

Employee Employment Procedure Rules Recruitment and Appointment of Employees

- a). Declarations
 - i) All candidates should complete an appropriate application form which incorporates an Equal Opportunities form. Forms are available from individual Departments. Appointing officers should particularly establish the relationship (if any) of candidates to existing employees or Members; whether the applicant has previously worked for the Authority; and, where necessary or appropriate, ensure that a criminal records bureau check is carried out.
- b) Seeking support for appointment
 - i) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor or employee for any appointment with the Council.
 - ii) No Councillor or employee will seek support for any person for any appointment with the Council.
 - iii) Nothing in the two paragraphs above precludes Members or Officers from providing references for a candidate or existing employee in connection with applications for a job or post with the Authority.

Recruitment of Head of Paid Service and Chief Officers

Where the Council proposes to appoint a chief officer and it is not proposed that the appointment will be made exclusively from among the 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) The Council may choose to make an internal appointment to the Head of Paid Service or Chief Officer post without considering external candidates. However, where the Authority proposes to consider external candidates, arrangements will be made 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;
- c) The declarations mentioned in (a)(i) above are detailed on the application form.

Appointment of Head of Paid Service

- a) Cabinet will consider and refer to the full Council with recommendations for approval, the arrangements for the appointment of the Head of Paid Service.
- (b) The arrangements for the appointment of the Head of Paid Service will include an Appointment Panel established specifically for that purpose. The Panel will include at least one Cabinet Member.
- (c) The recommendation of the Appointment Panel (“the Appointor”) will be submitted to the full Council for approval and the Council must approve a proposed appointment before an offer of appointment is made.

- (d) For the purposes of (c) above the Director of Law and Democracy will summon a special meeting of full Council, giving five clear working days notice of the meeting, unless the matter can conveniently be dealt with at an ordinary meeting of the Council.
- (e) The Agenda for any such meeting of the Council will contain an item seeking the approval of the Council to the proposed appointment to the post and a summary report of the process followed by the Appointor, together with a note of their decision, and will be circulated to all Members of the Council at least five clear working days prior to the Council meeting.
- (f) It is expected that non-approval will occur only in exceptional circumstances, based on objections which are material and well-founded, such as an undeclared relationship to a Member of the Council, or non-declaration of an unspent conviction. If approval is not granted, the Council must indicate the reasons for non-approval and the matter will be referred back to the Appointor for further consideration.
- (g) An offer of an appointment to the position of Chief Executive (Head of Paid Service) will 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 Cabinet 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 on behalf of the Cabinet to the Proper Officer (being a period of no longer than 48 hours from the time of dispatch of the notification); and
 - (C) either:
 - (i) the Leader has, within the period specified in the notice under subparagraph (b) (iii), notified the Appointor that neither he nor any other member of the Cabinet has any objection to the making of the offer;
 - (ii) the Proper Officer has notified the Appointor that no objection was received by him within that period from the Leader; or
 - (iii) the Appointor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.
 - (D) for the purposes of (c) (iii) above, the Appointor will consider any such objection from the Leader at a meeting of the Appointor (Panel) duly called by the Director of Law and Democracy for that purpose.
- (h) For the purposes of paragraph (g) (C) (iii) above, an objection must be material and well-founded. For an objection to be well-founded it must be a matter which can be substantiated. This means that it must be based on facts rather than mere hearsay. At the very least, it must be based on a reasonable suspicion that the facts or information are accurate and true. In addition, it must also be material, ie it must be relevant to the process and the post and be sufficient to warrant a decision not to make the offer of appointment. This is seen as being likely to be very much an exceptional circumstance.

