

## **APPENDIX 3 – OFFICER EMPLOYMENT PROCEDURE RULES**

### **1. Recruitment and appointment**

- 1.1 The Council require any candidate for appointment as an officer under the Council 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 Member or senior officer of the Council; or the partner of such persons.
- 1.2 Any candidate who fails to make any disclosure required under subparagraph (i) above shall be disqualified for such appointment and, if appointed, shall be liable to dismissal without notice.
- 1.3 Every member and senior officer of the Council shall disclose to the Council any relationship known to him to exist between himself and a candidate for an appointment of which he is aware.
- 1.4 It shall be the duty of every Chief Officer and senior officer to whom such relationship is disclosed to record the disclosure and to notify the Director of Democracy, Law and Transformation accordingly.
- 1.5 No candidate so related to a Member of the County Council or a senior officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by him.
- 1.6 Where such relationship to a member of the Council exists the Member of the Council concerned shall not take part in the consideration, or discussion of, or vote on, any question with respect to the appointment.
- 1.7 For the purpose of this paragraph 1.1 'senior officer' means the holder of any politically restricted post.
- 1.8 The Council will disqualify any applicant who directly or indirectly seeks the support of any Member of the County Council or Chief Officer for any appointment with the Council.
- 1.9 No Member will seek support for any person for any appointment with the Council.
- 1.10 Nothing in paragraph 1.9 shall preclude a Member of the County Council from giving a written testimonial on a candidate's ability, experience or character for submission with or in connection with that candidate's application.
- 1.11 The content of paragraphs 1.1 to 1.11 will be stated in the advertisement inviting applications for appointment and/or in any form of application supplied for use by candidates.

## **2. Recruitment of Head of Paid Service and Chief Officers and Wider Leadership Team**

- 2.1 Where the Council proposes to appoint the Head of Paid Service or a Chief Officer or a member of the Wider Leadership Team and it is not proposed that the appointment will be made exclusively from among their existing officers, the Council will:
- 2.1.1 Draw up a statement specifying the duties of the officer concerned and any qualifications or qualities to be sought in the person to be appointed.
- 2.1.2 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.
- 2.1.3 Make arrangements for a copy of the statement mentioned in paragraph 2.1.1 to be sent to any person on request.
- 2.2 For the purpose of this Appendix the term 'Chief Officer' and 'Wider Leadership Team' mean the holders of posts of Chief Officer and Deputy Chief Officer within the meaning of those terms in the Local Government and Housing Act 1989.

## **3. Appointment and Dismissal of Head of the Paid Service – Special Provisions**

- 3.1 Where a Special Committee of the Council referred to in paragraphs 4.4 or 5.2 below is discharging, on behalf of the Council, the function of the appointment or dismissal of an officer designated as the Head of the Paid Service, the Council must approve that appointment before an offer of appointment is made to him or, as the case may be, must approve that dismissal before notice of dismissal is given to him.

## **4. Appointment of the Head of the Paid Service, Chief Officers and Wider Leadership Team**

- 4.1 Subject to paragraphs 3.1 above and 4.5 below, the Committee of the Council referred to in paragraph 4.4 below will be responsible for appointing the Officers referred to in Paragraph 4.3 of Section 11 of the Constitution.
- 4.2 Where an appointment is to be made to a post referred to in Paragraph 4.3 of Section 11 of the Constitution and the post has been advertised as provided for in paragraph 2.1.2 above, the Chief Executive in consultation with the Chairman of the County Council, the Leader of the Council, the appropriate Portfolio Holder(s), and the Chairman of the appropriate Committee(s) shall, after preliminary interview or otherwise, select a long list of such qualified applicants for short listing and interview by the Special Committee of the Council referred to in paragraph 4.4 below.

