

Section 4 - Officer Employment Procedure Rules

1. RECRUITMENT AND APPOINTMENT

(a) Declarations

- (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are closely connected to any existing Councillor or officer of the Council; or to any partner of those persons.
- (ii) No candidate so closely connected to a Councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

(b) Seeking support for appointment.

- (i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) Subject to paragraph (iii), no Councillor will seek support from any person for any appointment with the Council.

2. RECRUITMENT OF HEAD OF PAID SERVICE AND CHIEF OFFICERS

Where the Council proposes to appoint a chief officer and (where equal opportunities policies allow) it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

(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;

(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 (1) to be sent to any person on request

3. APPOINTMENT 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 a committee or sub-committee of the Council.

4. APPOINTMENT OF CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS

- (a) Appoint of Chief Officers and Deputy Chief Officer is the responsibility of the Head of Paid Service or his/her nominee in consultation with a member panel.

5. OTHER APPOINTMENTS

Officers below Deputy Chief Officer. 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.

6. DISCIPLINARY ACTION

- (a) **Suspension.** 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.
- (b) **Independent person.** 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.
- (c) Councillors will not be involved in the disciplinary action against 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 procedures, as adopted from time to time, or which may allow a right of appeal to Members in respect of disciplinary action.

7. DISMISSAL

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, as adopted from time to time may allow a right of appeal to Members in respect of dismissal.

Legal Proceedings Rules

1. Introduction

Article 11 provides that the Head of Corporate Resources is authorised to institute, defend or participate in any legal proceedings in consultation with the Chief Executive and/or the Director of Services in any case where such action is necessary to give effect to decisions of the Council or in any case where the Head of Corporate Resources considers that such action is necessary to protect the Council's interests. This responsibility is to be discharged having regard to the Council Prosecutions Policy, the following procedures and is shared, to the extent set out in these Rules, by other officer.

2. General

- 2.1** Except in the case of emergency or in any event where requisite instructions cannot be obtained, no proceedings shall be conducted by the Head of Corporate Resources or any other person on behalf of the Council without instructions being given by or on behalf of a Chief Officer who shall have regard to the decision making principles set out in Article 13.02.
- 2.2** The Chief Executive and the Director of Services shall have the same powers as the Head of Corporate Resources to take, defend or compromise legal proceedings or instruct any other legally qualified and suitably experienced person to do so on behalf of the Council. The Head of Corporate Resources may delegate all or any of his powers, other than the laying of Information, to any Solicitor
- 2.3** Where, in the opinion of the Head of Corporate Resources, it is in the interests of the Council to instigate or agree arbitration or mediation, he/she shall have the discretion to refer any legal proceedings accordingly.
- 2.4** The Head of Corporate Resources shall have discretion at any time or stage of proceedings to compromise them but shall have regard to any views of the instructing Chief Officer and, if the claim and/or costs on any compromise, whether payable to or by the Council, is likely to exceed £2,500, he shall also consult the Chief Financial Officer
- 2.5** The Head of Corporate Resources, whether acting in the capacity of Monitoring Officer or not, may and, if requested by any officer or member of the Council, shall give legal advice on any relevant matter and may procure the opinion of Counsel or, with the consent of the relevant Chief Officer, brief Counsel to represent the Council in any proceedings whatsoever. The choice of Counsel shall normally be within the discretion of the Head of Corporate Resources, according to criteria related to experience, effectiveness, availability and cost.

3. Reporting

- 3.1 The Chief Executive, Director of Services and the relevant Chief Officer shall be kept closely informed by the Head of Corporate Resources of any claims against the Council, whether civil or criminal, and the progress of such matters.

4. Compliance

Where the Council is required by an Court Order, Warrant, Ombudsman decision or costs decision to pay any sum of money, do anything or not do anything, or where any claim against the Council is compromised such that any such obligation arises or crystallises, the Monitoring Officer shall ensure that the terms of the order, decision or compromise are complied with and that the Chief Executive, Director of Services and the relevant Chief Officer are informed. If not, or insufficient budget is available, whether directly or by virement, for discharging any monetary obligation, the Chief Financial Officer shall certify accordingly and shall arrange to discharge any sums outstanding from the reserves of the Council.

5. Criminal Matters

- 5.1 The Council adopts the Code for Crown Prosecutors where applicable. That is to say, in general terms, it will not take criminal proceedings unless there is clear and reliable evidence upon which there is a likelihood of conviction and it would be in the public interest to prosecute.
- 5.2 What is in the public interest will be judged from the circumstances. The Head of Corporate Resources, consulting with relevant Chief Officer(s), will take a view based upon a number of factors. These will include the prevalence of such offences locally, the importance of the offence in the context of the local community, whether the offence is an isolated one or manifests a more careless attitude to regulation, whether are aggravating or mitigating features, whether in all the circumstances the wider public, on whose behalf any prosecution is brought, would be likely to support any decision to prosecute and generally whether the criteria set out in Article 13.02 on the decision making have been considered.
- 5.3 All interviews with prospective defendants shall normally follow Code C under the Police and Criminal Evidence Act, 1984 and all relevant exhibits shall be properly receipted, recorded and retained until the case is finally disposed of.