

## 6.5 The Appointments and Disciplinary Committee

### 6.5.1 Membership

7 Councillors<sup>1</sup> provided that where the Committee is dealing with the appointment of, or disciplinary action against, the Head of Paid Service, a Deputy Chief Executive, a Strategic Director or a Director:

- (a) At least one member of the Committee must be a Cabinet Member as required by paragraph 4(2) of the Officer Employment Procedure Rules in **Part 4(h)**;
- (b) The Cabinet Member whose portfolio covers the duties of the Head of Paid Service / Deputy Chief Executive / Strategic Director / Director shall be a member of the Committee – or in the event that such Cabinet Member is already a permanent member of the Committee, the Leader shall be a member thereof; and
- (c) Cabinet Members shall not have a majority on the Committee.

Substitutes: Permitted in accordance with Standing Order 31  
Proportionality: Applies

### 6.5.2 Quorum

As per Standing Order 38.1

### 6.5.3 Terms of Reference

These Terms of Reference are subject to the provisions of the Officer Employment Procedure Rules in **Part 4(h)**

- ~~(a) Power to appoint staff and to determine the terms and conditions on which they hold office (including procedures for their dismissal).~~
- ~~(b) To exercise all powers of the Local Education Authority in respect of the appointment proposal and removal of governors to schools in the Borough and to Southend Adult Community College, subject to the powers delegated to the Deputy Chief Executive (People) in paragraph 4.6 of **Part 3 Schedule 3** of the Constitution.~~
- ~~(c) To appoint Deputy Chief Executives, Strategic Directors and Directors and also to interview and recommend a person for the post of Head of the Paid Service<sup>2</sup>.~~
- ~~(d) Subject to (e) below, to investigate and take disciplinary action in respect of misconduct of the Head of Paid Service, Deputy Chief Executives, Strategic Directors and Directors. (Appeals will go to the Appeals Committee)<sup>3</sup>.~~
- ~~(e) Full Council must decide whether or not to approve the dismissal of the Council's Head of Paid Service, Chief Finance Officer or Monitoring Officer and the procedures set out in the Officer Employment Procedure Rules in **Part 4(h)** must be followed, including consideration of the recommendations of the Appointments and Disciplinary Committee.~~

- (a) To interview and recommend to Council a candidate for appointment as Head of Paid Service.
- (b) To interview and appoint Deputy Chief Executives, Strategic Directors and Directors<sup>2</sup>.
- (c) The power to suspend the Chief Executive

<sup>1</sup> In the case of such disciplinary action regard must be had to the Code of Conduct in **Part 5a** and a Councillor should not sit if the Officer's right to a fair hearing could then be called into question.

<sup>2</sup> Appointments below Director level must be dealt with by the Chief Executive or nominee as the Local Authorities (Standing Order) Regulations 2001 require.

<sup>3</sup> Disciplinary action against officers below Director level must be dealt with by the Chief Executive or nominee, although the Council's disciplinary capability and related procedures (as adopted from time to time) may allow a right of appeal to Members in respect of dismissal.

<sup>1</sup> Councillors on the Committee must have regard to the Code of Conduct in **Part 5a** and a Councillor should not sit if the right to a fair hearing could be called into question.

<sup>2</sup> The function of appointment and dismissal of, and taking disciplinary action against, an officer below Director level must be dealt with by the Chief Executive or nominee as the Local Authorities (Standing Order) Regulations 2001 require. (See footnote 1 to the Officer Employment Procedure Rules in **Part 4 (h)**). Such officers below Director level have no right of appeal to any Committee, Sub-Committee or Councillor(s).



- (d) To investigate and take disciplinary action (including dismissal) in respect of the Head of Paid Service, Deputy Chief Executives, Strategic Directors and Directors<sup>2</sup> provided that full Council must decide whether or not to approve the dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer before a notice of dismissal is given.
- (e) To have an overview of disciplinary activity across the Council by way of an annual report.
- (f) To exercise all powers of the Local Education Authority in respect of the appointment proposal and removal of governors to schools in the Borough and to Southend Adult Community College, subject to the powers delegated to the Deputy Chief Executive (People) in paragraph 4.6 of Part 3 Schedule 3 of the Constitution.