- 4.3 Where no qualified person has applied for the appointment; or no qualified applicant is selected for interview, or the Special Committee referred to in paragraph 4.4 below do not make an appointment then the Chief Executive shall (unless no appointment to the post is to be made) readvertise the appointment under paragraph 2 above.
- 4.4 For the purpose of an appointment to which paragraph 4.2 applies, a Special Committee of the Council shall be established comprising the Chairman of the County Council (or a member of the County Council nominated by him to represent him), together with; (a) not less than one nor more than four Cabinet members nominated by the Leader of the Council; and (b) an equal number of non-Cabinet members of the County Council nominated by the Chief Executive in consultation with the Group Leaders and shall have power, subject to paragraphs 3.1 above and 4.5 below, to make that appointment.
- 4.5 An offer of an appointment as an officer referred to in Paragraph 4.3 of Section 11 of the Constitution shall not be made by or on behalf of the Special Committee of the Council referred to in paragraph 4.4 above until:-
- 4.5.1 The Committee has notified the Proper Officer of the name of the person to whom the Committee wishes to make the offer and any other particulars which the Committee considers are relevant to the appointment.
- 4.5.2 The Proper Officer has notified every Cabinet Member of the name of the person to whom the Committee wishes to make the offer, any other particulars relevant to the appointment which the Committee has notified; and the period within which any objection to the making of the offer is to be made by the Leader of the Council on behalf of the Cabinet to the Proper Officer.
- 4.5.3 The Leader of the Council has, within the period specified under subparagraph notified the Proper Officer that neither he nor any other Cabinet Member has any objection to the making of the offer; or the Proper Officer has notified the Committee that no objection was received by him within that period from the Leader of the Council; or the Committee is satisfied that any objection received from the Leader of the Council on behalf of the Cabinet within that period is not material or is not well-founded.
- 5. Dismissal of, and disciplinary action against, the Head of the Paid Service, Chief Officers and Wider Leadership Team**
- 5.1 Subject to paragraphs 3.1 above and 5.5 below, the Committee of the Council referred to in paragraph 5.2 below will be responsible for taking disciplinary action against an Officer referred to in Paragraph 4.3 of Section 11 of the Constitution.
- 5.2 For the purposes of this Section 5 of this Appendix the term 'disciplinary action' is limited to dismissal for any reason other than redundancy, permanent ill-health or infirmity of mind or body; and such other disciplinary

action not amounting to dismissal as requires the involvement of the Committee in order to meet the County Council's obligations under the terms and conditions of service of that officer; but not further or otherwise

- 5.3 Where disciplinary action is proposed to be taken against, or the dismissal is proposed of, an officer referred to in Paragraph 4.3 of Section 11 of the Constitution a Special Committee of the Council shall be established comprising the Chairman of the County Council, and such Cabinet Members, being not less than one and up to four in number, as the Leader of the Council shall nominate and such other members of the Council, being not less than one and up to four in number, as the Council may appoint.
- 5.4 In cases of urgency the Special Committee referred to in paragraph 5.3 may be appointed by the Chairman of the County Council on behalf of the Council and the action of the Chairman of the County Council shall be reported to the next following meeting of the Council.
- 5.5 Notice of the dismissal of an officer referred to in Paragraph 4.3 of Section 11 of the Constitution must not be given by or on behalf of the Special Committee referred to in paragraph 5.2 above until:–
- 5.5.1 The Committee has notified the Proper Officer of the name of the person who the Committee wishes to dismiss and any other particulars which the Committee considers are relevant to the dismissal.
- 5.5.2 The Proper Officer has notified every Cabinet Member of the name of the person who the Committee wishes to dismiss, any other particulars relevant to the dismissal which the Committee has notified and the period within which any objection to the dismissal is to be made by the Leader of the Council on behalf of the Cabinet to the Proper Officer.
- 5.5.3 The Leader of the Council has, within the period specified under paragraph 5.5.2 notified the Proper Officer that neither he nor any other Cabinet Member has any objection to the dismissal; or the Proper Officer has notified the Committee that no objection was received by him within that period from the Leader of the Council; or the Committee is satisfied that any objection received from the Leader of the Council on behalf of the Cabinet within that period is not material or is not well-founded.

