

CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

Part 4.J - Staff Employment Procedure Rules

1 Explanatory Note

1.1 In these Rules -

"the 1989 Act" means the Local Government and Housing Act 1989;

"the 2000 Act" means the Local Government Act 2000;

"Chief Finance Officer" ("CFO") means the officer having responsibility, for the purposes of—

- (a) section 151 of the Local Government Act 1972 (financial administration); or
- (b) section 6 of the 1989 Act (officer responsible for financial administration of certain authorities),

for the administration of the local authority's financial affairs;

"Chief Officer" means:

- a) the Head of Paid Service;
- b) the Chief Finance Officer;
- c) the Monitoring Officer;
- d) a Statutory Chief Officer;
- e) a Non-Statutory Chief Officer

"Deputy Chief Officer" has the same meaning as in s.2(8) of the 1989 Act;

"Disciplinary Action" has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;

"Head of Paid Service" ("HOPS") means the officer designated under Section 4 (1) of the 1989 Act (designation and reports of Head of Paid Service)

"Independent Persons" has the same meaning as in Section 28(8) of the Localism Act 2011

"member of staff" means a person appointed to or holding a paid office or employment under the authority;

"Monitoring Officer" ("MO") means the officer designated under section 5(1) of the 1989 Act (designation and reports of monitoring officer);

"Proper officer" means an officer appointed by the authority for the purposes of the provisions in these Rules

"Statutory Chief Officer" has the same meaning as in section 2(6) of the Local Government and Housing Act 1989

"Non-statutory Chief Officer" has the same meaning as in section 2(7) of the Local Government and Housing Act 1989

- 1.2 Subject to paragraphs 1.3, 3.1 and 4.1 of these Rules, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the Head of Paid Service or by an officer nominated by Head of Paid Service.
- 1.3 Nothing in paragraph 1.2 shall prevent a person from serving as a member of any committee or sub-committee established by the Authority to consider an appeal by -
- a) another person against any decision relating to the appointment of that other person as a member of staff of the Authority; or
 - b) a member of staff of the Authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

2 Appointments

- 2.1 Where the authority proposes to appoint a Chief Officer, and it is not proposed that the appointment be made exclusively from among their existing officers, they shall—
- (a) draw up a statement specifying –
 - (i) the duties of the officer concerned, and
 - (ii) any qualifications or qualities to be sought in the person to be appointed;
- and
- (b) 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
 - (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

- 2.2 (1) Where a post has been advertised as provided in Rule 2.1 (b) the authority 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.
- (2) Where no qualified person has applied, the authority shall make further arrangements for advertisement in accordance with Rule 2.1(b).

2.3 Declarations

- a) The Authority will draw up a statement requiring any candidate for employment to state in writing whether they are the partner or a close family relative of a serving Member or employee of the Authority or the partner of such a person. This statement will be included in appropriate recruitment literature.
- b) Where a candidate has declared such a relationship, any offer of employment shall be subject to approval by a Corporate Director, except where a Corporate Director is the officer to whom the candidate has declared a relationship, in which case any proposed offer of employment shall be subject to approval by the Head of Paid Service.

2.4 Seeking support for appointment

- a) The Authority will disqualify from consideration any candidate who directly or indirectly seeks the support of any Member or officer for any appointment with the Authority. The content of this paragraph will be included in any recruitment information.
- b) No Member will seek to support any candidate for appointment.
- c) Members must not stand as referees for officers or candidates for appointment as officers of the Authority.

3 **Appointment of Head of Paid Service, Monitoring Officer and Chief Finance Officer**

- 3.1 (1) Where a committee or sub-committee is discharging, on behalf of the Authority, the function of the appointment of the Head of Paid Service, Monitoring Officer or Chief Finance Officer the Council must approve that appointment before an offer of appointment is made to him/her.

- (2) Where a committee or a sub-committee of the Authority is discharging, on behalf of the Authority, the function of the appointment of the Head of Paid Service, Monitoring Officer or Chief Finance Officer at least one Member of the Executive must be a member of that committee or sub-committee.

