

# Officer Employment Procedure Rules

1.1 These Rules are intended to incorporate provisions to the like effect as those set out in the Local Authorities (Standing Orders) (England) Regulations 2001 in so far as they apply to the Council and they shall be read and construed so as to give effect to the provisions of those Regulations wherever applicable.

## 1.2 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(b)
- "*chief finance officer*", "*disciplinary action*", "*head of the authority's paid service*" and "*monitoring officer*" have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001.
- "*executive*" and "*executive leader*" have the same meaning as in Part II of the 2000 Act
- "*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 in the authority's area in accordance with the Representation of the People Acts
- "*member of staff*" means a person appointed to or holding a paid office or employment under the Council
- "*the Panel*" means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority
- "*proper officer*" means the Corporate Director of Governance and Regulatory Services or in the alternate the Town Clerk and Chief Executive.
- "*relevant meeting*" means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer.
- "*relevant officer*" means the chief finance officer, head of the authority's paid service or monitoring officer, as the case may be.
- "*statutory chief officer*", "*non-statutory chief officer*" and "*deputy chief officer*" have the same meaning as in section 2 (6), section 2 (7) and section 2 (8) respectively of the 1989 Act.

## 2. **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. 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.
- ii) No candidate so related to a councillor or an officer will be appointed without the authority of the Chief Officer having responsibility for the relevant directorate concerned 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.
- iii) Paragraphs (i) and (ii) shall not preclude a councillor from giving a written testimonial of a candidate's ability, experience or character for submission to the Council with an application for appointment.

## 3. **Recruitment of head of the authority's paid service and chief officers**

Where the Council proposes to appoint the head of the authority's paid service, the monitoring officer, the chief finance officer and any other statutory or non-statutory 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 (a) to be sent to any person on request.
- (d) Where a post has been advertised as provided in paragraph (b) above, the Council will interview all qualified applicants for the post, or select a short list of such qualified applicants. Where no qualified person has applied, the Council shall make further arrangements for advertisement in accordance with paragraph (b) above.

- (e) The steps taken under this Rule 3 may be taken by a committee, sub-committee or chief officer of the Council.

#### 4. **Appointment of head of the authority's paid service**

- (a) The full Council must (subject to Rule 11 below) approve the appointment of the head of the authority's paid service before an offer of appointment is made to him/her 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 executive.
- (b) The full Council may only make or approve the appointment of the head of the authority's paid service where no material or well-founded objection has been received from the executive leader and after first complying with the provisions of Rule 11 below.

#### 5. **Appointment of chief officers**

- (a) The full Council will (subject to Rule 11 below) approve the appointment of a chief officer (meaning for the purposes of this Rule 5 a chief officer as designated in paragraph 12.01 of this Constitution being the Deputy Town Clerk and Chief Executive; the Corporate Director of Governance and Regulatory Services; the Corporate Director of Economic Development; and, the Chief Finance Officer respectively before an offer of appointment is made to him/her 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 executive.
- (b) The full Council may only make or approve the appointment of such a chief officer where no material or well-founded objection has been received from the executive leader and after first complying with the provisions of Rule 11 below.

#### 6. **Appointment of deputy chief officers**

- (a) Appointment of deputy chief officers is (subject to the provisions of Rule 11 below) the responsibility of the head of the authority's paid service or his/her nominee.
- (b) The head of the authority's paid service or his/her nominee may only make an appointment of a deputy chief officer where no material or well-founded objection has been received from the executive leader and after first complying with the provisions of Rule 11 below.

#### 7. **Other appointments**

- (a) **Officers below deputy chief officer.** Appointment of officers below deputy chief officer (other than assistants to political groups) is the responsibility of the head of the authority's paid service or his/her nominee, and may not (subject to Rule 12 below) be made by councillors.
- (b) All vacancies in the Council's establishment (other than in respect of the head of the authority's paid service and those other posts to be filled in accordance with Rule 3 above) unless they are to be filled by promotion or transfer, shall be publicly advertised

except where the Council or the appointing officer otherwise determines. Provided that where, within six months of the filling of a vacancy which has been publicly advertised, a similar vacancy occurs, the Council or the appointing officer may appoint one of the former applicants.

