

# CONSTITUTION - PART 4 - RULES OF PROCEDURE

## Officer Employment Procedure Rules

### 1. RECRUITMENT AND APPOINTMENT

#### (a) Posts on the Staff Establishment

(i) No new office shall be created, nor any person be employed in addition to a department's establishment other than by a minor restructuring within budget constraints as provided for under the Scheme of Delegation to Officers at Part 3 of this Constitution. The process of job evaluation shall be used in assessing the grade for any new post or in re-assessing the grade for any existing post in respect of those posts which fall within the purview of the Job Evaluation Scheme.

(ii) All vacancies to be filled among the staff of the Council will be advertised internally. Any vacancy to be filled for which there is not likely to be any internal market shall also be advertised externally. Where a second vacancy arises as a result of promotion in appropriate cases, it may be offered to a candidate interviewed for the original vacancy without further advertisement. A vacancy does not arise when a restructure takes place in which existing officers need to be fitted into posts on a reorganised establishment.

#### (b) Declarations

(i) A candidate for any appointment under the Council who knows of a relationship to or with, any Member or Officer of the Council whose post is listed in the appendix to these rules will be required by the Council, when making application, to give notice in writing of that relationship to the Head of Paid Service and Chief Officer of the Department making the appointment. A candidate who fails to declare such a relationship will be disqualified for the appointment and, if appointed, will be liable to dismissal without notice.

(ii) Every Member and Officer whose post title is given in appendix 1 to these rules shall give written notice to the Head of Paid Service and relevant Chief Officer of any relationship to, or with, any person who to the knowledge of that Member or Officer, is a candidate for appointment under the Council.

(iii) The Head of Paid Service or Chief Officer of the Department making the appointment shall advise the appointing Committee or Panel of any declaration.

(iv) Under this rule persons shall be deemed to be related to a Member or Chief Officer if they are related to the Member or Chief Officer or their spouse or partner whether by blood or by marriage, whether living with them or not and whether the relationship creating the connection is still in existence or has ceased, **provided** the connection is known to the candidate, the Member or Chief Officer, as appropriate.

**(c) Seeking support for appointment**

(i) Canvassing of any Member or Chief, Executive, Principal or Senior Officer of the Council directly or indirectly for any appointment under the Council shall disqualify the candidate concerned from that appointment. The purport of this paragraph of this rule must be included in any form of application issued by or on behalf of the Council.

(ii) A Member of the Council must not solicit for any person, any appointment under the Council, but this will not preclude a Member from giving a written testimonial of a candidate's ability, experience or character.

**2. RECRUITMENT OF HEAD OF PAID SERVICE AND SENIOR STAFF**

(a) Except in the case of an appointment to be made by the Chief Officer Employment Committee when a vacancy occurs in any existing post shown with an asterisk in Appendix 1, the Human Resources Committee will decide, in the case of a post which the Council is not required by statute to fill, whether it is necessary; and in any case what will be the terms and conditions of the post; and no steps shall be taken to fill it until these decisions have been taken.

(b) Where the Council proposes to appoint an officer shown with an asterisk in Appendix 1, and it is not proposed that the appointment be made exclusively from among their existing officers, the Head of Paid Service or his nominee will:

(i) 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;

(ii) 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; and

(iii) make arrangements for a copy of the statement mentioned in paragraph (i) to be sent to any person on request.

(c)(i) where a post has been advertised as provided above the appointment panel or committee appropriate to the posts shall -

- (a) interview all qualified applicants for the post, or
- (b) select a short list of such qualified applicants and interview those included on the short list.

(ii) where no qualified person has applied, the Head of Paid Service or his nominee shall make further arrangements for advertisement in accordance with paragraph (b) above.