- (i) Examples of objections which would be material and well-founded and ones which would not be material and well-founded are:-
 - (A) A Cabinet Member objects to the appointment of a prospective Chief Executive (Head of Paid Service) on the grounds that he/she being a Solicitor, has been found guilty of conduct unbecoming a Solicitor, contrary to the Law Society's Practice Rules. If substantiated, this could be seen as relevant to the appointment of a high profile position where the highest standards of conduct can reasonably be expected. The objection would be material and well-founded;
 - (B) However, where a Member of the Cabinet objects to the appointment of a prospective Chief Executive (Head of Paid Service) because he/she belongs to an opposition political party, this may, again, be true and, therefore, well-founded but will not be material because the Officer has a duty to serve the Council as a whole and the ability of the individual to practise his/her political beliefs is restricted by Sections 1 – 3 of the Local Government and Housing Act 1989.
- (j) Whenever provision is made for a notice to be sent, such notice must be in writing and may be sent by post, by e-mail or by fax but in any event must be received by the recipient within the relevant period specified.

Appointment of Chief Officers and Assistant Chief Officers

- a) Cabinet will consider and refer to the full Council with recommendations for approval, arrangements for the appointment of Chief Officers (eg Corporate Directors). Where a Committee or Panel is responsible for the appointment of a Chief Officer, that Committee, or Panel ("the Appointor") will include at least one Cabinet Member.
- b) Appointments Panels will undertake all relevant steps to shortlist, interview and appoint Assistant Chief Officers (eg Heads of Service). The Panels will normally be established on the following basis;

Service Departments

Relevant Cabinet Member and politically balanced comprising 5 members in total

Central Support Service Departments

Leader or Cabinet Member for Corporate Management and Finance and politically balanced

- (c) Where the circumstances justify a Panel consisting of a different composition of Members and/or Officers, the relevant Corporate Director of Service, the Chief Executive and the Director of Law and Democracy (as Proper Officer) may agree such composition after consultation with each of the relevant political Groups.
- (d) An offer of an appointment will be 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 Cabinet 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 on behalf of the Cabinet to the Proper Officer (being a period of no longer than 48 hours from the time of dispatch of the notification); and
- (C) either:-
 - (i) the Leader has, within the period specified in the notice under subparagraph (b) (iii), notified the Appointor that neither he nor any other member of the Cabinet has any objection to the making of the offer;
 - (ii) the Proper Officer has notified the Appointor that no objection was received by him within that period from the Leader; or
 - (iii) the Appointor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.
- (D) for the purposes of (c) above, the Appointor will consider any such objection from the Leader in a meeting of the Panel duly called by the Director of Law and Democracy for that purpose;
- (E) For the purposes of paragraph (d) (C) (iii) above, an objection must be material and well-founded. For an objection to be well-founded it must be a matter which can be substantiated. This means that it must be based on facts rather than mere hearsay. At the very least, it must be based on a reasonable suspicion that the facts or information are accurate and true. In addition, it must also be material, ie it must be relevant to the process and the post and sufficient to warrant a decision not to make an offer of appointment. This is seen to be likely to be very much an exceptional circumstance.
- (F) Examples of objections which would be material and well-founded and those which would not be material and well-founded are:-
 - (A) A Cabinet Member objects to the appointment of a prospective Head of Legal Services on the grounds that he/she has a conviction for an offence involving dishonesty. The objection would, clearly, be material and well-founded.
 - (B) However, where a Cabinet Member objects to the appointment of a potential Head of Legal Services because he/she belongs to an opposition political party, whilst this may be true and, therefore, well-founded, it will not be material because the Officer has a duty to serve the Council as a whole and the ability of the individual to practice his/her political beliefs is restricted by Sections 1 – 3 of the Local Government and Housing Act 1989.

- (G) Whenever provision is made for a notice to be sent, such notice must be in writing and may be sent by post, by email or by fax, but in any event must be received by the recipient within the relevant period specified.

Other Appointments

- a) The shortlisting, interviewing and appointment to all other vacancies, including posts deemed to be politically restricted, shall be dealt with by the Chief Executive, or by a Chief Officer, Assistant Chief Officer or appropriate senior officer nominated by the Chief Executive. Councillors will not be involved in such appointments.
- b) The appointment of an assistant to a political group shall be made in accordance with the wishes of that political group and in accordance with and subject to the provisions and requirements of the Local Government and Housing Act 1989 and the Local Authorities (Standing Orders) (England) Regulations 2001.

