

PART 4.8

OFFICER EMPLOYMENT RULES

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4.8.1 INTRODUCTION

4.8.1.1 These rules relate to the Council's members of staff – that is to say, any person(s) appointed to or holding a paid office or employment with the Council. The rules cover the following areas in relation to members of staff:

- a) recruitment and appointment;
- b) the taking of disciplinary action,
- c) dismissal; and
- d) miscellaneous matters.

4.8.1.2 The rules contain special procedures applicable to the appointment and dismissal of, and the taking of disciplinary action against, the Council's Head of Paid service. Section 151 Officer, Monitoring Officer, and Directors as defined in rule 4.8.5.1 below.

Interpretation of Employment Procedure Rules

4.8.1.3 Under Regulation 3(1) of The Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) ("the 2001 Regulations") the Council is required to incorporate within its standing orders, relating to staff, the provisions set out in:

- a) Part II of Schedule 1 of the 2001 Regulations or provisions to the like effect; and
- b) Schedule 3 to the 2001 Regulations or provisions to like the effect.

4.8.1.4 These Rules seek to incorporate to the like effect those provisions., If, however, it transpires that these Rules are in any respect deficient or inconsistent with the 2001 Regulations then the provisions of the 2001 Regulations must take precedence and prevail.

4.8.1.5 These Rules should be read in conjunction with the guidance contained within the accompanying linked Practice Note.

4.8.2 GENERAL PROVISIONS APPLICABLE TO RECRUITMENT OF ALL MEMBERS OF STAFF

4.8.2.1 The Council's Human Resources Services Manager ("HR Manager") shall, before seeking to recruit to a particular post, ensure that a written statement has been drawn up which specifies:

- a) the duties and responsibilities of the post;

- b) the qualifications, experience or qualities it requires/seeks in candidates for the post; and
- c) the pay grade, other benefits (if relevant) and terms and conditions applicable to the post.

4.8.2.2 The statement required by rule 4.8.2.1(a) and (b) above will normally take the format of a traditional job description and person specification.

4.8.2.3 The Officer seeking to recruit will not do so unless an [“Authority to Fill” form](#) has been completed and submitted to the HR Manager, which requires confirmation to do so from the Council’s Management Team and from Financial Services that the necessary budget is in place.

Requirement to advertise posts

4.8.2.4 Except when it is proposed that the appointment to a post be made exclusively from among existing members of staff, the Council’s HR Manager shall make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons external to the Council who are qualified to apply for it.

4.8.2.5 Such steps may include advertising in the local or national press, at the Job Centre, and in municipal or professional journals.

4.8.2.6 Where it is proposed that the appointment to a post be made exclusively from among existing members of staff, the Council shall take such steps as it considers appropriate for the purposes of ensuring that members of staff who are qualified to apply for the post are made aware of the vacancy, such as but not limited to notifying the vacancy on the Council’s intranet.

Equal opportunities/appointments to be made on merit

4.8.2.7 The Council will not unlawfully discriminate in the recruitment and appointment of members of staff.

4.8.2.8 All appointments shall be made solely on merit.

Applicants required to disclose whether they are related to any councillor or member of staff and the consequences of failing to do so

4.8.2.9 Applicants for any post with the Council shall be required to disclose in writing at the time of application whether, to the best of their knowledge:

- a) they are the spouse, partner, parent, grandparent, child, step child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or member of staff of the Council; or

- b) they are the spouse or partner of any of the above-mentioned persons.

4.8.2.10 Any applicant who fails to disclose at the time of application that they are related to a councillor or officer shall be disqualified from being considered for the post. Where the relationship does not come to the Council's notice until after the appointment has been made, they may be dismissed.

Applicants prohibited from seeking support from councillors for appointment to a post

4.8.2.11 No applicant for a post with the Council shall seek either directly or indirectly (e.g. through another person) the support of any councillor for their appointment to the post. Any applicant who does so will be disqualified from being considered for the post. Where such canvassing does not come to the notice of the Council until after appointment, they may be dismissed.

