

CONSTITUTION - PART 4 - RULES OF PROCEDURE

(Last revised April 2017)

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 Director 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 Director 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 Director 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 Director if they are related to the Member or Director 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 Director, Head of Service, 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 APPENDIX 1 OFFICERS

(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 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 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) interview those included on a short list, such short list to

be prepared by the Director of the Service making the appointment

(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 as amended and covered in rule 7(a) below.

4. APPOINTMENT OF APPENDIX 1 OFFICERS

- (a) A committee of the Council will appoint Appendix 1 officers. 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. The Proper Officer is the Monitoring Officer (MO) unless the action relates to the appointment or dismissal of the MO, in which case the Proper Officer is the deputy MO.
- (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. The Leader must then notify the Proper Officer and the Chair of the Committee that there is an objection and 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.
- (e) In the case of the appointment to the post of Head of Paid Service full Council must approve the appointment before an offer of appointment is made to that person.

5. APPOINTMENTS OF OFFICERS NOT LISTED IN APPENDIX 1

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

6. DISCIPLINARY ACTION

(a) Statutory Officers

The Head of Paid Service, Monitoring Officer and Section 151 Officer may be suspended whilst an investigation takes place into alleged misconduct. Any decision to suspend the Head of Paid Service must be made by the Chief Officer Employment Committee. That suspension will be on full pay and last no longer than two months from the date of the suspension taking effect.

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. However, if the disciplinary matter relates to the Head of Paid Service, Section 151 Officer or Monitoring Officer and the disciplinary decision is one potentially of dismissal, the procedure set out at paragraph 7(a) below must be followed.

(b) All other Officers

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.

7. DISMISSALS

(a) Statutory Officers

The Head of Paid Service, Section 151 Officer or Monitoring Officer may not be dismissed unless the procedure set out below is complied with.

- (i) The Chief Officer Employment Committee has been convened and acted as an investigation and disciplinary committee, and has received a report from an independent investigator when required and as a result the Committee proposes that the Head of Paid Service, Section 151 Officer or Monitoring Officer should be dismissed.
- (ii) The Chair of the Chief Officer Employment Committee has notified the Proper Officer that it proposes to dismiss the Head of Paid Service, Section 151 Officer or Monitoring Officer and any other particulars which the Committee considers are relevant to the dismissal;

The Proper Officer has notified every member of the Executive of:

- the Committee's proposal to dismiss;
- any other particulars relevant to the dismissal which the Chair of the Committee has notified to the Proper Officer;
- that the Leader, on behalf of the Executive, has until 9.30am the following working day to notify the proper officer of any objection to the dismissal; and
- either the Leader has, by 9.30am the following working day, notified the Chair of the Committee that neither he nor any other member of the Executive has any objection to the dismissal; or the Committee is satisfied that any objection received from the Leader within that period is not material or is not well-founded

- (iii) An Independent Panel must be appointed at least 20 working days before the meeting of Council which is to consider whether or not to approve a proposal to dismiss the Head of Paid Service, Section 151 Officer or Monitoring Officer. The Independent Panel must offer its views to Council on the proposal for dismissal.

The Independent Panel must consist of at least 2 Independent Persons. Independent Person means any independent person who has been appointed by the Council under section 28(7) of the Localism Act 2011 or, where there are fewer than two such persons, such independent persons as have been appointed by another Council or Councils as the Council considers appropriate. Invitations to Relevant Independent Person must be issued to meet the requirements of paragraph (i) with the following priority order –

1st – A Relevant Independent Person who has been appointed by the Council and registered as a local government elector in the register of electors for the Harrogate District.

2nd – Any other Relevant Independent Person who has been appointed by the Council.

3rd – A Relevant Independent Person who has been appointed by another Council or Councils.

The Council is not required to appoint more than two Relevant Independent Persons but it may do so.

- (iv) Before the taking of a vote on whether or not to approve a proposal to dismiss the Head of Paid Service, Section 151 Officer or Monitoring Officer Council must take into account any advice, views or recommendations of the Panel; the conclusions of any investigation into the proposed dismissal; and any representations from the officer concerned.
- (iii) Where the Chief Officer Employment Committee has made the proposal to dismissal the hearing by the Council will also fulfill the appeal function.

b) Appendix 1 Officers other than the Statutory Officers

Appendix 1 officers may not be dismissed unless the procedure set out below has been complied with.

- (i) The Human Resources Committee of the Council will dismiss appendix 1 officers. At least one member of that Committee will be a member of the executive. For the avoidance of doubt the Human Resources Committee may delegate the decision to dismiss to a Director.
- (ii) Notice of the dismissal of an Appendix 1 officer must not be given until:
 - (a) the Chair of the Committee has notified the Proper Officer 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;
 - (b) the Proper Officer has notified every member of the Executive of:
 - the name of the person who the Committee wishes to dismiss;
 - any other particulars relevant to the dismissal which the Chair of the Committee has notified to the proper officer;
 - that the Leader, on behalf of the Executive, has until 9.30am the following working day to notify the proper officer of any objection to the dismissal; and
 - either the Leader has, by 9.30am the following working day, notified the Chair of the Committee that neither he nor any other member of the Executive has any objection to the dismissal; or the Committee is satisfied that any objection received from the Leader within that period is not material or is not well-founded
- (iii) The appendix 1 officer has a right of appeal against dismissal to a panel drawn from the Human Resources Committee. The procedure to be adopted by the Panel of the Human Resources Committee shall be agreed by that Committee from time to time.

(c) All other officers

The Head of Paid Service or an officer nominated by him has authority to dismiss all officers other than those listed in appendix 1.

Councillors will not be involved in the decision to dismiss officers not listed on Appendix 1 but a final right of appeal against dismissal lies to a Panel of the Human Resources Committee. The procedure to be adopted by the Panel of the Human Resources Committee shall be agreed by that Committee from time to time.

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 Organisational Development and

Improvement 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
- * Director of Corporate Affairs
- * Director of Economy & Culture
- * Director of Community
- * Director of Harrogate Convention Centre
- * Head of Organisational Development & Improvement
- * Head of Legal and Governance
- * Head of Finance
- * Head of Place Shaping and Economic Growth
- * Head of Culture, Tourism and Sports
- * Head of Operations (HCC)
- * Head of Sales & Events (HCC)
- * Head of Safer Communities
- * Head of Housing & Property
- * Head of Parks & Environmental Services