

# Part 4(h) – Officer Employment Procedure Rules

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# Part 4(h) – Officer Employment Procedure Rules

## 1. Recruitment and Appointment

### (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.
- (ii) No candidate so related to a councillor or an officer will be appointed without the authority of the Chief Executive.

### (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) No Councillor will seek support for any person for any appointment with the Council.

## 2. Recruitment of Head of Paid Service, Deputy Chief Executives, Strategic Directors and Directors

Where the Council proposes to appoint the Head of Paid Service, Deputy Chief Executive, Strategic Directors or Director and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

- (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. Officers below Director Level

- 3.1 Subject to paragraphs 3.2 and 7, 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 Council, by the officer designated as the Council's Head of Paid Service or by an officer nominated by them.<sup>1</sup>

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<sup>1</sup> The Chief Executive's nominations to Chief Officers and Other Officers are set out in paragraph 3.3 of the Delegations to Officers in **Part 3 Schedule 3** although guidelines from the Employer's Organisation No. 450 indicates that formal nomination may not strictly be necessary.

- 3.2** Paragraph 3.1 shall not apply to the appointment or dismissal of, or disciplinary action against<sup>2</sup>:
- (a)** the officer designated as the Council's Head of Paid Service;
  - (b)** a statutory chief officer within the meaning of section 2(6) of the Local Government and Housing Act 1989 ("the 1989 Act");
  - (c)** a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
  - (d)** a deputy chief officer<sup>3</sup> within the meaning of section 2(8) of the 1989 Act; or
  - (e)** an assistant for a political group appointed in pursuance of section 9 of the 1989 Act.

#### **4. Appointment and Dismissal of Head of Paid Service, Deputy Chief Executives, Strategic Directors and Directors**

- (1)** Where the Appointments and Disciplinary Committee or a sub-committee is discharging, on behalf of the Council, the function of the appointment of an officer designated as the Council's Head of Paid Service, the full Council must approve that appointment before an offer of appointment is made.
- (2)** Where the Appointments and Disciplinary Committee or a sub-committee is discharging, on behalf of the Council, the function of the disciplinary proceedings in respect of an officer designated as the Council's Head of Paid Service, Chief Finance Officer or Monitoring Officer, the full Council must approve a dismissal before notice of dismissal is given. (See also paragraph 8 of this **Part 4 h.**)
- (3)** Where the Appointments and Disciplinary Committee or a sub-committee is discharging, on behalf of the Council, the function of the appointment or dismissal of any officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3.2, at least one Cabinet Member must be a member of that committee or sub-committee. (See also paragraph 8 of this **Part 4 h.**)

#### **5. Appointment of Head of Paid Service, Deputy Chief Executives, Strategic Directors and Directors**

An offer of an appointment as an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3.2 (i.e. the Head of Paid Service, Deputy Chief Executive, Strategic Director or Director) must not be made until:

- (a)** the Appointments and Disciplinary Committee has notified the Proper Officer of the name of the person to whom it wishes to make the offer and any other particulars which the Committee considers are relevant to the appointment;
- (b)** the Proper Officer has notified every member of the executive ("the Cabinet") of:
  - (i)** the name of the person to whom the Appointments and Disciplinary Committee wishes to make the offer (or in the case of the appointment of the Head of Paid Service, subject to approval of the Council)

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<sup>2</sup> The appointment of, and disciplinary action against, an officer to in 3 2(a), (b), (c) or (d) shall be dealt with by the Appointments and Disciplinary Committee, subject to the other provision of these Rules

<sup>3</sup> A Deputy Chief Officer means 'a person who, as respects all or most of the duties of their post, is required to report directly or is directly accountable to one or more of the statutory or non-statutory Chief Officers.

However S.2(9) of the Local Government and Housing Act 1989 provides that a person whose duties are solely secretarial or clerical or are otherwise in the nature of support services is neither a Chief nor a Deputy Chief Officer.

At Southend no-one below Director will fall within the definition of "Deputy Chief Officer"

- (ii) any other particulars relevant to the appointment which the Committee 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 on behalf of the Cabinet to the Proper Officer; and
- (c) either:
- (i) the Leader has, within the period specified in the notice under sub-paragraph (b) (iii), notified the Appointments and Disciplinary Committee that neither they nor any other Cabinet Member has any objections to the making of the offer;
  - (ii) the Proper Officer has notified the Appointments and Disciplinary Committee that no objection was received by them within that period from the Leader; or
  - (iii) the Appointments and Disciplinary Committee (or in the case of the appointment of the Head of Paid Service, the full Council) is satisfied that any objection received from the Leader within that period is not material or well-founded.

## 6. Dismissal of Head of Paid Service, Deputy Chief Executives, Strategic Directors and Directors

Notice of the dismissal of an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3.2 must not be given until:

- (a) the dismissor (i.e. the Appointments and Disciplinary Committee) has notified the Proper Officer of the name of the person who it wishes to dismiss (in the case of the Head of Paid Service, Chief Finance Officer or Monitoring Officer subject to the procedure set out in paragraph 8 of this **Part 4 h** and the approval of the Council) and any other particulars which it considers are relevant to the dismissal;
- (b) the Proper Officer has notified the Leader and every Cabinet Member 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:
  - (i) the Leader has, within the period specified in the notice under sub-paragraph (b) (iii), notified the dismissor that neither they nor any other Cabinet Member 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 (or in the case of the proposed dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer, the full Council) is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

## 7. Appeals

Nothing in paragraph 3 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.

## 8. Disciplinary Action – Head of Paid Service, Monitoring Officer and Chief Finance Officer

- (a) The Head of Paid Service, Monitoring Officer or Chief Finance Officer may be suspended by the Appointments and Disciplinary Committee for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension must be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.
- (b) Full Council must decide whether or not to approve the dismissal of the Council's Head of Paid Service, Monitoring Officer or Chief Finance Officer and before taking the vote the Council must take into account:
  - (i) any advice, views or recommendations of the Disciplinary Advisory Panel;
  - (ii) the conclusions of any investigation into the proposed dismissal (including the recommendations of the Appointments and Disciplinary Committee); and
  - (iii) any representation from the relevant officer.

### **Notes:**

- These Rules incorporate the provisions of the Local Authorities (Standing Orders) (England) Regulations 2001 and 2015.
- The “Proper Officer” referred to in these Rules means the Chief Executive, save where the post concerned is the Chief Executive, when it shall be the Monitoring Officer.