3.2 Appointment of a Chief Officer

- (1) Paragraph 1.2 shall not apply to the appointment of Chief Officers, including the Head of Paid Service, Monitoring Officer and Chief Finance Officer. For such appointments the function will usually be carried out by the Appointments and Disciplinary Committee, unless delegated by that Committee to the Head of Paid Service.
- (2) The Head of Paid Service may make temporary appointments of other Chief Officers (including the Chief Finance Officer and Monitoring Officer) for up to six months subject to the notification requirements in 3.4 below and notifying that temporary appointment to the next meeting of full Council.

3.3 Appointment Notification Requirements

- (1) In this paragraph, "appointor" means, in relation to the appointment of a person as an officer of the Authority, the Authority or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the Authority, that committee, sub-committee or an officer, as the case may be.
- (2) An offer of an appointment as the Head of Paid Service, a Statutory Chief Officer, a Non-Statutory Chief Officer, or a Deputy Chief Officer must not be made by the appointor until -
 - (a) the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
 - (b) the proper officer has notified the Mayor of -
 - (i) the name of the person to whom the appointor wishes to make the offer;
 - (ii) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and
 - (iii) the period within which any objection to the making of the offer is to be made by the Mayor to the proper officer; and
 - (c) either -
 - (i) the Mayor has, within the period specified in the notice

under sub-paragraph (b)(iii), notified the appointor that neither he/she nor any Member of the Cabinet has any objection to the making of the offer;

- (ii) the proper officer has notified the appointor that no objection was received by him within that period from the Mayor; or
- (iii) the appointor is satisfied that any objection received from the Mayor within that period is not material or is not well founded.

4 Disciplinary Action: Head of Paid Service, Chief Finance Officer and Monitoring Officer

4.1 Paragraph 1.2 shall not apply to the dismissal of:

4.1.1 the Head of Paid Service;

4.1.2 the Chief Finance Officer;

4.1.3 the Monitoring Officer.

4.2 Where a committee, or officer is discharging, on behalf of the Authority, the function of the dismissal of an officer designated as the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer, the Council must approve that dismissal before notice of dismissal is given to him/her.

4.3 Consideration of disciplinary action which could result in dismissal or any disciplinary action short of dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer will be the responsibility of the Appointments and Disciplinary Committee set up for this purpose. The Appointments and Disciplinary Committee shall include at least one Member of the Executive when consideration is being given to dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer.

4.4 Any such Appointments and Disciplinary Committee shall consider the matter in accordance with the processes and procedures approved by Ethics Committee for this purpose. and prepare a written report including its recommendations.

4.5 Where the recommendation of the Appointments and Disciplinary Committee falls short of dismissal, the action shall be taken by the Committee itself.

4.6 Where the Appointments and Disciplinary Committee recommends dismissal, the matter will be referred to the Independent Panel who will prepare an independent report and recommendations to Full Council for consideration and final determination Council.

