

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

### **1. Recruitment and Appointment of Officers of the Council**

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 sub-paragraph 1.1 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 Strategy, Governance and Change 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 paragraphs 1.8 or 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 1.10 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**

**Note: These arrangements do not apply to officers appointed as assistants to political groups [see paragraph 6.2 below]**

**Note: There are special provisions in respect of the Director of Public Health that are described in section 5 below**

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, 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 externally advertised to bring it to the attention of persons who are qualified to apply for it [unless applicants are to be sought only from among the Council's existing staff].

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 of Head of Paid Service and Chief Officers and Wider Leadership Team**

## **Longlisting [if necessary]**

### **Head of Paid Service**

3.1 A Special Committee of the Council shall be established in accordance with paragraph 3.3 below in order to select a long list of such qualified applicants for preliminary interview (or other selection process), short listing and interview in accordance with these procedural rules.

### **Chief Officers and Wider Leadership Team**

3.2 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 below.

### **Shortlisting and Interview**

3.3 A Special Committee of the Council shall be established comprising:

3.3.1 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 head of paid service appointments being confirmed by Council and all other appointments being consulted upon with the Cabinet (in accordance with paragraph 3.4 below), to make that appointment.

3.4 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 until:-

- The Committee has notified the Proper Officer (i.e. the Director of Strategy, Governance and Change) 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.

- 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.
- 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.

### **Where no appointment is made**

3.5 Where no qualified person has applied for the appointment; or no qualified applicant is selected for interview, or the Special Committee do not make an appointment then the Chief Executive shall (unless no appointment to the post is to be made) re-advertise the appointment under section 2 above.

### **Appointment of Head of the Paid Service - Special provisions**

3.6 Where a Special Committee of the Council is discharging, on behalf of the Council, the function of the appointment of an officer designated as the Head of the Paid Service (i.e. the Chief Executive), the full Council must approve that appointment before an offer of appointment is made to that person.

## **4. Disciplinary action (including Dismissal) in respect of Head of Paid Service and Chief Officers and Wider Leadership Team**

4.1 For the purposes of this Section 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

4.2 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 (or a member of the County Council nominated by him to represent him), 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.

4.3 In cases of urgency the Special Committee 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.

**Dismissal [other than the Head of the Paid Service, Monitoring Officer or Chief Finance Officer]**

4.4 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 4.2 above until:–

4.4.1 The Committee has notified the Proper Officer [Director of Strategy, Governance and Change] 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.

4.4.2 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.

4.4.3 The Leader of the Council has, within the period specified under paragraph 4.4.2 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.

**Dismissal of Head of the Paid Service (i.e. the Chief Executive), the Monitoring Officer (i.e. the Director of Strategy, Governance and Change) or the Chief Finance Officer (i.e. the Director of Finance and Resources) - Special provisions**

4.5 The Head of the Paid Service, the Monitoring Officer or the Chief Finance Officer may not be dismissed by the authority unless the procedure set out below is complied with.

4.5.1 A Special Committee as described in 4.2 is established

4.5.2 The authority must invite relevant independent persons to be considered for appointment to the Special Committee, with a view to appointing at least two such persons to the Special Committee.

4.5.3 In paragraph 4.5.2 “relevant independent person” means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.

4.6 Subject to paragraph 4.7, the authority must appoint to the Special Committee such relevant independent persons who have accepted an invitation issued in accordance with paragraph 4.5.2 in accordance with the following priority order—

(a) a relevant independent person who has been appointed by the authority and who is a local government elector;

(b) any other relevant independent person who has been appointed by the authority;

(c) a relevant independent person who has been appointed by another authority or authorities.

4.7 An authority is not required to appoint more than two relevant independent persons in accordance with paragraph 4.6 but may do so.

4.8 The authority must appoint any Special Committee at least 20 working days before the relevant meeting of the full Council.

4.9 Where a Special Committee of the Council is discharging, on behalf of the Council, the functions of the dismissal of an officer designated as the Head of the Paid Service (i.e. the Chief Executive), the Monitoring Officer (i.e. the Director of Strategy, Governance and Change) or the Chief Finance Officer (i.e. the Director of Finance and Resources), the full Council must approve that dismissal before notice of dismissal is given to that person.

4.10 Before the taking of a vote at the relevant meeting of the full Council 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 Special Committee;

(b) the conclusions of any investigation into the proposed dismissal; and

(c) any representations from the relevant officer.

4.11 Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Special Committee must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the Localism Act 2011

## **5. Appointment and dismissal of the Officer designated as the Director of Public Health**

## **Appointment**

5.1 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.

5.2 The role of the Secretary of State in the appointment of a Director of Public Health is to provide additional assurance of the Director's competency.

5.3 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.

5.4 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.

5.5 An Advisory Appointments Committee must be set up by the Council which will make recommendations on the appointment to the Leader of the Council.

5.6 The Advisory Appointments Committee should be chaired by a lay member, such as an elected member of the Council (e.g. the Cabinet Member with responsibility for Public Health matters). 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.



5.7. 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.

5.8 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**

5.9 The Council must consult the Secretary of State before dismissing the Director of Public Health.

5.10 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.

5.11 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.

5.12 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.

5.13 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**

5.14 In addition to paragraph 2.2 of Section 11 of the Constitution, before designating another officer as an Interim Director of Public Health, the Chief Executive (or in his absence Chief Finance Officer) and the Monitoring Officer must take all reasonable steps to ensure that the Interim Director meets the requirements of paragraph 5.8.

## **6. Other appointments**

6.1 Appointments of officers who are not within the scope of paragraph 4.3 of Section 11 of the Constitution are, in accordance with paragraph 8.2 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.

6.2 The appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

## **7. Dismissal and other disciplinary action – Involvement of Members**

7.1 Subject to the provisions of Sections 4 and 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 Special Committee of the Audit and Standards Committee in respect of dismissals or other disciplinary action.

## **8. Powers of Chief Officers in relation to employment matters**

8.1 The powers set out in paragraph 8.2 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.

8.2 Chief Officers, and those members of staff designated as having sub-delegated powers relating to staffing and personnel matters under sub-delegation schemes, are nominated by the Chief Executive for the purpose of taking decisions relating to staffing and personnel matters (including disciplinary action) unless:-

8.2.1 The decision relates to the early retirement or redundancy of one or more employees, in which case the appropriate and relevant Council arrangements shall apply.

8.2.2 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. Such decisions should be dealt with as follows:

8.2.2.1 Head of Service posts and PO Special graded Posts above SCP 53 must be submitted to the Head of Human Resources, 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/she determines.

8.2.2.2 Posts covered by the 1987 national Manual Worker job evaluation will be reviewed in accordance with the procedures agreed by the County Council at that time.

8.2.2.3 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 and which are applicable at the relevant time, having regard to the advice set out in Part 4 of the Green Book.

8.2.3 The decision relates to a variation in the number and/or nature of posts graded Head of Service Band 4 and above. Such decisions are reserved to the Chief Executive in consultation with the Leader and Deputy Leader of the Council. For the purpose of this paragraph a variation in nature occurs where a post is changed so significantly that it effectively amounts to the replacement of the existing post with a new post.

8.4 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 Strategy, Governance and Change, the Head of Human Resources and the Director of Finance and Resources..

8.5 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 Strategy, Governance and Change.

8.6 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.

8.7 Overseas visits by officers must be approved in advance and before departure by the relevant Chief Officer personally.

8.8 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.

8.9 Redundancy excepted, Chief Officers shall consult the Director of Strategy, Governance and Change before dismissing an employee in circumstances which could give rise to the right to claim unfair dismissal.