

## APPOINTMENT AND DISCIPLINE OF STAFF

### 1. INTRODUCTION

- 1.1 In this Appendix "Director", for the purpose of this Appendix, applies to the following officers of the Council:
- a. Chief Executive (Head of Paid Service)
  - b. Director of Education
  - c. Director of Environment
  - d. Director of Policy and Community
  - e. Director of Social Care and Strategic Housing
  - f. County Secretary and Solicitor (Monitoring Officer)
  - g. County Treasurer (Section 151 Officer)

This Appendix (except paragraphs **8** and **9**) shall not apply to teachers.

### 2. DIRECTORS - APPOINTMENTS

- 2.1 When a vacancy occurs in any of the posts mentioned in paragraph **1.1** the Chief Executive, after consultation with the relevant Cabinet Member, shall review the terms and conditions of employment attaching to the post and determine if any alterations are required.
- 2.2 The Chief Executive shall arrange for the post to be advertised in a manner designed to attract the maximum interest from suitably qualified persons following consultation with the relevant Cabinet Member.
- 2.3 The Chief Executive in consultation with the relevant Cabinet Member or the Leader, shall:
- a. Agree a statement specifying the duties of the vacant post, the qualifications and qualities sought in the person to be appointed, and a copy of this documentation shall be supplied to any person on request;
  - b. Make arrangements for the shortlisting and appointment of applicants by a Panel of Members to which appointments will be made by the Chief Executive in consultation with political group leaders. The composition of the Panel shall, as near as may be, reflect the rules on proportionality between the political groups on the Council **and must include at least one member of the Cabinet**. In addition to the powers for

shortlisting and appointments, the Panel shall also have responsibility as required to determine the terms and conditions of Director's contracts of employment. The Chief Executive will be invited to advise the Panel.

- c. Following the shortlisting described in **2.3.b** above, interviews shall be conducted by a Panel of Members which, as near as may be, shall reflect the rules on proportionality between the political groups on the Council. The appointments to the Panel will be made by the Chief Executive in consultation with political group leaders. The Chief Executive and Head of Human Resources will be invited to advise the Appointments Panel save in the case of the appointment to the post of Chief Executive when the Head of **Human Resources** and the Monitoring Officer shall be invited to attend to give advice on personnel and procedural issues respectively.
- d. The Panel shall submit to every member of the Cabinet for comment by a specified date and time the name of the candidate recommended for appointment save that additionally in the case of the Head of Paid Service the name of the candidate recommended for appointment shall be submitted to the Council for appointment.

2.4 An offer of employment as Director shall only be made where no material or well-founded objection has been received by the Chief Executive from the Leader on behalf of the Cabinet within the specified time limit.

### **3. DIRECTORS - DISMISSAL OR OTHER DISCIPLINARY ACTION RELATING TO ALLEGED MISCONDUCT**

- 3.1 Save in the case of the Head of Paid Service, Monitoring Officer and Section 151 Officer, any question of dismissal, non-renewal of contract, or disciplinary action relating to alleged misconduct in regard to any Director shall be determined by a Panel convened in accordance with paragraph 2.3(b).
- 3.2 No disciplinary action, other than suspension on full pay for a period not exceeding two months for the purpose of investigating the alleged misconduct occasioning the action, shall be taken against the Chief Executive, Monitoring Officer and Section 151 Officer, otherwise than in accordance with a recommendation to the Council for a decision in a report made by a designated independent person under Regulation 3 of the Local Authorities (Standing Orders) Regulations 1993 and Regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001 (investigation of alleged misconduct).
- 3.3 Any Director subject to possible dismissal or other disciplinary action shall have the right to be informed as to the basis of any action which may be taken and to appear before the Panel (see **3.1** above).
- 3.4 The Director concerned shall also have the right to appeal in accordance with the Employment Act 2000 (Dispute Resolution) Regulations 2004 to a Special Committee convened by the Chairman of the Council and comprising the Chairman of the Council, the Leader of the Council and the relevant Cabinet Member, together with not less than one and not more than two other Councillors in accordance with the rules of "political proportionality" required by Section 15 of the Local Government and Housing Action

1989.

- 3.5 The Panel or Special Committee (as the case may be) shall submit to every Member of Cabinet for comment by a specified date and time the name of the Director recommended for dismissal.

3.6 Notice of dismissal shall only be given where no well-founded objection has been received by the Chief Executive from the Leader on behalf of the Cabinet.

#### **4. APPOINTMENTS**

- 4.1 Every appointment other than is mentioned in paragraph 1.1 shall be made in accordance with the Council's appointments procedure incorporated in the Personnel Handbook.
- 4.2 Appointment of officers below deputy chief officer is the responsibility of the Head of Paid service or his/her nominee and may not be made by councillors.

#### **5. VACANCIES TO BE ADVERTISED**

- 5.1 All vacancies shall be publicly advertised, except where otherwise determined by the Chief Executive following consultation with the Leader.

#### **6. VOTING ON APPOINTMENTS**

- 6.1 Where two or more candidates are being interviewed for an appointment to a post with the Council, and there is not a majority of votes cast at the relevant meeting in favour of one candidate, the candidate receiving the least number of votes shall be disregarded and a fresh vote taken, and so on until one candidate receives a majority of the votes.

#### **7. PAYMENT OF EXPENSES**

- 7.1 Every candidate, who attends for interview in connection with any vacant appointment, shall be reimbursed their expenses in accordance with the conditions of service approved by the appropriate Joint Industrial Council or other similar Negotiating Committee as amended, adopted or varied by the Council. In the event of no scale of allowance having been prescribed, the candidate shall be paid their actual and reasonable travelling and out-of-pocket expenses.