Councillors prohibited from seeking posts for individuals etc.

4.8.2.12 Councillors must not seek posts for any individual, nor recommend anyone for appointment or promotion.

4.8.2.13 A councillor may, however, provide a written reference for an applicant where –

- a) the applicant has named them as a referee; and
- b) the reference is requested by the HR Manager in the ordinary course of the recruitment process.

Prospective applicants to be made aware of disclosure requirements and prohibition on canvassing

4.8.2.14 The HR Manager shall ensure that the disclosure requirements and prohibition on canvassing are brought to the attention of all prospective applicants.

4.8.3 CABINET OBJECTION PROCEDURE TO BE FOLLOWED FOR THE PURPOSES OF RULES 4.8.4, 4.8.5, 4.8.6 AND 4.8.7

4.8.3.1 No offer of appointment or dismissal shall be made under these rules until:

- a) The person responsible for making the appointment ("the appointor") or imposing a dismissal ("the dismisser") has notified the HR Manager of the name of the person to whom the proposed action relates and any other particulars considered relevant to that action;

- b) The HR Manager has then notified every member of the Cabinet of the name of the person to whom the proposed action relates and other particulars (if any) considered by the appointor or dismissor to be relevant to that action;
- c) The HR Manager has notified every member of the Cabinet of the period within which any objection to the making of an offer of the decision to dismiss is to be made to the HR Services Manager by the leader, on behalf of the Cabinet.

4.8.3.2 It should be noted that for the purposes of this Rule;

- a) Any objections must be made through the Leader; and
- b) The period for making any objection is three clear working days (“the three day period”)

4.8.3.3 In addition to the above pre-requisites an offer of appointment, or decision to dismiss, must not be made unless one of the following criteria has been fulfilled:

- a) The Leader has, within the three-day period notified the appointor or dismissor that neither they nor any member of the Cabinet has any objection to the making of the offer;
- b) The HR Manager has notified the appointor or dismissor that no objection was received within the three-day period; **OR**
- c) The appointor or dismissor is satisfied that any objection received within that three-day period is not material or well-founded.

4.8.3.4 The role of the HR Services Manager in the Cabinet objection procedure shall be undertaken by the Director of Connected Chelmsford where the post to be filled is that of the HR Services Manager, or they are otherwise unavailable.

4.8.3.5 Reference to the “Leader” in this rule means the “Leader of the Council” as defined in Part 2 of the Council’s Constitution.

4.8.4 THE APPOINTMENT OF PERSONS TO POSTS BELOW DIRECTOR LEVEL

Responsibility for the appointment of persons to posts below Director level (except Monitoring Officer)

4.8.4.1 The Chief Executive (as designated Head of Paid Service) or an officer nominated by them, shall be responsible for the recruitment and

appointment of all members of staff below the level of Director, except the appointment of the Monitoring Officer.

4.8.4.2 In the case of the proposed appointment of a person in the categories described below the Cabinet Objection Procedure set out in Rule 4.8.3 above **must** be followed prior to the making of an offer of appointment to that person:

- a) the post of Head of Paid Service, or
- b) any other post which reports direct to the Head of Paid Service (other than a post where the duties are solely secretarial or clerical or are otherwise in the nature of support services).

