

# **Appendix B – Draft Proposed Rules**

## **STAFF EMPLOYMENT PROCEDURE RULES**

### **1 PURPOSE**

#### 1.1 These rules:

- 1.1.1 set out the general principles and requirements in relation to the appointment and dismissal of, and taking disciplinary action against, officers;
- 1.1.2 define the role of the Leader, Members, officers and others in the employment of Council officers; and
- 1.1.3 incorporate the mandatory standing orders relating to the employment of officers that apply to all local authorities and set out in the Local Authorities (Standing Orders) Regulations 1993 (as amended) and the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended).

#### 1.2 These rules are supplemented by, or should be read in conjunction with:

- 1.2.1 the oneSource Inter-Authority Agreement between the London Boroughs of Havering and Newham dated 1 September 2014 as varied from time to time; and
- 1.2.2 Operational Guidance and/or HR Policies and Procedures issued by the Chief Executive and/or the Director of Human Resources and Organisational Development from time to time.

#### 1.3 Any changes to these rules will be approved by Full Council but the Chief Executive is authorised to make minor changes to ensure that the rules remain accurate, relevant and up to date. For example, the Chief Executive may update job titles or grades to reflect the management structure of the Council current at the time.

### **2 RECRUITMENT AND APPOINTMENT**

#### **Declarations**

- 2.1 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.

- 2.2 No candidate so related to a councillor or an officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by him/her.

### **Seeking support for appointment**

- 2.3 The Council will disqualify any applicant who directly or indirectly seeks the support of any Member for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- 2.4 No Member will seek support for any person for any appointment with the Council.

### **Recruitment of Chief Executive and Chief Officers**

- 2.5 Where the Council proposes to appoint the Chief Executive or a Chief Officer and it is not proposed that the appointment be made exclusively from existing officers, the Council will:
- 2.5.1 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;
  - 2.5.2 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;
  - 2.5.3 make arrangements for a copy of the statement mentioned in sub-paragraph (i) to be sent to any person on request; and
  - 2.5.4 make arrangements for at least a short list of qualifying applicants to be interviewed.

### **Appointment of Chief Executive**

- 2.6 Full Council will approve the appointment of the Chief Executive (as the Head of Paid Service) following the recommendation of such an appointment by the Committee.
- 2.7 The Director of Human Resources and Organisational Development will be responsible for the functions set out at 2.5 for the appointment of the Chief Executive following consultation with the relevant Cabinet Member(s).

### **Appointment of Chief Officers and Deputy Chief Officers**

- 2.8 The Chief Executive will be responsible for the functions set out at paragraph 2.5 following consultation with the relevant Cabinet Member(s).
- 2.9 Subject to paragraph 2.10, the Committee will be responsible for the appointment of the following posts:
- 2.9.1 Chief Officers; and

- 2.9.2 Deputy Chief Officers [subject to Governance Committee consideration of the list of Deputy Chief Officers]
- 2.10 Paragraph 2.9 does not apply to posts where, in the event of a restructure, an officer is assessed as having direct non-competitive assimilation to a post.
- 2.11 The Chief Executive will be responsible for the appointment of all other Deputy Chief Officer posts (or other posts subject to the 2001 Regulations) [ subject to Governance Committee consideration of the list of Deputy Chief Officers].
- 2.12 An offer of employment as a Chief Officer or a Deputy Chief Officer will only be made if:
- 2.12.1 the procedure set out in **Appendix 1** is followed; and
  - 2.12.2 no well-founded objection has been made by the Leader or any Cabinet Member.
- 2.13 An offer of employment as the Director of Public Health will be made in accordance with the additional statutory requirements that apply to this post. In particular, the appointment will be made jointly with the Secretary of State for Health and Social Care.

#### **Other Appointments**

- 2.14 The Chief Executive is responsible for the appointment of all other Council employees.
- 2.15 Prior to making an appointment of a Deputy Chief Officer post, the Chief Executive will follow the procedure set out in **Appendix 1** [this clause will only apply if Governance Committee decide that the appointment to any Deputy Chief Officer posts should be delegated to officers].
- 2.16 The appointment of an assistant to a political group will be made in accordance with the wishes of that political group and other requirements prescribed by law.

#### **Interim, temporary or fixed term appointments**

- 2.17 Decisions to appoint a Chief Officer or a Deputy Chief Officer [where a permanent appointment would be made by members] on an interim, temporary or fixed term contract will be made by the Chief Executive but limited to one year (including any contract extensions). Following such appointment, the Chief Executive will notify the Committee in writing setting out the timescales for a permanent appointment.
- 2.18 Prior to extending the appointment of a Chief Officer or a Deputy Chief Officer [where a permanent appointment would be made by members] on an interim, temporary or fixed term contract beyond one year, the approval of the Committee shall be obtained.

2.19 The appointment of a Chief Executive on an interim, temporary or fixed term basis will be recommended by the Committee for approval by Full Council.