6. **Recruitment, selection and dismissal of the Officer designated as the Director of Public Health**

**Appointment**

- 6.1 A Director of Public Health must be appointed jointly by the Council and the Secretary of State (acting by Public Health England), however employment will be exclusively with the Council.

- 6.2 The role of the Secretary of State in the appointment of a Director of Public Health is to provide additional assurance of the Directors competency.
- 6.3 The Council must design a job description that includes specialist public health leadership and an appropriate span of responsibility for improving and protecting health, advising on health services and ensuring that the impact on health is considered in the development and implementation of all policies.
- 6.4 The Council must make considerable effort to agree the job description with the Faculty of Public Health and the Public Health England Regional Director, to ensure that the job description covers all the necessary areas.
- 6.5 An Advisory Appointments Committee must be set up by the Council which will make recommendations on the appointment to the leader of the Council.
- 6.6 The Advisory Appointments Committee should be chaired by a lay member, such as an elected member of the Council (e.g the cabinet member of the Health and Well Being Board). It should also include:
- a. an external professional assessor, appointed after consultation with the Faculty of Public Health
  - b. the chief executive or other head of paid service of the appointing Council
  - c. senior local NHS representation
  - d. the Public Health England regional director, or another senior professionally qualified member of Public Health England acting on his or her behalf
  - e. in the case of appointments to posts which have teaching or research commitments, a professional member nominated after consultation with the relevant university.
- 6.7. Public Health England will also assist the Council in offering advice in relation to the recruitment and selection process, and will also confirm to the Council the Secretary of State's agreement to the appointment.
- 6.8 The Council must assure themselves of the Director of Public Health's competency before appointing by ensuring that he/she:
- a. Undertakes a Faculty of Public Health continuing professional development programme;

- b. Maintains a portfolio of training that demonstrates competence with all aspects of public health accepted by the UK Public Health Register.

### **Dismissal**

- 6.9 The Council must consult the Secretary of State before dismissing the Director of Public Health.
- 6.10 The Council should contact Public Health England for advice on how to proceed with the consultation. Public Health England will then provide the Secretary of States formal response within 21 days.
- 6.11 During the consultation period with the Secretary of State, the Council may suspend the Director of Public Health from his or her duties following the Council's standard rules and procedures.
- 6.12 Although the Council has a duty to consult with the Secretary of State regarding the dismissal of the Director of Public Health, the Secretary of State cannot refuse the Council permission to dismiss a Director of Public Health.
- 6.13 During the Director of Public Health's employment with the Council, if the Secretary of State believes that Director of Public Health is not properly carrying out any Secretary of State function that has been delegated to the Council, they can direct the Council to review the Director of Public Health's performance, and to consider taking particular steps and reporting back to the Secretary of State.

### **Interim Appointments**

- 6.14 In addition to paragraph 2.2 of Section 11, before designating another officer as an Interim Statutory Officer, the Chief Executive (or in his absence Chief Finance Officer) and the Monitoring Officer must take all reasonable steps to ensure that the Interim Statutory Officer meets the requirements of paragraph 6.8.

### **7. Other appointments**

- 7.1 Appointments of officers who are not within the scope of paragraph 4.3 of Section 11 of the Constitution are, in accordance with paragraph 9.2 below, the responsibility of the Head of the Paid Service or the Chief Officer responsible for the Department to which the appointment is to be made, and may not be made by members of the County Council.
- 7.2 The appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

**8. Disciplinary Action in respect of the Head of the Paid Service, the Monitoring Officer and the Chief Financial Officer – further provision**

8.1 The Head of Paid Service, Monitoring Officer and Chief Financial 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 on which the suspension takes effect.

8.2 No other disciplinary action may be taken in respect of any of those officers except in accordance with the applicable Regulations and a recommendation in a report made by a designated independent person.

**9. Dismissal and other disciplinary action – Involvement of Members**

9.1 Subject to the provisions of Section 5 of this Appendix, Members will not be involved in the dismissal of, or other disciplinary action against, any officer except where such involvement is necessary to assist any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to a Panel of the Audit and Standards Committee in respect of dismissals or other disciplinary action.