Disciplinary Action and Dismissal

- a) Suspension

All Chief Officers including the Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months beginning on the day the suspension takes effect, unless directed otherwise by the relevant Committee, Sub-Committee, Panel or Officer.

- b) Independent Persons

The Head of Paid Service, Monitoring Officer and Chief Finance Officer (“relevant officers”) may not be dismissed by the Council unless the following procedure is complied with:-

- (A) The Council must invite relevant independent persons to be considered for appointment to a Panel, with a view to appointing at least two such persons to the Panel.
- (B) Relevant independent persons 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.
- (C) Independent Person means a person appointed under Section 28(7) of the Localism Act 2011.
- (D) A Panel means a committee appointed by the Council under Section 102(4) of the Local Government Act 1972 for the purpose of advising the Council on matters relating to the dismissal of relevant officers of the Council.
- (E) The Council must appoint to the Panel such relevant independent persons who have accepted an invitation to be considered for appointment to the Panel, in accordance with the following priority order:-

- (i) A relevant independent person who has been appointed by the Council and who is a local government elector (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);
 - (ii) Any other relevant independent person who has been appointed by the Council;
 - (iii) A relevant independent person who has been appointed by another authority or authorities.
- (F) The Council is not required to appoint more than two relevant independent persons in accordance with the preceding paragraph, but may do so.
- (G) The Council must appoint a Panel at least 20 working days before a meeting ("the relevant meeting") of the Council to consider whether or not to approve a proposal to dismiss a relevant officer of the Council.
- (H) Before taking a vote at the relevant meeting on whether or not to approve such a dismissal the Council must take into account, in particular:-
- (i) Any advice, views or recommendations of the Panel;
 - (ii) The conclusions of any investigation into the proposed dismissal; and
 - (iii) Any representations from the relevant officer
- (I) 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 their independent person in respect of that person's role as an independent person under the Localism Act 2011.
- (c) The function of dismissal of, and taking disciplinary action against any employee of the Council will be the responsibility of the Chief Executive, or a Chief Officer, Assistant Chief Officer or appropriate senior officer nominated by the Chief Executive.
- d) Councillors will not be involved in disciplinary action against any officer other than the Head of Paid Service, Monitoring Officer and Chief Finance Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related procedures, as adopted from time to time which may allow a right of appeal to members in respect of disciplinary action.
- (e) Councillors will not be involved in the dismissal of any officer other than the Head of Paid Service, Monitoring Officer and Chief Finance Officer except where such involvement is necessary for an investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related procedures, as adopted from time to time which may allow a right of appeal to members in respect of dismissals.
- (f) Where a Committee, a Sub-Committee or a Panel ("the Dismissor") is discharging the function of dismissal of a Chief Officer, Assistant Chief Officer or Political Assistant, at least one Cabinet Member must be a member of that Committee, Sub-Committee or Panel.

- (g) Notice of the dismissal of the Chief Executive, Chief Officer, Assistant Chief Officer or Political Assistant will 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 (being a period no longer than 48 hours from the time of the notification); and
 - (C) either:-
 - (i) the Leader has, within that period specified in the notice under subparagraph (B) (iii) notified the Dismissor that neither he 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 him 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.
 - (D) for the purposes of (C) (iii) above, the Dismissor will consider any such objection from the Leader in a meeting of the Dismissor duly called, as appropriate, by the Director of Law and Democracy for that purpose.
- (h) For the purposes of (g) above, an objection must be material and well-founded. For an objection to be well-founded, it must be a matter which can be substantiated. This is intended to mean that it must be based on facts rather than mere hearsay. At the very least it must be based on a reasonable suspicion that the facts or information are accurate and true. In addition, it must also be material ie it must be relevant to the process and the proposed dismissal and be sufficient to warrant a decision not to dismiss.
- (i) Whenever provision is made for a notice to be sent, such notice must be in writing and may be sent by post, e-mail or fax, but in any event must be received by the recipient within the relevant period specified.