**8. Assistants to political groups.**

- (a) This Rule applies to posts (Political Assistants) created for the purposes of Section 9 of the 1989 Act.
- (b) The annual remuneration of a Political Assistant shall not exceed the relevant amount prescribed by the Secretary of State for Transport Local Government and the Regions.
- (c) The appointment of a Political Assistant shall terminate as provided for in Section 9 of the 1989 Act.
- (d) The allocation of the posts to Political Groups, and any review of such allocation, shall be reserved to the full Council.
- (e) No post shall be allocated to any Political Group until a post has been allocated to all the Political Groups which qualify for one in accordance with Section 9 of the 1989 Act.
- (f) No post may be allocated to a Political Group which does not qualify for one.
- (g) No more than one post may be allocated to any one Political Group.
- (h) Appointment of a Political Assistant shall be in accordance with the wishes of that Political Group.

**9. Disciplinary action**

- a) A relevant officer may not be dismissed by an authority unless the procedure set out in the following paragraphs is complied with.
- b) The authority 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.
- c) In paragraph (b) "*relevant independent person*" means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.
- d) Subject to paragraph (e), the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 3 in accordance with the following priority order—
  - i. a relevant independent person who has been appointed by the authority and who is a local government elector;
  - ii. any other relevant independent person who has been appointed by the authority;

- iii. a relevant independent person who has been appointed by another authority or authorities.
- e) An authority is not required to appoint more than two relevant independent persons in accordance with paragraph (d) but may do so.
- f) The authority must appoint any Panel at least 20 working days before the relevant meeting.
- g) Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular—
  - i. any advice, views or recommendations of the Panel;
  - ii. the conclusions of any investigation into the proposed dismissal; and
  - iii. any representations from the relevant officer.
- h) Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the 2011 Act."
- i) Any question arising in respect of the alleged misconduct of a chief officer (meaning for the purposes of this Rule 9 a chief officer as designated in paragraph 12.01 of this Constitution being the Deputy Town Clerk & Chief Executive; the Corporate Director of Governance and Regulatory Services; the Corporate Director of Economic Development; and, the Chief Finance Officer respectively shall be dealt with by the head of the authority's paid service, subject always to the provisions of Rule 11 below in respect of the dismissal of a chief officer and to paragraphs (a) to (h) above in respect of disciplinary action against the monitoring officer and chief finance officer.
- j) Taking disciplinary action against deputy chief officers is the responsibility of the head of the authority's paid service or his/her nominee, subject always to the provisions of Rule 11 below in respect of the dismissal of a deputy chief officer.
- k) Taking disciplinary action against a member of staff below deputy chief officer level is the responsibility of the head of the authority's paid service or his/her nominee. Councillors will not (subject to Rule 12 below) be involved in the disciplinary action against any officer below deputy chief officer (other than assistants to political groups) 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 and nothing in this paragraph shall prevent a councillor from serving as a member of any committee or sub-committee to consider such an appeal.

10. **Dismissal**

- (a) Where a committee or sub-committee of the Council is discharging, on behalf of the Council, the function of dismissing any officer referred to in Rule 11 (1) below at least one member of the executive must be a member of that committee or sub-committee. In the case of the head of the authority's paid service, the authority's chief finance officer or the authority's monitoring officer, the Council must approve his/her dismissal before notice of dismissal is given to him/her.
- (b) Dismissal of a member of staff below deputy chief officer level is the responsibility of the head of the authority's paid service or his/her nominee. Councillors will not (subject to Rule 12 below) be involved in the dismissal of any officer below deputy chief officer (other than assistants to political groups) 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 and nothing in this paragraph shall prevent a councillor from serving as a member of any committee or sub-committee to consider such an appeal.
- (c) In the case of alleged misconduct, indiscipline or inefficiency of any member of staff the matter shall (in the absence of a Code of Discipline and Procedure relating thereto applicable to his/her employment under any Scheme, Instrument, Regulation or other document accepted by the Council) be dealt with under the procedure approved by the Council for application to Administrative, Professional, Technical and Clerical staff and, for such purpose, the same shall be deemed to apply to such member of staff.