- 4.7 Before the taking of a vote at the relevant Council meeting on whether or not to approve such a dismissal. Full Council must take into account, in particular-
- a) any advice, views or recommendations of the Appointments and Disciplinary Committee and Independent Panel;
 - b) the conclusions of any investigation into the proposed dismissal; and
 - c) any representations from the relevant officer.
- 4.8 Where the Appointments and Disciplinary Committee has made a proposal to dismiss a statutory officer, a hearing by the Council will fulfil the appeal function. The decision of the Council will be final.
- 4.9 Where the Appointments and Disciplinary Committee takes action short of dismissal, the statutory officer may appeal to the Appeals Committee.
- 4.10 Suspension: The Head of Paid Service, Chief Finance Officer or Monitoring Officer may be suspended by resolution of the Appointments and Disciplinary Committee on normal pay while a disciplinary investigation and disciplinary proceedings are conducted into alleged misconduct or gross incapability.
- 4.11 Provisional / Urgent Suspension: Where it is not possible to convene the Appointments and Disciplinary Committee at short notice, the Chief People Officer (or officer in that role), having taken legal and HR advice and in consultation with the Chair of Appointments and Disciplinary Committee may temporarily suspend the Head of Paid Service, Chief Finance Officer or Monitoring Officer for up to ten days pending the Appointments and Disciplinary Committee being convened to consider suspension under paragraph 4.10 above.
- 4.12 (a) Provisional / Urgent Suspension of Non-Statutory Chief Officers: In exceptional circumstances, the Chief People Officer (or officer in that role), having considered both legal and human resources advice, may temporarily suspend a Non-Statutory Chief Officer for up to ten days pending full initial assessment of the allegations against the Non-Statutory Chief Officer by the Chief Executive or their nominated representative.
- 4.13 Suspension in accordance with paragraph 4.11 and 4.12 and 4.8 (a) shall be exercised within the following parameters:
- a) that the decision maker take both HR and legal advice in advance of exercising such power;
 - b) that the suspension does not itself constitute disciplinary action nor does it imply guilt;
 - c) that the officer is suspended on normal pay;
 - d) that Appointments and Disciplinary Committee identify any protocols necessary for the management of the suspension;
 - e) that the officer is notified of the reason for the suspension and has the

- right to present information before the decision is taken;
- f) that the suspension be reviewed by the Appointments and Disciplinary Committee on a monthly basis;
- g) where further relevant information arises, the Chief People Officer will consult with the Chair of Appointments and Disciplinary Committee and may lift the suspension and reinstate the officer;
- and
- h) in the case of paragraph 4.8 - that an Appointments and Disciplinary Committee is convened to consider whether to exercise the power of suspension within paragraph 4.5 within, if practical, 10 working days following the decision to provisionally suspend.

4.14 **Dismissal Notification Requirements**

- (1) In this paragraph, "dismissor" means, in relation to the dismissal of an officer of the Authority, the Authority or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the Authority, that committee, sub-committee or other officer, as the case may be.
- (2) Notice of the dismissal of the Head of Paid Service, or Chief Officer, must not be given by the dismissor until—
 - a) the dismissor has notified the proper officer of the name of the person whom the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
 - b) the proper officer has notified the Mayor and every Member of the Cabinet of -
 - (i) the name of the person whom the dismissor wishes to dismiss;
 - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
 - (iii) the period within which any objection to the dismissal is to be made by the Mayor on behalf of the Executive to the proper officer; and
 - c) either -
 - (i) the Mayor has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither he/she nor any other Member of the Cabinet has any objection to the dismissal;
 - (ii) the proper officer has notified the dismissor that no objection was received by him within that period from the

Leader; or

- (3) (iii) the dismissor is satisfied that any objection received from the Mayor within that period is not material or is not wellfounded. Where the dismissor is satisfied that a material objection has been raised under this procedure, the Appointments and Disciplinary Committee will be reconvened to consider the objection and satisfy itself as to whether any of the objections are both material and well-founded.

4.15 **Independent Panel**

In respect of the Head of Paid Service, the Chief Finance Officer and Monitoring Officer, an Independent Panel constituting at least two Independent Persons as appointed by the Ethics Committee from time to time will advise the Council on any recommendation from Appointments and Disciplinary Committee to dismiss the officer. Following any disciplinary hearing the outcome of which is a proposal to dismiss, the Independent Panel's views must be reflected specifically in the Report to full Council setting out the Appointments and Disciplinary Committee's recommendations. The full Council shall have regard to the recommendations of General Purposes Committee and the Independent Panel in reaching its decision on the matter.

4.16 **Appeals Committee**

When considering appeals against action short of dismissal, the Committee will:

- i) consider the report of the Independent Investigator and any other relevant information considered by Appointments and Disciplinary Committee;
- ii) listen to the statutory officer state their case;
- iii) conduct any further investigation it considers necessary to reach a decision
- (iv) take a decision either to confirm the action or to impose no sanction or a lesser sanction.

4.17 The decision of the Appeals Committee will be final.