4.8.5 THE APPOINTMENT OF THE COUNCIL'S HEAD OF PAID SERVICE, SECTION 151 OFFICER, MONITORING OFFICER AND DIRECTORS

Scope

4.8.5.1 The provisions set out Rule 4.8.5 are applicable to the recruitment and appointment to the following Council posts only:

- a) The **Head of Paid Service** - the officer designated under section 4(1) of the Local Government and Housing Act 1989 as the Head of Paid Service, which will be carried out by the officer specified in [Part 2 - Article 13 of the Council's Constitution](#)
- b) The **Section 151 Officer** - the officer designated for the purposes of section 151 of the Local Government Act 1972 and section 6 of the Local Government and Housing Act 1989 as the Chief Finance Officer – having responsibility for the administration of the Council's financial affairs, which will be carried out by the officer specified in [Part 2 - Article 13 of the Council's Constitution](#)
- c) The **Monitoring Officer** – the officer designated under section 5(1) of the Local Government and Housing Act 1989 as the Council's Monitoring, which will be carried out by the officer specified in [Part 2 - Article 13 of the Council's Constitution](#)
- d) The **Directors** - the Council's non-statutory chief officers within the meaning of section 2 (7) of the Local Government and Housing Act 1989. For the avoidance of doubt this definition includes the Chief Executive, if that post-holder's role does not incorporate the functions of the Head of Paid Service.

Appointments to be made by Employment Committee

- 4.8.5.2 The Council's Employment Committee shall be responsible for the recruitment and appointment of persons to the posts of the Head of Paid Service, Section 151 Officer, Monitoring Officer and a Director in accordance with the terms of reference (set out in [Part 3.4 of the Council's Constitution](#)) and subject to the requirements and limitations set out below.
- a) At least one member of the Cabinet must be a member of the Employment Committee.
 - b) The Employment Committee will be advised by the Chief Executive and the Director of Connected Chelmsford or their nominees.
 - c) The Employment Committee may, where it considers it appropriate to do so, employ the services of a senior officer from another local authority or an external consultant to provide support or specialist advice or guidance in respect of any aspect of recruitment to a particular post.
 - d) Applicants for the posts of Head of Paid Service, Section 151 Officer, Monitoring Officer, or Director will normally be personally interviewed by the Employment Committee. However, the Employment Committee may at its absolute discretion dispense with the requirement for an interview.

Requirement to follow Cabinet objection procedure before making an offer of appointment to the post of Chief Executive, section 151 officer, Monitoring Officer or a Director

- 4.8.5.3 No offer of appointment shall be made to an applicant for the post of Head of Paid Service, Section 151 Officer, Monitoring Officer or Director until the Cabinet Objection Procedure in Rule 4.8.3 has been followed
- 4.8.5.4 Where an appointment is to the post of Head of Paid Service, Chief Executive or a permanent appointment to the post of Monitoring Officer, Rule 4.8.5.5 below must also be adhered to before the appointment can be confirmed.

Full Council must approve appointment of Chief Executive and Monitoring Officer

- 4.8.5.5 Where it is proposed to appoint a person to the post of Head of Paid Service, Chief Executive or permanent Monitoring Officer, full Council must first approve the appointment before an offer of appointment is made to that person.

Appointment of interim section 151 Officer, Monitoring Officer or Director

4.8.5.6 In order to provide necessary cover, the Chief Executive, and not the Employment Committee, may appoint a person to the post of Section 151 Officer, Monitoring Officer or Director on a strictly short term interim or temporary basis, pending the recruitment and appointment of a person to the permanent post.

4.8.5.7 Before the offer of an interim or temporary appointment to the post Section 151 Officer, Monitoring Officer or Director is made, the Chief Executive must first comply with the Cabinet objection process set out in Rule 4.8.3 above.

4.8.6 DISMISSAL AND DISCIPLINARY ACTION - MEMBERS OF STAFF BELOW THE LEVEL OF DIRECTOR (EXCLUDING THE SECTION 151 OFFICER AND THE MONITORING OFFICER)

Scope of Rule 4.8.6

4.8.6.1 The provisions set out in this rule are applicable to the dismissal of and the taking of disciplinary action against members of staff below the level of Director, except for the dismissal or disciplinary action in relation to the Monitoring Officer, or section 151 Officer where Rule 4.8.7 applies instead.

Chief Executive to be responsible for the dismissal of and taking of disciplinary action against members of staff below Director level.

