

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 section 151 of the Local Government Act 1972, for the proper administration of the Council's financial affairs;

"Chief Officer(s)" means:

- a) the Head of Paid Service;
- b) the Monitoring Officer;
- c) a Statutory Chief Officer;
- d) a Non-Statutory Chief Officer; and
- e) a Deputy Chief Officer at Director Grade 1 and above;

"Deputy Chief Officer" has the same meaning as in section 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" means the officer designated under section 4(1) of the 1989 Act;

"Independent Persons" mean the persons appointed under section 28(7) of the Localism Act 2011;

"Member" means a councillor or the Executive Mayor;

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

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

"Non-statutory Chief Officer" has the same meaning as in section 2(7) the 1989 Act;

"Proper officer" means an officer appointed by the Council for the purposes of the provisions in these Rules; and

"Statutory Chief Officer" has the same meaning as in section 2(6) of the 1989 Act.

- 1.2 Subject to paragraphs 1.3, 3.1, 3.2, 4.1, 4.2 and 4.3 of these Rules, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the Council must be discharged, on behalf of the Council, by the Head of Paid Service, or by an officer nominated by the 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 Council 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 Council; or
 - b) a member of staff of the Council against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.
- 1.4 These Rules are supplemented by operational guidance and/or HR procedures issued by the Head of Paid Service and/or the Chief People Officer from time to time.
- 1.5 Any changes to these Rules will be approved by Full Council but the Head of Paid Service is authorised to make minor changes to ensure that the Rules remain accurate, relevant and up to date. For example, the Head of Paid Service may update job titles or grades to reflect the management structure of the Council current at the time.

2 Appointments

- 2.1 Where the Council proposes to appoint a Chief Officer, and it is not proposed that the appointment be made exclusively from among existing officers, the Council shall—
 - (a) 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;
 - (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 (a) Where a post has been advertised as provided in Rule 2.1 (b) the Council shall—
- (i) interview all qualified applicants for the post, or
 - (ii) select a short list of such qualified applicants and interview those included on the short list.
- (b) Where no qualified person has applied, the Council shall make further arrangements for advertisement in accordance with Rule 2.1(b).

2.3 Declarations

- a) The Council 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 Council 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 Council will disqualify from consideration any candidate who directly or indirectly seeks the support of any Member or officer for any appointment with the Council. 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 Council.

3 Appointment of the 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 Council, the function of the appointment of the Head of Paid Service, Monitoring Officer or Chief Finance Officer Full Council must approve that appointment before an offer of appointment is made to him/her.

3.2 **Appointment of Chief Officers**

- (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) Decisions to appoint a Deputy Chief Officer at Director Grade 1 and above and a Director of Public Health on an interim or fixed term contract will be made by the Head of Paid Service but limited to less than two years. Following such appointment, the Head of Paid Service will notify Members of the Appointments and Disciplinary Committee in writing setting out the timescales for a permanent appointment.
- (3) Decisions to engage a Monitoring Officer, a Statutory Chief Officer (excluding a Director of Public Health) or a Non-Statutory Chief Officer on an interim or fixed term contract will be made by the Head of Paid Service but limited to one year. Following such engagement, the Head of Paid Service will notify Members of the Appointments and Disciplinary Committee in writing setting out the timescales for a permanent appointment.
- (4) Prior to extending an appointment on an interim or fixed term contract under 3.2 (2) and (3) beyond the period specified, the approval of the Appointments and Disciplinary Committee will be obtained.
- (5) The appointment of a Head of Paid Service on an interim or fixed term basis will be recommended by the Appointments and Disciplinary Committee for approval by Full Council.
- (6) An offer of employment as the Director of Public Health will be made in accordance with the additional statutory requirements that apply to this post. In particular, the appointment will be made jointly with the Secretary of State.
- (7) Where a committee or a sub-committee of the Council is discharging, on behalf of the Council, the function of the appointment of a Chief Officer at least one Member of the Cabinet must be a member of that committee or subcommittee.