#### **8. CANVASSING OF COUNCILLORS**

- 8.1 Canvassing of Councillors or of co-opted members of any committee or other body directly or indirectly, for any appointment under the Council, shall disqualify the candidate concerned for the appointment. This requirement shall be stated in any application form issued.
- 8.2 A Councillor or a co-opted member of a committee or other body shall not solicit for any person any appointment under the Council, but shall not be precluded from giving a written testimonial, where named as a referee by the candidate, of a candidate's ability, experience or character .

## **9. RELATIVES OF COUNCILLORS OR OFFICERS**

- 9.1 Every candidate for any employment by the Council who knows that they are related to any Councillor, any co-opted member of a committee or other body or senior officer of the Council, shall disclose that relationship in their application. Failure to do so shall render the candidate disqualified for the appointment and, if appointed, liable to dismissal. The intent of this paragraph must be made clear in any form of application for a relevant appointment or, where no such form is issued, be notified to every shortlisted candidate prior to interview.
- 9.2 Every Councillor, co-opted member of a committee or other body and senior officer of the Council, shall inform the County Secretary and Solicitor in writing of any relationship known to them to exist between themselves and any person whom they know is a candidate for an appointment under **9.1** above, as soon as they are aware of that person's candidature. The County Secretary and Solicitor shall report any such disclosure to the persons or body making the appointment. 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.
- 9.3 For the purpose of this Appendix, 'senior officer' means Director, Head of Service and any other officer holding an appointment on Principal Officer's Grade 1 equivalent or above, and persons shall be deemed to be related if they are the spouse, parent, grandparent, child (including step child and adopted child), grandchild, brother, sister, uncle, aunt, nephew, niece or first cousin of an existing Councillor, or senior officer or of the partner of such a person.

## **10. SUSPENSION AND DISMISSAL OF STAFF**

- 10.1 Councillors will not be involved in the dismissal of any officer below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related procedures or as adopted from time to time to allow a right of appeal to members in respect of disciplinary action.
- 10.2 The following paragraphs (**10.3 – 10.7**) are subject to:
- a. Any conditions of service approved by the National Joint Council for Local Government Services as amended, adopted or varied by the Council;
  - b. Any conditions of service approved by the Joint Negotiating Committees for Local Authorities' Services (Building, Civil Engineering and Engineering Craftsmen) as amended, adopted or varied by the Council;
  - c. Any conditions of service approved by the Joint Negotiating Committee for Youth Workers and Community Centre Wardens as amended, adopted or varied by the Council;
  - d. Any conditions of service agreed between the Council of Local Education Authorities and the recognised trades unions in relation to teaching staff in schools as amended,

adopted or varied by the Council, and also to any provisions relating to teaching staff in the Articles of Government of such establishments;

- e. Any special conditions of service prescribed by the Articles of Government of colleges and Voluntary Aided schools in relation to non-teaching staff in such establishments;
- 10.3 A Director shall have the power to dismiss any employee:-
- a. Who is employed under a fixed-term or temporary contract of employment which is about to expire;
  - b. Whose post is or is about to become redundant;
  - c. On the expiry of an agreed probationary period where performance of their duties has been unsatisfactory;
  - d. Who has been medically certified to be incapable of discharging their duties by reason of ill-health; or
  - e. Who has reached normal retirement age.
- 10.4 A Director, or any member of their staff nominated by them for the purpose of this Appendix, shall have the power to suspend any employee suspected of potential gross negligence or gross misconduct where such suspension shall, in the opinion of the Director or nominated officer,
- a. Be necessary to enable the alleged negligence or misconduct to be investigated, or
  - b. Be otherwise desirable in the interests of the Council or the employee.
- 10.5 During any such period of suspension, the employee shall be entitled to full salary or wages, subject to any agreement to the contrary that they may reach with the Council.
- 10.6 A Director, or any member of their staff nominated by them for the purpose of this Appendix, shall have the power:-
- a. To dismiss with due notice any employee whose standards of conduct or efficiency are unsatisfactory;
  - b. To dismiss any employee without notice where satisfied on reasonable enquiry that the employee has been guilty of gross misconduct;
- 10.7 Any employee dismissed in pursuance of paragraph **10.6** shall have a right of appeal as described in the Council's Disciplinary Procedure. Where a dismissal is confirmed by the Employee Appeals Panel, the employee shall not be entitled to payment of salary or wages in respect of the period between the date of the dismissal and the date of the appeal if he or she was dismissed under paragraph **10.6.b** above, or in respect of the

period (if any) between the expiry of the notice and the date of the appeal if he or she was dismissed under paragraph **10.6.a** above. Where an appeal against dismissal is upheld, the employee shall be entitled to payment of salary or wages in respect of any such period.

**11. APPOINTMENT AND DISMISSAL OF DEPUTY CHIEF OFFICERS (HEADS OF SERVICE)**

- 11.1 The appointment of Deputy Chief Officers is the responsibility of the Chief Executive as Head of Paid Service or his / her nominee.
- 11.2 The Chief Executive shall submit to every member of Cabinet for comment by a specified date and time the name of the candidate recommended for appointment as Deputy Chief Officer.
- 11.3 An offer of employment of a Deputy Chief Officer shall only be made where no material or well-founded objection has been received by the Chief Executive from the Leader on behalf of the Cabinet within the specified time limit.
- 11.4 The Chief Executive shall submit to every member of Cabinet for comment by a specified date and time the name of any Deputy Chief Officer recommended for dismissal.
- 11.5 The dismissal of a Deputy Chief Officer shall only be made where no material or well-founded objection has been received by the Chief Executive from the Leader on behalf of the Cabinet within the specified time limit.