4.8.6.2 The Chief Executive (as designated Head of Paid Service) or by an officer nominated by them, shall be responsible for the dismissal of and taking disciplinary action against all members of staff below the level of Director except the Monitoring Officer and section 151 Officer where the procedure in Rule 4.8.7 must be followed.

4.8.6.3 Councillors will not be involved in the taking of disciplinary action against members of staff below the level of Director except in the following circumstances:

- a) where their involvement is considered necessary for the purpose of carrying out an investigation or inquiry into alleged misconduct; or
- b) where they are a member of the Cabinet and the Cabinet objection process is applicable in relation to a proposed dismissal.

The Council's Disciplinary Procedures to be followed

4.8.6.4 The dismissal of, or disciplinary action against, officers below the level of Director shall be carried out in accordance with:

- a) the Council's Disciplinary Procedures for the time being in force, and
- b) any delegations to officers.

Dismissal of Head of Service or other officer falling within this Rule

- 4.8.6.5 Notice of the dismissal of a Head of Service (or any other member of staff falling within this rule) must not be given until the Cabinet Objection Procedure has been followed.

4.8.7 DISMISSAL AND DISCIPLINARY ACTION – HEAD OF PAID SERVICE, SECTION 151 OFFICER, MONITORING OFFICER AND DIRECTORS

Scope of this Rule

- 4.8.7.1 The provisions set out in this rule are applicable to the dismissal of, and the taking of any disciplinary action against, the following members of staff as defined in Rule 4.8.5:

- a) Head of Paid Service
- b) Section 151 officer
- c) Monitoring Officer
- d) Directors

Definition of “disciplinary action”

- 4.8.7.2 The term “disciplinary action” has the same meaning as in the 2001 Regulations.

Role of the Employment Committee

- 4.8.7.3 The Council's Employment Committee is responsible for the dismissal of and taking of disciplinary action against the Head of Paid Service, section 151 Officer, Monitoring Officer and Directors subject to:

- a) in the case of dismissal, compliance with the Cabinet objection process set out in Rule 4.8.3 above; and
- b) the requirement that Full Council must approve the dismissal of the Head of Paid Service, Chief Executive, Section 151 Officer, and Monitoring Officer.

- 4.8.7.4 At least one member of the Cabinet must be a member of the Employment Committee.

- 4.8.7.5 The Employment Committee will be normally be advised by the Chief Executive and/or the Director of Connected Chelmsford or their nominees. Where, however, the Chief Executive or Director of Connected Chelmsford is the subject of the proposed dismissal or disciplinary action, or is too closely involved in the matter to undertake their role, then the Committee may ask another senior officer of the Council to undertake this role or alternatively employ the services of an external consultant or senior officer

from another authority.

4.8.7.6 In addition to the Employment Committee's ability to instruct an independent investigator as referred to in rule 4.8.7.5 above, the Employment Committee may employ the services of a senior officer from another local authority or an external consultant to provide it with specialist support, advice or guidance in respect of any aspect of the disciplinary process.

4.8.7.7 Any external appointment will be organised by the Director of Connected Chelmsford or the HR Manager.

Suspension of the Head of Paid Service, section 151 Officer, Monitoring Officer and Directors

4.8.7.8 The Employment Committee may suspend the Head of Paid Service, section 151 officer, Monitoring Officer or any Director for the purpose of facilitating the proper and efficient investigation of alleged serious misconduct.

4.8.7.9 Suspension shall be on full pay.

4.8.7.10 If suspension has been in place for a period of two months the Employment Committee shall meet as soon as practicable on expiry of that period to review the suspension and determine whether it should continue.

Emergency suspension

4.8.7.11 The Chief Executive may suspend the section 151 officer, Monitoring Officer, or any Director in any case where, because of the nature and/or seriousness of the alleged or suspected misconduct, it is considered that immediate suspension is required.