#### 6.5.4 Status of Meetings

Open to the public (in part).

#### 6.5.5 Reports to

The Council

### 6.6 The Two Appeals Committees (A and B)

There are 2 Appeals Committees A and B. Each Committee is authorised to deal with the appeals and applications set out below. Committees will be convened in turn by rota, subject to the availability of Councillors.

#### 6.6.1 Membership of each Committee

7 Councillors

No Cabinet Member shall be a member of either Appeals Committee.

Substitutes:	Permitted in accordance with Standing Order 31
Proportionality:	Applies

#### 6.6.2 Quorum

As per Standing Order 38.1

#### 6.6.3 Terms of Reference

To determine the following appeals against any decision by or on behalf of the Council, the Executive or any Committee:

##### (a) Employee Chief Officer Appeals

Appeals in respect of **by Chief Officers (i.e. the Chief Executive, Deputy Chief Executives, Strategic Directors and Directors) in respect of: -**

- Dismissals **Any disciplinary action (including dismissal); and**
- Disciplinary, grievance, capability or sickness decisions taken by the Chief Executive or a Deputy Chief Executive.
- **grievances.**

~~(Note: Job Evaluation appeals and disciplinary, grievance, capability or sickness decisions taken by officers other than the Chief Executive or a Deputy Chief Executive will not be dealt with by either Committee, save that appeals against dismissal will always be dealt with by Committee A or B.)~~

**(Note: No appeals by officers below Director level will be dealt with by a Committee, Sub-Committee or Councillor(s)).**

**(b)** Education Appeals

- To consider written appeals from parents / carers / students against the refusal of the Council to provide free pupil/student transport.
- To determine appeals from students against decisions by the Deputy Chief Executive (People) to refuse applications for Discretionary Awards and Standards Fund Awards.

**6.6.4 Status of Meetings**

Private

**6.6.5 Procedure at Meetings**

- (a)** The Chief Executive shall arrange for an Appeals Committee to be convened as and when required. He / she will select each Committee A and B in turn provided that sufficient Councillors are available.
- (b)** Meetings of the Appeals Committees will be conducted in accordance with appropriate legislation, procedures and the principles of natural justice which shall take precedence over Standing Orders and in particular Standing Order 39 shall not apply.

**6.6.6 Reports to**

The Council (for information)



### 3.3 Human Resources

#### 3.3.1 Chief Officers

**Subject to 1.3** and subject to the Officer Employment Procedure Rules in **Part 4(h)**, the delegated powers of Chief Officers include:

- (a) Power to determine staffing arrangements and structures within approved budgets subject to:
  - (i) Agreement on grading with the Strategic Director (Transformation);
  - (ii) Conformance with approved Council policies and procedures; and
  - (iii) Chief Executive approval for structural changes establishing or affecting more than five posts.
- (b) Power to recruit, appoint, agree conditions of service, appraise, develop, manage and reward employees subject to compliance with Council policies and procedures.
- (c) Power to deal with voluntary severance, early retirement, redundancy and redeployment issues subject to compliance with Council policies and procedures.
- (d) The power to suspend any Council officer of a lower level, save that only the Appointments and Disciplinary Committee can suspend the Chief Executive.
- ~~(d)~~ (e) Power to suspend, dismiss or take other disciplinary action (including dismissal) against Other Officers and to deal with grievance, capability, and sickness and grievances by Other Officers matters in accordance with the Council's policies and procedures.
- (f) Power to hear and determine appeals by Other Officers against:
  - disciplinary action, capability and sickness matters, save that appeals against any dismissal can only be dealt with by the Chief Executive or a Deputy Chief Executive.
  - grievances.

#### 3.3.2 Other Officers

**Subject to 1.3** Other Officers are authorised to deal with Human Resources matters in accordance with the provisions of the Council's various Human Resources policies.

### 3.4 Contracts

Chief Officers and Other Officers may enter into contracts, make payments, write off debts etc in accordance with the financial levels of authority set out in Contracts Procedure Rules in **Part 4(g)** and Financial Procedure Rules in **Part 4(f)**.