

# 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) the Local Government and Housing Act 1989

- 1.2 Subject to paragraphs 1.3, 3.1 and 7.1 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 propose 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 an Executive Director, except where an Executive 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

3.1 Paragraph 1.2 shall not apply to the appointment of – the Head of Paid Service

3.2 (1) Where a committee, sub-committee is discharging, on behalf of the Authority, the function of the appointment of the Head of Paid Service, 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 at least one Member of the Cabinet must be a member of that committee or sub-committee.

### **3.3 Appointment of a Chief Officer**

- (1) Paragraph 1.2 shall not apply to the appointment of Chief Officers. For such appointments the function will usually be carried out by the Appointments 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 for up to six months subject to the notification requirements in 3.3.3 below and notifying that temporary appointment to the next meeting of full Council.

### **3.4 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 Leader 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 Leader on behalf of the Cabinet to the proper officer; and
  - (c) either -

- (i) the Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither he/she nor any other 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 Leader; or
- (iii) the appointor is satisfied that any objection received from the Leader 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:

- (a) the Head of Paid Service;
- (b) the Chief Finance Officer;
- (c) the Monitoring Officer.

4.2 (1) Where a committee, sub-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.

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

4.3 Consideration of disciplinary action which could result in dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer will be the responsibility of the Appointments Committee set up for this purpose. The Appointments Committee shall include at least one Member of the Cabinet and at least two Independent Persons when consideration is being given to dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer. Any such Appointments Committee shall consider the matter in accordance with the processes and procedures approved by Ethics Committee for this purpose and make a report and recommendations to full Council for consideration and final determination. Any such report shall specifically include the Independent Persons' views on the recommendations and appropriate action.

- 4.4 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 Committee;
  - b) the conclusions of any investigation into the proposed dismissal; and
  - c) any representations from the relevant officer.
- 4.5 Suspension: The Head of Paid Service may be suspended by resolution of the Appointments Committee on full pay for while a disciplinary investigation and disciplinary proceedings are conducted into alleged misconduct or gross incapability.
- 4.6 Provisional / Urgent Suspension: In exceptional circumstances, the Director of Human Resources (or officer in that role), having taken legal and HR advice may temporarily suspend the Head of Paid Service for up to ten days pending the Appointments Committee being convened to consider suspension under paragraph 4.5 above.
- 4.7 Suspension in accordance with paragraph 4.5 and 4.6 shall be exercised within the following parameters:
- a) that it is to be exercised only in exceptional circumstances;
  - b) that the decision maker take both HR and legal advice in advance of exercising such power;
  - c) that the suspension does not itself constitute disciplinary action nor does it imply guilt;
  - d) that the officer is suspended on full pay; and
  - e) in the case of paragraph 7.6 - that an Appointments Committee is be convened to consider whether to exercise the power of suspension within paragraph 7.5 within, if practical, 10 working days following the decision to provisionally suspend.

#### 4.8 **Independent Persons**

In respect of the Head of Paid Service, the Chief Finance Officer and Monitoring Officer, if the Council wishes to investigate any allegations of serious misconduct or incompetence, which might lead to dismissal, two Independent Persons, as appointed by the Ethics Committee from time to time will fulfil this role on the Appointments Committee set up for that purpose. At the end of any disciplinary hearing, the Independent Persons' views must be reflected specifically in the Report to full Council setting out the Appointment Committees recommendations. Such report shall include recommendations on what is considered to be the appropriate action or sanction to be applied (dismissal, verbal or written warning, demotion etc.)

and the full Council shall have regard to the recommendations of Appointments Committee in reaching its decision on the matter.

#### 4.9 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 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 Leader on behalf of the Cabinet to the proper officer; and
  - c) either -
    - (i) the Leader 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
    - (iii) the dismissor is satisfied that any objection received from the Leader within that period is not material or is not well founded.