### **3. APPOINTMENT OR DISMISSAL OF HEAD OF PAID SERVICE**

- (a) The full council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by the Chief Officer Employment Committee of the Council.
- (b) The full Council must agree to the dismissal of the Head of Paid Service before notice of dismissal is given. The dismissal procedure to be followed is set out in the Local Authorities (Standing Orders) (England) Regulations 2001 and covered in rule 6(a) below.

### **4. APPOINTMENT OF CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS**

- (a) A committee of the Council will appoint chief officers and deputy chief officers as defined by the Council. That committee must include at least one member of the executive.
- (b) Before an offer of appointment is made, the Chair of the Committee must notify the Proper Officer of the name of the person to whom the committee wishes to make the offer of appointment and any other particulars which the committee considers are relevant to the appointment.
- (c) The Proper Officer must, by electronic means, notify all members of the executive of the Authority of the details supplied by the Chair of the Committee. Cabinet members will then have to notify the Leader of the Council of any objection to the appointment and for him to notify the Proper Officer that there is an objection and the Chair of the Committee of the details of any objection to the making of an offer of appointment by 9.30 am on the working day following notification.
- (d) An appointment must not be made until either the Leader of the Council has notified the Chair of the appointing committee that no member of the Cabinet has any objection to the offer of appointment being made; or the Proper Officer has notified the Chair of the committee that no objection has been received from the Leader of the Council within the period specified; or that, having been notified of objection from the Leader of the Council the committee is satisfied that the objection is not material or is not well founded.

## **5. OTHER APPOINTMENTS**

### **(a) Officers in Appendix 1**

(i) Officers whose posts are listed in Appendix 1 and do not fall to be appointed by the Chief Officers Appointments Committee shall be appointed by a panel of the Human Resources Committee as set out at Part 3 of the Constitution.

(ii) Before an offer of appointment is made, the Chair of the committee must notify the Proper Officer of the name of the person to whom the committee wishes to make the offer of appointment and any other particulars which the committee considers are relevant to the appointment.

(iii) The Proper Officer must, by electronic means, notify all members of the executive of the Authority of the details supplied by the Chair of the Committee. Cabinet members will then have to notify the Leader of the Council of any objection to the appointment and for him to notify the Proper Officer that there is an objection and the Chair of the Committee of the details of any objection to the making of an offer of appointment by 9.30 am on the working day following notification.

(iv) An appointment must not be made until either the Leader of the Council has notified the Chair of the appointing committee that no member of the Cabinet has any objection to the offer of appointment being made; or the Proper Officer has notified the Chair of the committee that no objection has been received from the Leader of the Council within the period specified; or that, having been notified of objection from the Leader of the Council the committee is satisfied that the objection is not material or is not well founded.

### **(b) Other Officers**

Appointment of officers to posts not listed in Appendix 1 is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by councillors.

## **6. DISCIPLINARY ACTION**

### **(a) Statutory Officers**

The head of paid service, monitoring officer and chief finance 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 from the date of the suspension taking effect.

No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a designated independent person under regulation 7 of The Local Authorities (Standing Orders) (England) Regulations 2001

A disciplinary panel shall be constituted for any disciplinary action against a statutory officer, to receive the report prepared by the designated independent person under article 7 of the Local Authorities (Standing Orders) (England) Regulations 2001. A disciplinary panel for a statutory officer shall be constituted in the same manner as the Chief Officer Employment Committee and not by a panel of the Human Resources Committee. The procedure to be followed is set down at paragraph 7 (b) below for dismissals and in Article 7 of the Regulations before mentioned.

**(b) All other Officers**

(i) Councillors will not be involved in disciplinary action against any officer holding a post not listed in Appendix 1 except where such involvement is necessary for any investigation or inquiry into alleged misconduct, or as a member of the Human Resources Committee since the Council's disciplinary, capability and related procedures, as adopted from time to time, allow a final right of appeal to members in respect of disciplinary action.

