



Report to Council

Agenda Item 8

Report of: Director of Human Resources

Date: 3 June 2015

Subject: Changes to the Constitution – Disciplinary Procedures for Statutory Officers

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Summary:

This report provides details of changes to the Constitution required by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 relating to Disciplinary Procedures for Statutory Officers.

Recommendations:

That the Council:-

- (a) notes the requirements of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 relating to the disciplinary procedures for Statutory Officers, as set out in the report;
- (b) adopts the changes to the following Parts of the Constitution, as set out in the report and appendices:-
 - (i) Part 2 – Article 4.02 (o)
 - (ii) Part 3 – Responsibility for Functions (Terms of Reference of the Senior Officer Employment Committee)
 - (iii) Part 4 – Officer Employment Procedure Rules; and
- (c) gives approval for the Miscellaneous Matters (Part B) attached to the Council Procedure Rules to be removed from the Constitution.

Category of Report: OPEN

Statutory and Council Policy Checklist

Financial implications
NO – cleared by Pauline Wood
Legal implications
YES – cleared by Andrea Simpson
Equality of Opportunity implications
NO
Tackling Health Inequalities implications
N/A
Human rights implications
N/A
Environmental and Sustainability implications
N/A
Economic impact
N/A
Community safety implications
N/A
Human resources implications
YES – cleared by Louise Pellet
Property implications
N/A
Area(s) affected
None
Relevant Cabinet Portfolio Leader
Clr Ben Curran
Relevant Scrutiny Committee if decision called in
Not applicable
Is the item a matter which is reserved for approval by the City Council?
Yes
Press release
NO

1. Introduction

- 1.1 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 were made on 25th March 2015 and came into force on 11 May 2015. They amend the Local Authorities (Standing Orders) (England) Regulations 2001 and require local authorities to make changes in respect of disciplinary action against their Statutory Officers, namely the Head of Paid Service (Chief Executive), Monitoring Officer (Director of Legal and Governance) and Chief Finance Officer (Executive Director, Resources).
- 1.2 The amended disciplinary provisions must be incorporated into Council Standing Orders with existing Standing Orders modified as necessary and Full Council must approve the changes no later than its first Ordinary Meeting falling after 11 May 2015. Therefore, the changes need to be approved at this Council Meeting to comply with the 2015 Regulations.

2. Background and Current Position

- 2.1 The 2001 Regulations provide that alleged misconduct by any of the Statutory Officers must be investigated by a “Designated Independent Person” agreed between the authority and the relevant officer, or nominated by the Secretary of State in default of such an agreement, and appointed by the authority.
- 2.2 The Designated Independent Person must make a report to the authority on whether the evidence supports any allegation of misconduct and recommending any appropriate disciplinary action, defined in the 2001 Regulations as “any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the authority, be recorded on the member of staff’s personal file, and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body”.
- 2.3 No disciplinary action may be taken against the officer except in accordance with the Designated Independent Person’s recommendation and only Full Council could make the decision to appoint or dismiss the Head of Paid Service.

3. Proposed Changes

3.1 Disciplinary Procedures for Statutory Officers

- 3.1.1 The 2015 Regulations provide that the Council must appoint a “Panel” to advise the Council on matters relating to the dismissal of any of the three Statutory Officers covered by the Regulations. The provisions relating to the “Panel” are required to be incorporated into Council Standing Orders in respect of disciplinary action and a Statutory Officer cannot be dismissed unless these provisions are complied with. There is no provision in the Regulations for dealing with alleged misconduct where appropriate disciplinary action might fall short of dismissal so provision, consistent with the requirements of the 2001 Regulations, must be made in Council Standing Orders..