11. **Notification to executive of proposed appointments and dismissals of chief officers and deputy chief officers**

- (1) This Rule 11 shall apply to:
  - (a) the head of the authority's paid service
  - (b) a statutory chief officer
  - (c) a non-statutory chief officer
  - (d) a deputy chief officer
- (2) In this Rule 11 "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 officer, as the case may be.
- (3) An offer of an appointment as an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph (1) above 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 the Council 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 leader on behalf of the executive to the proper officer; and
- (c) either:
  - i) the executive leader has, within the period specified in the notice under sub-paragraph (b) (iii), notified the appointor that neither he 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 by him within that period from the executive leader; or
  - iii) the appointor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.
- (4) In this Rule 11 "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.
- (5) Notice of the dismissal of an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph (1) above 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 the Council 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 executive leader on behalf of the executive to the proper officer; and
  - (c) either:
    - i) the executive leader has, within the period specified in the notice under sub-paragraph (b) (iii), notified the dismissor that neither he 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 by him within that period from the executive leader; or
- iii) the dismissor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.

12. **Councillors serving on appeals committees or sub-committees**

Nothing in these Rules shall prevent a Councillor 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.



CARLISLE CITY COUNCIL

**DELEGATION OF MATTERS IN RESPECT OF  
THE APPOINTMENT, THE TAKING OF DISCIPLINARY ACTION  
AND THE DISMISSAL OF STAFF**

1. INTERPRETATION

- a. Unless referred to by their individual job title, "Chief Officer" means the following Chief Officers: the Deputy Chief Executive, the Corporate Director of Governance and Regulatory Services, the Chief Finance Officer (statutory chief officer), and the Corporate Director of Economic Development.

2. APPOINTMENT OF STAFF

- a. Under the Council's Constitution, the appointment of all employees (other than the Head of the Paid Service and the officers who are Chief Officers) is the responsibility of the Head of the Paid Service or his nominee.
- b. The Town Clerk and Chief Executive, as the Head of the Paid Service, hereby authorises and delegates to all Chief Officers the authority and power to appoint staff within their respective Directorates and areas of responsibility. Directors will have regard to any current arrangements in place to seek approval from the Staffing Forum (which is chaired by the Deputy Chief Executive and supported by the Human Resources Manager) in respect of matters relating to the grading of posts etc. prior to proceeding with appointments.
- c. Each Chief Officer may further delegate appointments to the appropriate level of management within his/her Directorate and areas of responsibility in accordance with the Council's framework for staff Recruitment and Retention. Any delegation so made by a Chief Officer should be in writing and copied to the Town Clerk and Chief Executive and the Corporate Director of Governance and Regulatory Services for record purposes.
- d. All appointments shall be made in accordance with the Council's framework for staff Recruitment and Retention.
- e. The Town Clerk and Chief Executive shall be consulted first before any appointments are made which result in a reorganisation or change in the current staffing levels of any Directorate.

3. DISCIPLINARY ACTION AGAINST AND DISMISSAL OF STAFF

- a. Under the Council's Constitution, responsibility for taking disciplinary action against employees, including dismissals, is the responsibility of the Head of the Paid Service or her nominee.
  
- b. The Town Clerk and Chief Executive, as the Head of the Paid Service, hereby authorises and delegates to all Chief Officers the authority and power to take disciplinary action against and for the dismissal of employees within their respective Directorates and areas of responsibility. Chief Officers will comply with the relevant policies and procedures of the Council in exercising such powers.
  
- c. The Town Clerk and Chief Executive, as the Head of the Paid Service, hereby authorises and delegates to Deputy Chief Executive the authority and power to take disciplinary action against and for the dismissal of employees within the Council. The Deputy Chief Executive will comply with the relevant policies and procedures of the Council in exercising such powers.
  
- d. Chief Officers may further delegate responsibility for the taking of disciplinary action and dismissals to the appropriate level of management within their Directorates and areas of responsibility in accordance with any policies and procedures of the Council from time to time and all disciplinary action and dismissals shall be taken in accordance with any such procedures. Any delegation so made by a Chief Officer should be in writing and copied to the Town Clerk and Chief Executive and the Corporate Director of Governance and Regulatory Services for record purposes.
  
- e. The Town Clerk and Chief Executive shall be consulted first before any dismissals are made which would result in any post being declared redundant or in a permanent reduction in staffing levels.
  
- f. Any disciplinary action or dismissals referred to above shall be undertaken in accordance with the Council's Disciplinary Procedures.

4. CHANGES IN DELEGATION

- a. The Town Clerk and Chief Executive may change the delegation arrangements set out above at his discretion and shall notify in writing each of the Chief Officers of any changes which he may propose to make.

Signed: ..... Dated: .....  
JASON GOODING 1 October 2016  
Town Clerk and Chief Executive