(ii) Only Cabinet Members will be involved in disciplinary action, except as indicated in clause (i) above, against any officers holding a post listed in Appendix 1, unless the disciplinary action is likely to lead to dismissal. (This does not include the statutory officers at paragraph (a) above). The Cabinet Member with responsibility for the service of the officer under discipline will sit with the Chief Officer to hear and decide the case.

**7. DISMISSALS**

(a) Councillors will not be involved in the dismissal of any officer holding a post not listed in appendix 1 except where such involvement is necessary for any investigation or inquiry into alleged misconduct, or as a member of the Human Resources Committee since the Council's disciplinary, capability and related procedures, as adopted from time to time, allow a final right of appeal to members in respect of dismissals. The procedure to be adopted by the Human Resources Committee shall be agreed by that committee from time to time.

(b)(i) Where a dismissal does not arise out of disciplinary actions and the officer concerned holds a post listed in Appendix 1 then if there is an appeal the Human Resources Committee must follow the procedures set out in clauses (iii), (iv) and (v) of paragraph (c) below before giving notice of dismissal unless the process has been dealt with by an earlier panel.

(ii) Any panel dealing with a dismissal for a post in Appendix 1 shall follow the procedures set out in (iii), (iv) and (v) of paragraph (c) below before giving notice of dismissal.

(c) Councillors will be involved in disciplinary action which may lead to dismissal of an officer holding a post listed in Appendix 1. The procedure to be adopted in relation to such Officers is set out below:-

(i) An employment issues panel shall be constituted as set out in this Constitution at Part 3.

(ii) The procedure at the meeting shall be as agreed by the Human Resources Committee from time to time as appropriate for a disciplinary hearing potentially leading to dismissal.

(iii) Before any dismissal is made, the Chair of the Panel must notify the Proper Officer of the name of the person whom the committee wishes to dismiss and any other particulars which the committee considers are relevant to the dismissal.

(iv) The Proper Officer must, by electronic means, notify all members of the executive of the Authority of the details supplied by the Chair of the Panel and members of the executive will then have to notify the Leader of the Council of any objection and for him to notify the Proper Officer and Chair by 9.30 am on the working day following the notification.

(v) A dismissal must not be made until either the Leader of the Council has notified the Chair of the Panel that no member of the Cabinet has any objection to the dismissal or the Proper Officer has notified the Chair of the Panel that no objection has been received from the Leader of the Council within the specified period, or that, having been notified of objection from the Leader of the Council the committee is satisfied that the objection is not material or is not well founded.

## **8. ASSISTANTS TO POLITICAL GROUPS**

Appointment of, or disciplinary action leading potentially to dismissal, or other dismissal of an assistant to a political group shall be undertaken by a panel of the relevant Group supported by the Head of Human Resources and the Head of Paid Service. The panel shall be considered to be a panel of the Human Resources Committee and fully empowered to make the appointment or dismissal as if it were constituted as an employment issues panel of the Committee.

## **APPENDIX 1**

The following posts are to be filled by either the Chief Officer's Appointment Committees or by a Panel of the Human Resources Committee in accordance with paragraph 5(a) of the Officer Employment Procedure Rules.

- \* Chief Executive/Head of Paid Service
- \* Executive Director Resources
- \* Assistant Chief Executive
- \* Executive Director of Development Services
- \* Executive Director of Community Services
- \* Executive Director of ICT
- \* Director of Harrogate International Centre
- \* Head of Human Resources
- \* Head of Legal and Democratic Services
- \* Head of Revenues and Benefits
- \* Chief Solicitor
- \* Head of Financial Management
- \* Audit Manager
- \* Head of Property & Economic Development
- \* Head of Planning
- \* Chief Planner (Forward Planning)
- \* Chief Planner (Development Services)
- \* Head of Operations (HIC)
- \* Head of Marketing & Sales (HIC)
- \* Head of Public Protection
- \* Head of Housing
- \* Head of Environment

- \* Head of Parks and Open Spaces
- \* Head of Culture Tourism and Sports
- \* Business Support Managers
- \* Information Analyst