- 3.1.2 A decision to dismiss a Statutory Officer must be taken by Full Council. Before taking a vote at a meeting to consider whether or not to approve a proposal to dismiss the officer, Full Council must take into account: -
- (a) any advice, views or recommendations of the Panel (but the Panel's recommendations are not binding on the Council);
 - (b) the conclusions of any investigation into the proposed dismissal; and
 - (c) any representations from the relevant officer.
- 3.1.3 The "Panel" is to be appointed under s102 (4) of the Local Government Act 1972 as an Advisory Committee of the Council and is subject to all the legal requirements for Committees, including the proportionality rules. It is proposed that the Panel is established as a Sub-Committee of the Senior Officer Employment Committee. The Annual Council Meeting on 20 May 2015 agreed to continue to disapply proportionality to the Sub-Committees of the Senior Officer Employment Committee.
- 3.1.4 The Council must invite Independent Persons (who have been appointed by this or another authority under s28(7) of the Localism Act 2011 for Standards regime purposes) to be considered for appointment to the "Panel". It is intended that discussions will be held with the three Independent Persons that were appointed by Full Council at its meeting on 7 November 2012 regarding their extended role.
- 3.1.5 The Council must appoint to the "Panel" at least two Independent Persons who have accepted an invitation, in the following priority order:
- an Independent Person who has been appointed by this Council and who is a local government elector,
 - any other Independent Person who has been appointed by this Council,
 - an Independent Person who has been appointed by another authority or authorities.
- 3.1.6 Any "Panel" must be appointed at least 20 working days before a meeting of the Council to consider whether or not to approve a proposal to dismiss a Statutory Officer. Using a Sub-Committee of the Senior Officer Employment Committee would allow a meeting to be arranged within that timeframe.
- 3.1.7 To comply with the 2015 Regulations, amendments have been made to the Terms of Reference of the Senior Officer Employment Committee and the Officer Employment Procedure Rules have been rewritten. The list of functions of the Full Council in Part 2 of the Constitution at Article 4.02 (o) must also be amended by the addition of the words "... and the dismissal of the Head of Paid Service, Monitoring Officer or Chief Finance Officer." Revised versions of the Terms of Reference of the Committee and Officer Employment Procedure Rules are attached as Appendices A and B and the original version of the Procedure Rules is also attached at Appendix C.

3.2 Additional Changes

- 3..2.1 In addition, the changes required by the 2015 Regulations has provided an opportunity to review the Officer Employment Procedure Rules to ensure continued compliance with the requirements of the 2001 Regulations and to review the Miscellaneous Matters (Part B) attached to the Council Procedure Rules (which also relate to employment matters). To ensure greater clarity and avoid duplication, the Officer Employment Procedure Rules have been completely revised, amendments have been made to the Terms of Reference of the Senior Employment Committee and it is proposed that the Miscellaneous Matters section is removed. The Miscellaneous Matters (Part B) is attached as Appendix D.

4. **Legal Implications**

- 4.1 The proposed changes to the Constitution will ensure that the Council complies with the requirements of the 2015 Regulations.

5. **Financial Implications**

- 5.1 Any remuneration, allowances or fees paid to an Independent Person appointed to the "Panel" must be no more than the level of the remuneration, allowances or fees payable to them for their role as an Independent Person for the Standards regime. The Independent Persons dealing with Standards matters are entitled to receive the co-optees allowance of £707.98 per annum, as provided for in the Council's Members' Allowances Scheme.

6. **Human Resources Implications**

- 6.1 In addition, the Contracts of Employment for the officers must now be changed to reflect the provisions of the Standing Orders. Failure to do this could result in the Council complying with the Regulations but still being found to have breached the officers' contracts. Changing the Contracts of Employment may mean consulting with the officers and agreeing new contracts. However, the Local Government Association has advised that it is seeking to amend Joint Negotiating Committee model procedures through collective agreement thereby potentially removing any need to make changes at a local level.

7. **Recommendations**

- 7.1 That the Council:-
- (a) notes the requirements of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 relating to the disciplinary procedures for Statutory Officers, as set out in the report;
 - (b) adopts the changes to the following Parts of the Constitution, as set out in the report and appendices:-
 - (i) Part 2 – Article 4.02 (o)
 - (ii) Part 3 – Responsibility for Functions (Terms of Reference of the Senior Officer Employment Committee)

- (iii) Part 4 – Officer Employment Procedure Rules; and
- (c) gives approval for the Miscellaneous Matters (Part B) attached to the Council Procedure Rules to be removed from the Constitution.

