

## **H – OFFICER EMPLOYMENT PROCEDURE RULES (MANDATORY)**

### H1 Definitions

In these Rules

“the 1989 Act” means the Local Government and Housing Act 1989;

“the 2000 Act” means the Local Government Act 2000;

“the 2011 Act” means the Localism Act 2011

“disciplinary action” has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;

“proper officer” means the Council’s Head of Human Resources

“independent person” means a person appointed under section 28(7) of the 2011 Act;

“local government elector” means a person registered as a local government elector in the register of electors for Hyndburn in accordance with the Representation of the People Acts

“the Panel” means a committee appointed by the Council under section 104(2) of the Local Government Act 1972 for the purpose of advising the Council on matters relating to the dismissal of relevant officers of the Council;

“relevant meeting” means a meeting of the Council to consider whether or not to approve a proposal to dismiss a relevant officer;

“relevant officer” means the Council’s head of paid service, chief finance officer or monitoring officer as the case may be

“chief finance officer”, “council manager”, “head of paid service” and “monitoring officer”, and “executive” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001

### H2 (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 the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or of the partner of such persons.

- (ii) No candidate so related 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 for any person for any appointment with the Council.
- H3 Except for the following, the appointment, dismissal and taking of disciplinary action against, a member of staff must be discharged by the Council's head of paid service or by an officer nominated by him or her:
- (a) the officer designated as the Council's head of paid service;
  - (b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act;
  - (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
  - (d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act; or
  - (e) an assistant to political group appointed in pursuance of section 9 of the 1989 Act.
- H4
- (1) Where a committee, sub-committee or officer is discharging the function of appointment of the Council's head of paid service, the Council must approve that appointment before an offer of appointment is made to him or her.
  - (2) Where a committee or a sub-committee or officer is discharging, the function of the dismissal of a relevant officer, the Council must approve that dismissal before notice of dismissal is given to that person.
- H5
- (1) In this Rule, "appointor" means, in relation to the appointment of a person as a Council officer, 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 officer, as the case may be.
  - (2) An offer of an appointment to an officer position referred to in subparagraph (a), (b), (c) or (d) of Rule H3 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 every member of the executive 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 may be made by the leader on behalf of the executive 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 executive has any objection to the making of the offer;
  - (ii) the proper officer has notified the appointor that no objection was received 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.

- H6
- (1) In this Rule, “dismissor” means, in relation to the dismissal of a Council officer, 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 an officer holding a post referred to in sub-paragraph (a), (b), (c) or (d) of Rule H3 must not be given by the dismissor until –
    - (a) the dismissor has notified the proper officer of the name of the person who 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 executive of –
      - (i) the name of the person who 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 executive 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 executive has any objection to the dismissal;
  - (ii) the proper officer has notified the dismissor that no objection was received 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

H7 Nothing in Rule H3 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.

H8 The Council may not dismiss a relevant officer unless it has complied with the following procedure:

- 1) The Council must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel;
- 2) For the purpose of Rule H8 “relevant independent person” means any independent person who has been appointed by the Council or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the Council considers appropriate;
- 3) Subject to paragraph 4) the Council must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 1) in accordance with the following priority order:
  - a. a relevant independent person who has been appointed by the Council and who is a local government elector
  - b. any other relevant independent person who has been appointed by the Council

- c. a relevant independent person who has been appointed by another authority or authorities
- 4) The Council is not required to appoint more than two relevant independent persons in accordance with paragraph 3) but may do so
- 5) The Council must appoint the Panel at least 20 working days before the relevant meeting
- 6) Before taking a vote at the relevant meeting on whether or not to approve such a dismissal the Council must take into account in particular:
  - a. Any advice, views or recommendations of the Panel
  - b. The conclusions of any investigation into the proposed dismissal; and
  - c. Any representations from the relevant officer
- 7) Any remuneration, allowances or fees paid by the Council to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person under the 2011 Act