3.3 **Appointment Notification Requirements**

- (1) In this paragraph, "appointor" means, in relation to the appointment of a person as an officer of the Council, the Council or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the Council, 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 (including on an interim or fixed term contract) 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 Executive Mayor and every Member of the Cabinet 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 Executive Mayor to the proper officer; and
 - (c) either -
 - (i) the Executive 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 Executive Mayor; or
 - (iii) the appointor is satisfied that any objection received from the Executive Mayor within that period is not material or is not well founded.

4 Disciplinary Action

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 (1) Where a committee, or officer is discharging, on behalf of the Council, 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. The Council will apply the JNC Chief Executive's model disciplinary procedure to these statutory roles.
- (2) For Non-Statutory Chief Officers (including the statutory roles of Director of Children's Services and Director of Adult Social Services), the Council's disciplinary procedure will apply, with a right of appeal (against dismissal or disciplinary action) to the Appointments and Disciplinary Committee. Alternatively, if the disciplinary action is referred to the Appointments and Disciplinary Committee for consideration, there is a right of appeal (against dismissal or disciplinary action) to the Appeals Committee.
- (3) For Deputy Chief Officers and the Director of Public Health, the Council's disciplinary procedure will apply, with a right of appeal (against dismissal or disciplinary action) to the Head of Paid Service.
- 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. The Appointments and Disciplinary Committee shall include at least one Member of the Cabinet when consideration is being given to dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer or an appeal under 4.2(2) above.
- 4.4 Any such Appointments and Disciplinary Committee shall consider the matter in accordance with processes and procedures it has approved 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 by Full 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 the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer, a hearing by Full Council will fulfil the appeal function. The decision of Full 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 Subject to 4.11 below, the Head of Paid Service, Chief Finance Officer or Monitoring Officer may be suspended by resolution of the Appointments and Disciplinary Committee on pay while a disciplinary investigation and disciplinary proceedings are conducted into alleged misconduct or gross incapability. The period of entitlement to, and the amount of, pay will be calculated in accordance with conditions of employment and Council policies and procedures.
- 4.11 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 written legal and HR advice and in consultation with the Chair of the 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. The Head of Paid Service, having taken written legal and HR advice and in consultation with the Chair of the Appointments and Disciplinary Committee may also temporarily suspend the 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 Suspension in accordance with paragraph 4.10 and 4.11 shall be exercised within the following parameters:
- a) that the decision maker takes both HR and legal advice (in writing) in advance of exercising such power;
 - b) that the suspension does not itself constitute a disciplinary sanction nor imply guilt;
 - c) that the officer is suspended on pay (see 4.10 above);
 - d) that Appointments and Disciplinary Committee establish any protocols necessary for the management of the suspension;
 - e) that the officer is notified of the reason for the suspension and, if the decision is taken by the Appointments and Disciplinary Committee, has the right to present information before the decision is taken;
 - f) that the suspension be reviewed by the Appointments and Disciplinary Committee in accordance with the JNC Chief Executive's model disciplinary procedure; and
 - 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.

4.13 Dismissal Notification Requirements

- (1) In this paragraph, "dismissor" means, in relation to the dismissal of an officer of the Council, the Council or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the Council, 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 Executive 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 Executive Mayor on behalf of the Executive to the proper officer; and
 - c) either -
 - (i) the Executive 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
 - (iii) the dismissor is satisfied that any objection received from the Executive Mayor within that period is not material or is not well founded.
 - (iv)

4.14 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 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 the Appointments and Disciplinary Committee and the Independent Panel in reaching its decision on the matter.

4.15 Appeals Committee

- (1) When considering appeals against action short of dismissal against the Head of Paid Service, Monitoring Officer or the Chief Finance Officer, the Appeals 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; and
 - iv) take a decision either to confirm the action or to impose no sanction or a lesser sanction.
- (2) When considering other disciplinary appeals the Appeals Committee will consider the matter in accordance with processes and procedures approved by the Appointments and Disciplinary Committee.
- (3) The Appeals Committee will include at least one Member of the Cabinet when consideration is being given to dismissal of an officer.
- (4) The decision of the Appeals Committee will be final.