Director of Human Resources

Sheffield City Council – Constitution Part 3 - Responsibility for Functions

SENIOR OFFICER EMPLOYMENT COMMITTEE

Terms of Reference

- (a) To consider, subject to legal requirements relating to the Council's Statutory Officers and to the Officer Employment Rules in Part 4 of this Constitution, and make recommendations to the Council on all matters relating to the appointment of the Chief Executive and the appointment, discipline and dismissal of the Chief Executive, Monitoring Officer and Chief Finance Officer.
- (b) To determine, subject to legal requirements relating to the Council's Statutory Officers and to the Officer Employment Rules in Part 4 of this Constitution, all matters relating to the appointment, ~~discipline and dismissal~~ of:-
- Executive Directors and other Officers who report directly to the Chief Executive;
 - The Council's Statutory Officers, other than the Chief Executive.
- (c) To determine, subject to legal requirements relating to the Council's Statutory Officers and to the Officer Employment Rules in Part 4 of this Constitution, all matters relating to the dismissal of:-
- Executive Directors and other Officers who report directly to the Chief Executive;
 - The Council's Statutory Officers, other than the Chief Executive, Monitoring Officer and Chief Finance Officer.
- (d) To determine, subject to legal requirements relating to the Council's Statutory Officers and to the Officer Employment Rules in Part 4 of this Constitution, all matters relating to the discipline short of dismissal of:-
- Executive Directors and other Officers who report directly to the Chief Executive;
 - The Council's Statutory Officers.
- (ee) To determine, subject to legal requirements relating to the Council's Statutory Officers and to the Officer Employment Rules in Part 4 of this Constitution, all matters relating to the appointment, discipline and dismissal of:-
- Directors-Officers who report directly to any of the Officers described above Chief Executive or an Executive Director for all or most of their duties (but not any person whose duties are solely secretarial or clerical).

- | (ef) To establish such Sub-Committees as appropriate to undertake recruitment and to hear individual matters, which may include authority to make appointments and other decisions, and authority to make recommendations direct to the Council.

OFFICER EMPLOYMENT PROCEDURE RULES**1. Officers**

- a) For the purposes of Section 4 of the Local Government and Housing Act 1989, as modified by Schedule 5 to the Local Government Act 2000, the Head of Paid Service shall be the Chief Executive.
- b) For the purposes of Section 5 of the Local Government and Housing Act 1989, the Monitoring Officer shall be the Director of Legal and Governance.
- c) For the purposes of Section 151 of the Local Government Act 1972, the Officer with responsibility for the administration of the financial affairs of the Council, the 'Chief Finance Officer', shall be the Executive Director of Resources.
- d) Chief Officer for the purpose of these Officer Employment Procedure Rules means the Head of Paid Service, Monitoring Officer, Chief Finance Officer, any Executive Director, any Officer who reports **directly** to the Chief Executive, or any Statutory Chief Officer as defined in section 2 (6) (a), (c) or (d) of the Local Government and Housing Act 1989:
 - Director of Children's Services appointed under section 18 of the Children Act 2004, who shall be the Executive Director of Children, Young People and Families
 - Director of Adult Social Services appointed under section 6 of the Local Authority Social Services Act 1970, who shall be the Executive Director of Communities
 - Director of Public Health appointed under section 73A National Health Service Act 2006 (local authorities and NHS), who shall be the Director of Public Health.

And any Officer who reports **directly** to any of the Officers listed above for all or most of their duties, but not any person whose duties are solely secretarial or clerical.

