



COUNCIL

Subject Heading:

SLT Lead:

Report Author and Contact Details:

Policy Context:

Financial Summary:

Staff Employment Procedure Rules

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Governance

None

The subject matter of this report deals with the following council objectives:

Communities making Havering	[]
Places making Havering	[]
Opportunities making Havering	[]
Connections making Havering	[]

SUMMARY

This report seeks approval of proposed changes to Part 5 of the Constitution, which contains the Staff Employment Procedure Rules (“the Rules”). The proposed changes have been approved for recommendation to Council by the Governance Committee, which considered the Rules at its meeting on 13 January 2021.

RECOMMENDATIONS

That Council:

1. agree the proposed Rules attached at **Appendix B**
2. authorise the Monitoring Officer to update the Constitution and make all necessary consequential changes

REPORT DETAIL

1 Background

- 1.1 All local authorities are required by law to incorporate into their constitutions, as standing orders, rules relating to the employment of officers. These rules include the appointment, the taking of disciplinary action against, and the dismissal of officers, and are currently found in the Local Authorities (Standing Orders) Regulations 1993 as amended and the Local Authorities (Standing Orders) (England) Regulations 2001 as amended.

2 Key Considerations and Proposals

- 2.1 The current Staff Employment Procedure Rules are attached at **Appendix A**. The proposed Rules are attached at **Appendix B**. The Rules have been rewritten to improve the wording and formatting of the text, to remove obsolete job titles, and to reflect decisions made by the Governance Committee at its meeting on 13 January 2021. If these new Rules are approved, they will have the following principal effects:
 - 2.1.1 Members will be responsible for appointing the Chief Executive, all Chief Officers, and those Deputy Chief Officers graded G11 and above. A list of all existing roles that fall within this definition is attached at **Appendix C**.
 - 2.1.2 The Chief Executive (or his/her nominee) will be responsible for interim, temporary or fixed-term appointments to Chief Officer and Deputy Chief Officer roles graded G11 and above, subject to the requirements and limits specified in paragraphs 2.17 – 2.20 of the Rules. In addition, the proposed Rules:
 - require the Chief Executive, upon making a temporary appointment, to notify the Appointments Sub-Committee in writing of the timescales for making a permanent appointment; and

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- in cases where it is proposed to extend a temporary appointment beyond one year, require the Chief Executive to obtain approval of the extension from the Appointments Sub-Committee.

2.1.3 Members will be responsible for taking disciplinary action against and the dismissal of the Chief Executive and Chief Officers. There are specific statutory provisions that apply to the dismissal of the Chief Executive, Monitoring Officer and Chief Finance Officer, which are detailed in paragraphs 3.4 – 3.6 of the Rules. Taking disciplinary action against and the dismissal of Deputy Chief Officers will be a matter for the Chief Executive.

2.1.4 The Chief Executive may make minor changes to the Rules to ensure they remain accurate and up to date – for example, by updating job titles or grades to reflect changes to the Council's management structure as and when they occur.

2.2 Under the proposed Rules, member decision-making in relation to employment matters will continue to be the responsibility of the Appointments Sub-Committee, other than in the case of the Executive Director of oneSource and the oneSource Directors, where member decision-making will continue to be via the oneSource Joint Committee.

Detailed comparison of the current and proposed Rules

2.3 The following table compares the current Rules at **Appendix A** with the proposed Rules at **Appendix B**.

Current Rules	Comments (para. numbers are to the draft Rules – see Appendix 2)
Para. 1 (Seeking support for appointment)	Replaced by para. 2.3 & 2.4
Para. 2 (Declarations)	Replaced and amended by para. 2.1 and 2.2
Para. 3 (Recruitment)	Replaced by para. 2.5
Para. 4 (Appointment of Head of Paid Service)	Replaced by para. 2.6
Para. 5 (Appointment of Deputy Chief Executives, Chief Finance Officer, Monitoring Officer, Assistant/Deputy Directors and Heads of Service)	Replaced by para. 2.9, 2.11, 2.12, 2.15 and Appendix 1
Para. 6 (Appointment of Director of Public Health)	Replaced by para. 2.13
Para. 7 (Appointment of oneSource Directors)	Replaced by para. by 1.2.1

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Current Rules	Comments (para. numbers are to the draft Rules – see Appendix 2)
Para. 8 (Assistants to political groups)	Replaced by para. 2.16
Para. 9 (Disciplinary action)	Replaced by para. 3.5
Para. 10 (Suspension)	Replaced and amended by para. 3.4. The decision to suspend rests with the Committee only
Para. 11 (Independent person)	Replaced by para. 3.5
Para. 12 (Dismissal)	Replaced by para. 3.3
Para. 13 (Role of the Cabinet)	Replaced by para. 4 – see definition of “Committee”
Para. 14 (Appointment process)	Replaced by para. 2.12 and Appendix 1
Para. 15 (Dismissal process)	Replaced by para. 3.7 and Appendix 1
Para. 16 (Dismissal of Head of Paid Service, Chief Finance Officer and Monitoring Officer)	Replaced by para. 3.5
Para. 17 (Independent Persons)	Replaced by para. 3.5 (as necessary)
Para. 18 (Appointment of Panel)	Replaced by para. 3.6
Para. 19 (Determination of Proposal to Dismiss)	Replaced by para. 3.5
Para. 20 (Remuneration of Independent Persons)	Deleted – this is stated in the 2001 Regulations (see para. 1.1.3)
Para. 21 (Capability process)	Deleted – unnecessary and/or covered by para. 1.2.2
Para. 22 (Grievance process)	
Para. 23 (Bullying and Harassment process)	

IMPLICATIONS & RISKS

Financial implications and risks:

N/A

Legal implications and risks:

These are incorporated into the body of the report.

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Human Resources implications and risks:

These are incorporated into the body of the report.

Equalities implications and risks:

Under section 149 of the Equality Act 2010, the Council has a duty when exercising its functions to have “due regard” to the need to eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act and advance equality of opportunity and foster good relations between persons who have a protected characteristic and persons who do not. This is the public sector equality duty. The protected characteristics are age, disability, ethnicity, gender and gender reassignment, marriage and civil partnership status, pregnancy and maternity status, religion or belief and sexual orientation.

“Due regard” is the regard that is appropriate in the circumstances. The weight to be attached to each need is a matter for the Council. As long as the Council is properly aware of the effects and has taken them into account, the duty is discharged. There are no direct equality implications arising from the proposed changes to the Rules, but the Council’s policies, procedures and practices are designed to achieve equality of treatment and a level playing field.

Background Papers

None