**10. Powers of Chief Officers in relation to employment matters**

10.1 The powers set out in paragraph 9.2 below are in all cases subject to the preceding paragraphs of this Appendix, to the provisions of The Scheme of Delegation in Appendix 1 of Section 11 of the Constitution, and are in addition to the powers of the Chief Executive under the relevant Regulations.

10.2 Chief Officers, and those members of staff designated as having sub-delegated powers relating to staffing and personnel matters under sub-delegation schemes approved The Scheme of Delegation in Appendix 1 of Section 11 of the Constitution, are nominated by the Chief Executive for the purpose of taking and have delegated authority to take, decisions relating to staffing and personnel matters, (including disciplinary action which does not require the involvement of the Cabinet or a Committee in order to meet the County Council's obligations under the applicable terms and conditions of service of the employee in question) unless:-

10.2.1 The decision relates to the early retirement or redundancy of one or more employees, in which case the arrangements set out in 'Early Retirement Policy – Notes of Guidance' apply.

10.2.2 The decision relates to a variation in the grade or rate of pay of a post where the current grade or rate of pay was determined following the application of a formal scheme of job evaluation. In this regard:-

10.2.2.1 Head of Service posts and PO Special graded posts above SCP 53 must be submitted to the Head of Corporate HR, who will arrange for the post to

be re-evaluated. Where this produces a higher grade or rate of pay the Chief Officer concerned may authorise the increase from such date as he determines.

- 10.2.2.2 Posts covered by the 1987 national Manual Worker job evaluation be reviewed in accordance with the procedures agreed by the County Council at that time.
- 10.2.2.3 Posts which are evaluated using the new JNC scheme will be dealt with in accordance with such arrangements as the County Council agrees with the relevant trade unions at the due time, having regard to the advice set out in Part 4 of the Green Book.
- 10.3 The decision relates to a variation in the number and/or deployment of posts graded Head of Service Band 4 and above. Where such is intended the Chief Officer concerned must refer to the Chief Executive. The approval of the Cabinet is required for variations in the number and/or deployment of posts at this level. For the purpose of this paragraph 'deployment' means the replacement of one post by another post which is sufficiently different to require a fresh appointment.
- 10.4 Before exercising delegated authority in respect of the following, the Chief Officer must consult as indicated:-
  - 10.4.1 Decisions taken by Chief Officers using the powers delegated to them must be consistent with County Council staffing policy and the relevant legislation. Where a Chief Officer is unclear on policy or on the interpretation or application of legislation, or is concerned that a particular course of action may have implications for other Departments or attract public comment, then before taking a decision he must consult the Director of Democracy, Law and Transformation the Head of Human Resources and the Director of Finance and Resources. This applies whether or not the decision relates to one of the areas listed in 9.4.2 to 9.4.6 below.
  - 10.4.2 Before including in fixed term contracts clauses requiring the waiver of the right to claim unfair dismissal and/or entitlement to redundancy pay/compensation lump sum, Chief Officers should consult the Director of Democracy, Law and Transformation as to the efficiency of this course of action and, as appropriate, the form of wording to be used.
  - 10.4.3 The Head of Human Resources shall be consulted where it is proposed to pay honoraria/ex-gratia payments other than in circumstances where the employee is carrying out the duties of a higher graded post.
  - 10.4.4 Overseas visits by officers must be approved in advance and before departure by the relevant Chief Officer personally.
  - 10.4.5 Before authorising discretionary payments to staff under the Local Authority (Discretionary Payments) Regulations 1996, the Local Government Pension Scheme Regulations, the Injury Benefits Scheme or the scheme

for the reimbursement of legal costs (violence against staff), Chief Officers must consult the Director of Finance and Resources.

- 10.4.6 Redundancy excepted, Chief Officers shall consult the Director of Democracy, Law and Transformation before dismissing an employee in circumstances which could give rise to the right to claim unfair dismissal.