2. Recruitment and Appointment

2.1 Where the Council recruits officers, the Council will:

- (a) Draw up a job description, person and health specification which includes:

- (i) The duties of the officer concerned;
 - (ii) Any skills, knowledge and attainments to be sought in the person to be appointed; and
 - (iii) The identification of any job duties which have a potential to cause harm to the employee's health.
- (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;
- (c) Make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request; and
- (d) Where no qualified person has applied, the Council shall review (a) and (b) above and where required shall make further arrangements for advertisement.

2.2 Declarations

- (a) 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.
- (b) 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.

2.3 Seeking support for appointment

- (a) 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. No Councillor will seek support for any person for any appointment with the Council; and
- (b) Councillors may provide a reference for a candidate if they are not directly involved in the recruitment process. However, any attempt by a Councillor to influence the process in the favour of the applicant will result in the applicant's disqualification.

2.4 Where a post has been advertised, the Council shall:

- (a) Interview all qualified applicants for the post, or
- (b) Select a shortlist of such qualified applicants and interview those included on the shortlist.

2.5 Where the Council is seeking to reduce the number of employees, the Council may seek to mitigate redundancy through internal recruitment processes.

3. Recruitment of Head of Paid Service and Chief Officers

3.1 Where the Council proposes to appoint a Chief Officer, the Council will follow Procedure Rule 2 above.

4. Appointment of Head of Paid Service

4.1 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 (the Senior Officer Employment Committee or a sub-committee thereof). That committee or sub-committee must include at least one member of the Cabinet. Full Council will approve the appointment before an offer of appointment is made to that person.

5. Appointment of Chief Officers

- (a) A committee or sub-committee of the Council will appoint Chief Officers. That committee or sub-committee must include at least one Member of the Cabinet. Such appointment should only be made where no well-founded objection has been received from any Member(s) of the Cabinet within 5 working days of being notified by the Proper Officer of the intended appointment.
- (b) The committee shall not issue an offer of appointment of a Chief Officer until the 5 working day period of notification has elapsed and there have been no objections raised from any member of the Cabinet. After the offer of appointment has been accepted, the appointment will be reported to the next available meeting of the Council for information.
- (c) Where objections are raised, the Leader of the Council must notify the Proper Officer that he/she or any member of the Cabinet has a well-

founded and material objection. Such objections will be reported to the next available meeting of the Council for a decision to be made as to whether the objection should be overruled/upheld.

- (d) The Monitoring Officer shall be the Proper Officer for the receipt of objections to the appointment and dismissal of Chief Officers. Where an interim Monitoring Officer is applying for recruitment to the post of Monitoring Officer, the Head of Paid Service shall be the Proper Officer.
- (e) Full Council is to approve any salary package for any post (not including schools) that is in excess of £100,000, before an offer of appointment is made.

6. Appointment of Director of Public Health

The Council is to act jointly with the Secretary of State for Health when appointing a Director of Public Health. The Council is to follow its established Officer Employment Procedure rules, as set out here, and is also to:

- (a) Involve Public Health England on behalf of the Secretary of State for Health in all stages of the recruitment and appointment process and follow the statutory guidance on appointing Directors of Public Health;
- (b) Engage with the Faculty of Public Health on the draft job description, person specification and advert to ensure it covers the statutory responsibilities of this role and necessary areas of professional and technical competence;
- (c) Ensure all candidates meet the statutory requirements for appropriate regulation and registration; and
- (d) Organise the Appointment Committee to include:
- Members of the Committee as listed in Procedure Rule 5 above
 - Chief Executive or his/her nominated deputy
 - Public Health England Regional Director or another senior professionally qualified member of Public Health Committee acting on his/her behalf
 - External professional assessor appointed after consultation with the Faculty of Public Health
 - Senior NHS representation.

7. Other Appointments

7.1 Officers below Chief Officer

Appointments of officers below Chief Officer (other than Assistants to Political Groups) are the responsibility of the Head of Paid Service, or his/her nominee, and may not be made by Councillors.