### **3 DISCIPLINARY ACTION**

#### **General**

- 3.1 Subject to paragraph 3.5, any proposal in relation to the dismissal or the taking of disciplinary action against the Chief Executive or a Chief Officer will be considered by the Committee.
- 3.2 Any proposal in relation to the dismissal or the taking of disciplinary action against other officers will be the responsibility of the Chief Executive or the relevant officer under the Council's Scheme of Delegation.
- 3.3 Members will not be involved in the taking of disciplinary action against or the dismissal of any officer below Deputy Chief Officer except where such involvement is necessary as part of an investigation, inquiry or appeal.

#### **Chief Executive, Monitoring Officer and Chief Finance Officer**

- 3.4 The Committee may suspend the Chief Executive, the Monitoring Officer or the Chief Finance Officer whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and will be reviewed if it lasts longer than two months.
- 3.5 A proposal to dismiss the Chief Executive, Monitoring Officer or Chief Finance Officer, as a result of 'disciplinary action' (as defined by regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001) will be approved at a meeting of Full Council before notice of dismissal is given. Before the taking of a vote at any such meeting, Full Council will take into account, in particular:
- (i) any advice, views or recommendations of an Independent Panel, comprising of at least two Independent Persons, appointed by Full Council for the purposes of advising the Council;
  - (ii) the conclusions of any investigation into the proposed dismissal; and
  - (iii) any representations from the officer concerned.
- 3.6 The Independent Panel referred to in paragraph 3.5(i) will be appointed at least 20 working days before the relevant Full Council meeting.

## **Chief Executive, Chief Officers and Deputy Chief Officers**

- 3.7 Before notice is given of the dismissal of the Chief Executive, a Chief Officer or a Deputy Chief Officer, the notification and objection procedure set out in **Appendix 1** will be followed as if references to the appointment of an officer (e.g. 'make an offer', 'appointment', 'appointing officer' etc.) are to the dismissal of an officer (e.g. 'dismiss', 'dismissal', 'notice of dismissal' etc.) as appropriate.

## **Director of Public Health**

- 3.8 The Secretary of State for Health and Social Care will be consulted before terminating the appointment of the Director of Public Health.

## **4 DEFINITIONS**

**Chief Executive** = the Head of Paid Service designated under section 4(1) of the Local Government and Housing Act 1989. Where reference is made to the exercise of a function by the Chief Executive, it includes his/her nominee.

**Chief Finance Officer** = the officer having responsibility for the purposes of section 151 of the Local Government Act 1972.

**Chief Officer** = an officer for which the Chief Executive is directly responsible or an officer who reports directly to or is directly accountable to the Chief Executive (but not if their duties are solely secretarial or clerical or are otherwise in the nature of support services); an officer who reports directly or is directly accountable to the Council (or a Council committee or sub-committee); the Monitoring Officer or the Director of Public Health.

**Committee** = the Appointments Sub-Committee or such other Council committee, sub-committee or panel responsible for exercising the Council's employment functions. The Committee must include at least one Cabinet Member.

**Deputy Chief Officer** as defined by section 2 of the Local Government and Housing Act 1989.

**Independent Persons** any appointment under section 28(7) of the Localism Act 2011.

**Monitoring Officer** the officer designated under section 5(1) of the Local Government and Housing Act 1989.

**Political assistant(s)** any appointment under section 9 of the Local Government and Housing Act 1989.

## Appendix 1: Cabinet Objection Procedure

- 1 This procedure will apply to the appointment of the following posts:
  - 1.1 Chief Executive;
  - 1.2 Chief Officers;
  - 1.3 Deputy Chief Officers;
  - 1.4 Any other post identified by the 2001 Regulations.
- 2 If the Committee or an officer agrees on a candidate suitable for appointment to a post, they will submit their recommendation of an offer of employment to the Chief Executive as soon as practicable in writing.
- 3 Where the Chief Executive is the appointing officer, they will simply take the steps at 4 onwards.
- 4 The Chief Executive will then notify each Cabinet Member of:
  - 4.1 the name of the person the Committee or officer wish to make an offer;
  - 4.2 any other particulars relevant to the appointment;
  - 4.3 the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet, (or a shorter period which will be determined by the Chief Executive in cases of urgency).
- 5 The notification will be by e-mail and **the period of objection will be 2 working days** but a Cabinet Member may provide a response within a shorter period. If the period of objection is to be shortened, then notification will be by telephone and e-mail.
- 6 Cabinet Members may indicate they have no objection verbally (which will be recorded by the Chief Executive) or in writing (including email). Any objections including the grounds on which it is considered to be well founded must be submitted to the Leader by a Cabinet Member in writing including by email.
- 7 If:
  - 7.1 the Leader notifies the Chief Executive that neither s/he or any other Cabinet Member has an objection to the making of the offer; or
  - 7.2 the Chief Executive notifies the Committee, that no objection has been received from the Leader within the objection period;

an offer of employment may be made to the candidate without the need for the Committee to re-convene.

- 8 If an objection is received from the Leader, the Committee or officer, as appropriate, will re-convene to consider the objection and, if satisfied that any objection received from the Leader is not material or is not well founded, will confirm its decision and a formal offer will be made. In making this decision, legal and human resources advice must be taken.
- 9 If an objection is considered to be well founded, the Committee, Sub Committee or officer must take legal and human resources advice on the action to be taken but the appointment may not be made at this time.