4.8.7.12 The section 151 officer or the Monitoring Officer may suspend the Chief Executive where:

- a) the Leader or Chair of the Employment Committee has requested the emergency suspension, following receipt of a report from the section 151 officer and/or Monitoring Officer; and
- b) owing to the nature and/or seriousness of the alleged or suspected misconduct it is in the interests of the Council that suspension takes place immediately, rather than await referral to the Employment Committee.

4.8.7.13 Any emergency suspension shall be reported without any undue delay to members of the Employment Committee. A meeting of the Employment Committee must then be convened as soon as practicably possible, in order to consider whether to continue the suspension.

Disciplinary action against Directors (excluding the section 151 officer).

4.8.7.14 The Employment Committee may take any disciplinary action (including dismissal) in respect of Directors, excluding the section 151 officer who shall be dealt with in accordance with Rules 4.8.7.17 to 4.8.7.22 as

appropriate.

4.8.7.15 Before determining whether to take disciplinary action the Employment Committee must convene a hearing and allow the Director concerned the opportunity to make representations.

4.8.7.16 Before dismissing or issuing a notice of dismissal, the Employment Committee must follow the Cabinet Objection Procedure set out in Rule 4.8.3 above.

Disciplinary action against Head of Paid Service, section 151 officer, and the Monitoring Officer

4.8.7.17 The Employment Committee may:

- a) take any disciplinary action **short of dismissal**; or
- b) if and when properly constituted as a “Panel” pursuant to Schedule 3 of the 2001 Regulations, recommend to full Council that a notice of dismissal be issued.

Full Council’s approval required for dismissal of Chief Executive, the section 151 officer, or the Monitoring Officer

4.8.7.18 **Only Full Council** can approve the dismissal of the Chief Executive, the section 151 officer and the Monitoring Officer.

4.8.7.19 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 Employment Committee
- b) the conclusions of any investigation into the proposed dismissal; and
- c) any representations from the officer liable to be dismissed.

4.8.7.20 The requirement that only Full Council can approve the dismissal of the Head of Paid service, Chief Executive, section 151 officer or the Monitoring Officer, is not confined to a dismissal related to disciplinary action, but is applicable to dismissal for **any** reason including redundancy or permanent ill health.

Employment Committee required to follow Cabinet Objection Procedure where dismissal proposed

4.8.7.21 Notice of the dismissal of the Head of Paid Service, section 151 Officer, Monitoring Officer, or any Corporate Director must not be given until the Cabinet Objection Procedure in Rule 4.8.3 has been followed.

4.8.7.22 The Employment Committee will undertake the Cabinet Objection Procedure under rule 4.8.3 before it forwards its report to Full Council recommending that any decision to dismiss is approved.

The Employment Appeals Committee

- 4.8.7.23 The Council's Employment Appeals Committee shall, in accordance with its terms of reference (set out in Part 3.2 of the Council's Constitution) be responsible for hearing any appeals from:
- a) Directors (other than the section 151 officer) respect of any disciplinary action taken by the Employment Committee, including dismissal; and
 - b) the Chief Executive, section 151 officer, and the Monitoring Officer in respect of any disciplinary action *falling short of dismissal*.

4.8.8 MISCELLANEOUS PROVISIONS RELATING TO MEMBERS OF STAFF

Discussion of matters relating to individual members of staff at Council, Committees etc.

- 4.8.8.1 No matter relating to any existing or former member of staff of the Council shall be discussed at any meeting of Full Council, its Committees, or Cabinet unless and until the meeting before which the matter is raised has first considered whether the public should first be excluded from the meeting.

Interest of members of staff in contracts

- 4.8.8.2 Any pecuniary interest of a member of staff in a contract (which has been disclosed in accordance with section 117 of the Local Government Act 1972) shall be recorded in a specific book kept and maintained by the Monitoring Officer. This may be inspected by any councillor.