7.2 Appointment of Consultants in Public Health

The Council is to be supported by Public Health England and follow the statutory guidance on appointing Consultants in Public Health and is to:

- (a) Incorporate Faculty of Public Health role template into the job description and person specification;
- (b) Ensure all candidates are appropriately qualified and formally regulated; and
- (c) Consider who is to be involved in the appointment process, having regard to the list provided in the statutory guidance.

7.3 Assistants to Political Groups

- (a) The Council can create up to three assistants for political groups, subject to certain qualifying criteria as defined in Section 9 of the Local Government and Housing Act 1989.
- (b) The Council can only allocate one Political Assistant post to each of the qualifying groups.
- (c) The Council shall only make an appointment to any Political Assistant post once it has allocated a Political Assistant to each of the qualifying groups.
- (d) Appointment of Political Assistants shall be an Officer Responsibility. The selection process may include members of the relevant Political Group.
- (e) The Chair of the recruitment process shall be an Officer and the final recruitment decision shall be an Officer Responsibility, i.e. it is a matter for the Council as employer, under Section 112 of the Local Government Act 1972, to decide the terms on which the Political Assistant is employed.
- (f) The Political Assistant Post is a fixed term contract which must end at the first Annual Council meeting after the person has been in post for 3 years, as set out in the HR Protocol for Political Assistants.

8. Disciplinary Action and Dismissal of Certain Officers: Head of Paid Service, Monitoring Officer and Chief Finance Officer

- 8.1 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.
- 8.2 The Panel** will be established as set out in Appendix A of these procedure rules and will be responsible for advising the Council on Dismissal. The Panel will:
- Commission an independent person to carry out an investigation of the alleged misconduct;
 - Hear the evidence from the relevant officer;
 - Consider the conclusions of the investigation;
 - Decide whether dismissal is an appropriate disciplinary action.
- 8.3** If the Panel considers dismissal to be the appropriate action they will:
- Formulate advice, views or recommendations;
 - Present a report to Council, incorporating:
 - any advice, views or recommendations of the Panel;
 - the conclusions of any investigation into the proposed dismissal;
 - any representations from the relevant officer.
- 8.4** The Council will make the decision on the dismissal, considering the above. The Panel's recommendations are **not binding** on the Council.
- 8.5** If the Panel do not consider dismissal to be appropriate, the Panel will refer the matter to the Senior Officer Employment Committee for a decision on any other disciplinary action.

9. Disciplinary Action and Dismissal of other Chief Officers

- 9.1 Suspension** – Chief Officers may be suspended whilst an investigation takes place.
- 9.2 Disciplinary Action and Dismissal** – The Senior Officer Employment Committee, which must include at least one Member of the Cabinet, will take into account the recommendations of the report made by an Investigator appointed by the Committee and will make the decision to

dismiss Chief Officers (except for the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer).

- 9.3** The dismissal can only be made where there is no well-founded objection by any Cabinet Member within 5 working days from notification by the Proper Officer.
- 9.4** Appeals against dismissal of these Officers will be heard by the members of the Senior Officer Employment Committee who were not involved in the original decision.
- 9.5** That committee will take disciplinary action for any Chief Officer, including the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer.

10. Disciplinary Action and Dismissal of other Officers

- (a) Councillors will not** be involved in the disciplinary action against any officer below Chief Officers, except where such involvement is necessary for any investigation or inquiry into alleged misconduct though 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 disciplinary action.
- (b) Appeal against Dismissal** for disciplinary, capability or other substantial reasons shall be to the Appeals and Collective Disputes Committee, which shall comprise of three Members who have been accredited by attending appropriate training sessions.
- (c) Appeals against dismissal by reason of redundancy** shall be to a panel of authorised Chief Officers.

