2 These Procedure Rules are the Council’s Standing Orders relating to its staff for the purposes of the 1993 Regulations and the 2001 Regulations, and incorporate the provisions of those Regulations in relation to the appointment, dismissal and taking of disciplinary action against staff.

## **2. Application of the 1993 Regulations**

- 2.1 Where the Council proposes to appoint a Chief Officer, and it is not proposed that the appointment be made exclusively from among its existing officers, the Council shall:

- (a) draw up (or arrange for the drawing up of) a statement specifying:-
    - (i) the duties of the officer concerned, and
    - (ii) any qualifications or qualities to be sought in the person to be appointed;
  - (b) 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
  - (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.
- 2.2 Where a post has been advertised as provided in paragraph 2.1(b) above, the Council shall:
- (a) interview all qualified applicants for the post, or
  - (b) select a short list of such qualified applicants and interview those included on the short list.
- 2.3 The overall responsibility for ensuring that the steps to be taken under paragraphs 2.1 and 2.2 above shall be with the Head of Paid Service save when the appointment is that of the Head of Paid Service when the responsibility shall be with the Employment Committee who may delegate any of these functions (in so far as the law permits) to a sub-committee or officer.
- 2.4 Subject to paragraphs 2.6 and 2.12 of these Rules, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff must be discharged, on behalf of the Council, by the Head of Paid Service or by an officer nominated by the Head of Paid Service.

### **3 Application of the 2001 Regulations**

- 3.1 Subject to paragraphs 3.2 and 3.9 of these Rules, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff must be discharged, on behalf of the Council, by the Head of Paid Service or by an officer nominated by the Head of Paid Service.
- 3.2 Paragraph 3.1 shall not apply to the appointment or dismissal of, or disciplinary action against:
- (a) the Head of Paid Service;

- (b) a statutory Chief Officer ;
  - (c) a non-statutory Chief Officer ;
  - (d) a Deputy Chief Officer;
  - (e) a person appointed in pursuance of Section 9 of the 1989 Act (assistants for political groups).
- 3.3 The appointment and dismissal of, and the taking of disciplinary action against a specified senior officer shall be carried out in accordance with the provisions of these Procedure Rules and, in particular, in relation to the body or person within the Council responsible for taking any action under these Procedure Rules, to Procedure Rule 5 below.
- 3.4 Where a committee, sub-committee or officer is discharging, on Behalf of the Council, the function of the appointment of an officer designated as the Head of Paid Service, the Full Council must approve that appointment before an offer of appointment is made to that person.
- 3.5 Where a committee, sub-committee or officer is discharging, on behalf of the Council, the function of the dismissal of an officer designated as the Head of Paid Service, the Chief Finance Officer, or the Monitoring Officer, the Full Council must approve that dismissal before notice is given to that person.
- 3.6 Where a committee or a sub-committee is discharging, on behalf of the Council, the function of the appointment or dismissal of a specified senior officer at least one member of the Executive must be a member of that committee or sub-committee.
- 3.7 An offer of an appointment as a specified senior officer 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:
    - (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 3.7(b)(iii), notified the appointor that neither he/she 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 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.

3.8 Notice of the dismissal of a specified senior 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 Executive 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 3.8(b)(iii), notified the dismissor that neither he/she 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 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.

3.9 Nothing in paragraph 3.1 above shall prevent a person from serving as a member of any committee or sub-committee established by the Council 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 Council; or

- (b) a member of staff of the Council against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

#### **4. Application of the 2001 Regulations - Disciplinary Action against Relevant Officers**

- 4.1 A Relevant Officer may not be dismissed by the Council unless the procedure set out in the following paragraphs is complied with
- 4.2 The Council 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.
- 4.3 Subject to paragraph 4.4, the Council must appoint to the Panel such relevant Independent Persons who have accepted an invitation issued in accordance with paragraph 4.2 in accordance with the following priority order:
  - (a) a relevant Independent Person who has been appointed by the Council and who is a local government elector;
  - (b) any other relevant Independent Person who has been appointed by the Council;
  - (c) a relevant Independent Person who has been appointed by another authority or authorities.
- 4.4 The Council is not required to appoint more than two relevant Independent Persons in accordance with paragraph 4.3 but may do so.
- 4.5 The Council must appoint any Panel at least 20 working days before the relevant meeting.
- 4.6 Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the Council 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.
- 4.7 Any remuneration, allowances or fees paid by the Council 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.

- 4.8 The membership of the Panel shall normally consist of two Independent Persons who have accepted an invitation issued under paragraph 4.2 together with the minimum number of members of the Council required to ensure that the membership of the Panel complies with the principles of political proportionality set out in Section 15(5)(a),(b) and(d) of the 1989 Act.
- 4.9 In appointing members of the Council to the Panel the Council will appoint members of the Employment Committee in preference to any other members of the Council.
- 4.10 The Chief Legal Officer is authorised to issue an invitation to relevant Independent Persons under paragraph 4.2 and to appoint relevant Independent Persons to the Panel, provided that, where the Panel will be considering disciplinary action against the Chief Legal Officer, the invitation will be issued and any appointments made by one of the Assistant Chief Legal Officers.

## **5. Responsibility for the Exercise of Functions**

- 5.1 Except as otherwise required by law or as otherwise specifically provided in these Procedure Rules, and subject to Procedure Rule 4 (Disciplinary Action against Relevant Officers):
- (a) Employment Committee shall be responsible for the exercise of functions of appointment and dismissal of, and taking disciplinary action against the Head of Paid Service, a statutory Chief Officer, a non-statutory Chief Officer and the Chief Legal Officer
  - (b) The function of appointment and dismissal of, and taking disciplinary action against, a Deputy Chief Officer (save where the Deputy Chief Officer is the Monitoring Officer) shall be the responsibility of the Chief Officer to whom the Deputy Chief Officer reports.
  - (c) Pursuant to Paragraph 3.1 the Head of Paid Service has authorised officers in his/her department and has authorised Chief Officers to nominate officers in their departments, to appoint, dismiss and take disciplinary action against members of staff in their departments.
- 5.2 Employment Committee may, unless prohibited by law, delegate any of their functions under these Procedure Rules to a sub-committee or an officer.