

## **PART 3.4 – OFFICER EMPLOYMENT PROCEDURE RULES**

### **3.4.1 Recruitment and appointment – general provisions**

(a) Declarations

(i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or of the partner of such persons. (This will be included in application forms).

(ii) No candidate so related to a councillor or an officer will be appointed without the authority of the relevant Head of Paid Service or Director or an officer nominated by them.

(b) Seeking support for appointment

(i) The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

(ii) A Councillor shall not solicit for any person any Council appointment or give a written testimonial of a candidate's ability, experience or character for an application for appointment with the Council.

### **3.4.2 Recruitment of senior officers**

Where the authority proposes to appoint a Head of Paid Service, Director or Head of Service, it shall :

(a) Draw-up 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.

### **3.4.3 Appointment to senior posts**

#### **3.4.3.1 Appointment of Head of Paid Service**

The Full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by the Appointments Sub-

Committee. The Full Council must approve the appointment before an offer of appointment is made to that person.

### **3.4.3.2 Appointment of Directors, Chief Financial Officer and Monitoring Officer**

The Appointments Sub-Committee will appoint Directors and will make a recommendation to Council regarding the appointment of the Head of Paid Service, Chief Financial Officer and the Monitoring Officer.

### **3.4.3.3 Other Appointments**

- (a) Officers below Directors – Appointment of officers below Directors (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Councillors. This is subject to the provisions of the Chief Executive's general delegation number two which states that for Heads of Service appointments, a joint member officer consultation panel will be constituted, the membership of which will be agreed between the Chair of Policy and Resources and Chief Executive. The Chief Executive will make the decision on appointment in consultation with the other members of the panel.
- (b) Other Statutory Appointments – In relation to the Data Protection Officer a joint member officer consultation panel will be constituted, the membership of which will be agreed between the Chair of Policy and Resources and Chief Executive. The Chief Executive will make the decision on appointment in consultation with the other members of the Panel.
- (c) On occasions where it is appropriate in the business interests of the Council to appoint from among existing officers on an interim basis to cover roles at Head of Service level and above, then the same arrangements as set out in 3.6.2 will apply but with solely internal advertisement. In the event of these interim arrangements continuing in place for a period of six months (or such other shorter period agreed between the Head of Paid Service and the Chair of Policy and Resources Committee), then any proposal to make arrangements permanent will be subject to a competitive process as set out in 3.6.2. Where the role involved is a shared service role then regard should be had to any comments received from the chief executives and leaders of the partner authorities.

### 3.4.4 Disciplinary Action against Designated Statutory Officers (“DSOs”)

If a complaint of misconduct is received about the Chief Executive, Chief Financial Officer or Monitoring Officer, the complaint will be dealt with in accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2010 (as amended).

- (a) The dismissal of any of the Head of Paid Service, the Chief Finance Officer or Monitoring Officer, the DSOs, may only be made by the Council following consideration and recommendation by the Investigation and Disciplinary Committee and consideration by the Independent Persons Panel, to include at least two, Independent Persons appointed under section 28(7) of the Localism Act 2011. (Note: At least two Independent Persons must be invited to the Panel and if the Council does not have more than one Independent Person, the Panel should invite such Independent Persons who may have been appointed to other authorities as they consider appropriate.) The Council must appoint to the Panel such relevant independent persons who have accepted an invitation, in accordance with the following priority order:
  - a. an independent person who has been appointed by the authority and who is a local government elector;
  - b. any other independent person who has been appointed by the authority;
  - c. an independent person who has been appointed by another authority or authorities.
- (b) Before taking a vote at a Council 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 Sub-committee;
  - b. the conclusions of any investigation into the proposed dismissal; and
  - c. any representations from the relevant Officer.
- (c) The authority must approve the dismissal before notice of dismissal is given to that person.

#### **Procedure: Investigation**

- (d) It is in the interests of all parties that the proceedings be conducted expeditiously and fairly.
- (e) In respect of any complaints alleging misconduct by a DSO these will initially be considered by the Head of Paid Service (or if the allegation relates to the Head of Paid Service, the Monitoring Officer, in consultation with the Chair of Policy and Resources Committee. At this stage the available decisions to the officer will be to:
  - a. Take no action; or

- b. Refer the matter to the Investigation and Disciplinary Sub-committee;
- (f) If the matter is referred to the Sub-committee the officer making the decision may in consultation with the Chair of Policy and Resources Committee suspend the DSO until the matter is considered by the Sub-committee;
- (g) In the exercise of its function, the Investigation and Disciplinary Sub-committee is to receive and consider any complaint/allegations referred to it. It may:
  - a. make such enquiries of the relevant officer or any other person as it considers appropriate;
  - b. request additional information, explanations or documents from any person;
  - c. invite or receive representations from any person.
- (h) The Sub-committee having carried out such steps as it considers appropriate and having heard representations from the DSO or their adviser shall decide whether the issues:
  - a. require no further formal action, or
  - b. should be referred to an Independent Investigator ("II").
- (i) In considering whether the threshold in deciding to appoint an II has been met the Sub-committee will assess whether:
  - a. if the allegations are proved it would be such as to lead to the dismissal or other action which would be recorded on the officer's personal file;
  - b. there is evidence in support of the allegation/issue sufficient to require further investigation.
  - c. In deciding whether the threshold for the appointment of an II has been reached the Sub-committee may carry out such preliminary investigations as it considers appropriate or necessary or authorise officers to do so. This shall be solely for the purpose of establishing whether or not the threshold for appointing an II to carry out an investigation has been met.
- (j) Before deciding to appoint an II or suspend a DSO the Investigation and Disciplinary Sub-committee shall invite the representations of the DSO unless it is impracticable to do so. The DSO shall have the right to be accompanied at the Sub-committee Meeting.
- (k) Any matters of discipline referred to the Sub-committee shall be dealt with under the JNC Scheme of Conditions of Service for Chief Officers.

- (l) The Sub-committee may determine on behalf of the Council to either exonerate the employee or, if they find misconduct to determine the form of disciplinary action that may be appropriate.

#### Procedure: Receiving the II's Report/ Hearing

- (m) The Sub-committee should receive any report produced by an II in relation to a DSO within one month of the receipt of the report by the Council.
- (n) The DSO shall have the right to attend and be accompanied at the Sub-committee Meeting which considers the II's report.
- (o) The Sub-committee shall consider the II's report and shall invite representations from the officer and/or their representative. The Sub-committee may impose disciplinary sanctions as set out in the Council's disciplinary procedures, the JNC Terms and Conditions Handbook for Chief Officers and the JNC Terms and Conditions Handbook for Chief Executives. In conducting any hearing the Committee shall have regard to the model disciplinary procedure in the JNC handbook for Chief Executives and the ACAS Code of Practice.
- (p) If the sub-committee determines that disciplinary action short of dismissal should be taken then the DS may appeal against that decision to the Statutory Officers Appeals Disciplinary Appeals Sub-committee
- (q) Any decision by the Investigation and Disciplinary Sub-committee that a DSO shall be dismissed shall be subject to referral to Full Council. The consideration by Full Council shall be an appeal against the decision to dismiss and Full Council may confirm the decision to dismiss or reach a different conclusion.

### 3.4.5 Disciplinary Action

Councillors will not be involved in any disciplinary action nor dismissal against any officer (other than the Statutory Officers mentioned in paragraph 3.6.4 above) except where such involvement is necessary for any investigation or inquiry into alleged misconduct. However, the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Councillors in respect of disciplinary action or capability from decisions made by the Chief Executive or the involvement of Councillors in consultation with the Chief Executive in relation to disciplinary matters.