Appendix A: The Panel

- 1.0 A statutory officer cannot be dismissed unless these provisions relating to the Panel are complied with.
- 2.0 The Panel is appointed (under section 102(4) of the Local Government Act 1972) as an advisory committee of the Council and shall be a sub-committee of the Senior Officer Employment Committee. The Panel is subject to all the legal requirements for committees, including the proportionality rules.
- 3.0 The Council must invite independent persons (who have been appointed by this or another authority under section 28(7) of the Localism Act 2011 for Standards regime purposes) to be considered for appointment to the Panel.
- 4.0 The Council must appoint to the Panel at least two independent persons who have accepted an invitation, in the following priority order:
 - an independent person who has been appointed by this authority and who is a local government elector;
 - any other independent person who has been appointed by this authority;
 - an independent person who has been appointed by another authority or authorities.
- 5.0 The remuneration, allowances or fees paid to an independent person appointed to the Panel must be no more than the level of the remuneration, allowances or fees payable to them for their role as an Independent Person for the Standards regime.
- 6.0 The Panel must be appointed at least 20 working days before a meeting of the authority to consider whether or not to approve a proposal to dismiss a statutory officer.
- 7.0 A decision to dismiss **must** be taken by full Council. In making the decision Council **must** take into account the factors as specified:
 - 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.

The Panel's recommendations are **not binding** on the Council.

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 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.

2. Recruitment of Head of Paid Service and Chief Officers

Where the Council proposes to appoint a chief officer and 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**

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. That committee or sub-committee must include at least one member of the Cabinet.

4. **Appointment of Chief Officers and Deputy Chief Officers**

A committee or sub-committee of the Council will appoint chief officers. That committee or sub-committee must include at least one Member of the Cabinet.

5. **Other appointments**

- (a) **Officers below Chief Officer.** Appointment of officers below (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Councillors.
- (b) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

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 chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though 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 disciplinary action.

7. **Dismissal**

Councillors will not be involved in the dismissal of any officer below chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though 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 dismissals.

(B) MISCELLANEOUS MATTERS**B1 Officers**

- (1) For the purposes of Section 4 of the Local Government and Housing Act 1989, as modified by Schedule 5 to the Local Government Act, 2000, the Head of Paid Service shall be the Chief Executive.
- (2) For the purposes of Section 5 of the Local Government and Housing Act 1989, "the Monitoring Officer" shall be the Director of Legal and Governance.
- (3) For the purposes of Section 151 of the Local Government Act 1972, the officer with responsibility for the administration of the financial affairs of the Council "the Chief Financial Officer" shall be the Executive Director, Resources.
- (4) Chief Officer for the purposes of these Standing Orders means Head of Paid Service, Monitoring Officer, Section 151 Officer or Statutory Chief Officer referred to in Section 2(6) (a), (c) or (d) of the Local Government and Housing Act 1989, any non-statutory Chief Officers (within the meaning of Section 2(7) (a) or (b) of the Local Government and Housing Act 1989) and Heads of Service. Additional rules apply to the Head of Paid Service, Monitoring Officer and Section 151 Officer.

B2 Applications for Employment

- (1)
 - (a) Canvassing of members of the Council or any Committee or other Body of the Council or members of a Governing Body directly or indirectly for any appointment under the Council shall disqualify the candidate concerned for that appointment.
 - (b) A member of the Council or of a Governing Body shall not solicit for any person any appointment under the Council but this shall not preclude a member from giving a written testimonial of a candidate's ability, experience, or character for submission to the Council with an application for appointment.
- (2) A candidate for any appointment under the Council who knows that he/she is related to any member or senior officer of the Council or of a Governing Body shall when making application disclose that relationship. A candidate who fails to disclose such

a relationship shall be disqualified for the appointment and if appointed shall be liable to dismissal without notice.

- (3) Every member and Chief Officer, as defined in Standing Order B1(4), of the Council shall disclose to the Chief Executive and every member of a Governing Body, Headteacher, Deputy or Assistant shall disclose to the Governing Body through the Headteacher any relationship known to him/her to exist between himself/herself and any person who he/she knows is a candidate for an appointment under the Council. The Chief Executive shall report to the Council or to the appropriate Committee and the Headteacher shall report to the Governing Body any such disclosure made to him/her.
- (4) The purport of this Standing Order shall be included either in the form of application or in the notification calling the candidate for interview.

B3 Appointment of Chief Officers

- (1) Where the Council propose to appoint a Chief Officer as defined in Standing Order B1(4) 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.
 - (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.
 - (c) Make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.
- (2) Where a post has been advertised as provided in Standing Order B2(1)(b) the Council shall:-
 - (i) interview all qualified applicants for the post; or
 - (ii) select a shortlist of such qualified applicants and interview those included on the shortlist.

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- (3) Where no qualified person has applied, the Council shall make further arrangements for advertisement in accordance with Standing Order B2(1)(b).
 - (4) Every appointment and dismissal of a Chief Officer as defined in Standing Order B1(4), other than the appointment and dismissal of the Head of Paid Service which shall be approved by the full Council, shall be made by a Committee or Sub-Committee of the Council and must include at least one member of the Cabinet.

Such appointment should only be made where no well-founded objection has been received from any Member(s) of the Cabinet within 5 days of being notified by the Proper Officer of the intended appointment/dismissal.

- (5) No offer of appointment or notice of dismissal of the Head of Paid Service or a Chief Officer as defined in Standing Order B1(4) may be made by the appointor or dismissor where, within a period of 5 working days, the Leader of the Cabinet has notified the Proper Officer that he/she or any other member of the Cabinet has a well founded and material objection. Such objection will be reported to the next available meeting of the Council for a decision to be made as to whether the objection should be overruled/upheld.
- (6) The Monitoring Officer shall be the Proper Officer for the receipt of objections referred to in paragraphs (4) and (5) above.
- (7) The involvement of Members in the appointment of Officers will be restricted to that of the Head of Paid Service, Chief Officers as defined in Standing Order B1(4), Heads of Service and Political Assistants.
- (8) The steps taken under Standing Order B2(1) or (2) may be taken by the Council, a Committee, Sub-Committee or Chief Officer of the Council.

B4 Disciplinary Action against certain Chief Officers

- (1) No disciplinary action (as defined in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001) in respect of the Head of the Council's Paid Service, the Monitoring Officer, the Chief Finance Officer or Executive Directors, except action described in paragraph (3) below, may be taken by the Authority or by a Committee, Sub-Committee, a joint Committee on which the Authority is represented or any other person acting on behalf of the Authority, other than in accordance with a

recommendation in a report made by a designated independent person under Regulation 7 of those Regulations.

- (2) The action mentioned in paragraph (1) is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension shall be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.
- (3) All such actions shall be subject to the process set out in Standing Orders B3(4) and (5).

B5 Appointment, Dismissal and Disciplinary Action for Staff other than Chief Officers referred to in section B4 above and Political Assistants

- (1) Appointment, dismissal and disciplinary action of staff other than Chief Officers referred to in section B4 above and Political Assistants, will be the responsibility of the Head of Paid Service or his/her nominee.
- (2) Nothing in paragraph 1 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.

B6 Appeals against Dismissal or Disciplinary Action

Appeals against dismissal or disciplinary action shall be to a Panel of the Council which shall comprise two Members of the majority group and one from a minority group who have been accredited by attending appropriate training sessions. Appeals against dismissal by reason of redundancy shall be to a panel of authorised chief officers.

B7 Political Assistants

- (1) Not more than one political assistant's post shall be allocated by the Council from time to time, to each of the qualifying political groups into which the Council is divided.

- (2) No appointment to a political assistant's post shall be made until the Council has allocated such a post to each qualifying political group.
- (3) For the purpose of this Standing Order, a “qualifying political group” means a political group which qualifies for the allocation to it of a political assistant's post in accordance with sub-sections 6 and 7 of Section 9 of the Local Government and Housing Act 1989.
- (4) The purpose of this Standing Order shall be brought to the attention of applicants for appointment.
- (5) Appointment and dismissal of Political Assistants shall be made by a Committee or Sub-Committee of the Council.
- (6) The provisions of Standing Order B3(4) and (5) do not apply to these appointments.