

**READING BOROUGH COUNCIL**  
**REPORT BY MONITORING OFFICER**

<b>TO:</b>	<b>COUNCIL</b>		
<b>DATE:</b>	<b>7 JULY 2015</b>	<b>AGENDA ITEM:</b>	<b>7</b>
<b>TITLE:</b>	<b>OFFICER EMPLOYMENT PROCEDURE RULES</b>		
<b>LEAD COUNCILLOR:</b>	<b>JO LOVELOCK</b>	<b>PORTFOLIO:</b>	<b>LEADERSHIP</b>
<b>SERVICE:</b>	<b>LEGAL &amp; DEMOCRATIC SERVICES</b>	<b>WARDS:</b>	<b>BOROUGH-WIDE</b>
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**1. PURPOSE AND SUMMARY OF REPORT**

1.1 Further to the Council's Annual Meeting held on 27 May 2015, this report seeks the Council's approval to amend the Officer Employment Procedure Rules to ensure that they comply with the new Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

1.2 At the Annual Meeting, the Council agreed to update Part 2 of the Council's Constitution: Article 4 (The Full Council); Article 8 (Regulatory Committees - "5. Personnel Committee") and Article 12 (Officers). These changes were agreed to bring them into line with the new Regulations, which prescribe that the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2001 should now read:

"4. (2) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the dismissal of an officer designated as the head of the authority's paid service, as the authority's chief finance officer, or as the authority's monitoring officer, the authority must approve that dismissal before notice of dismissal is given to that person."

1.3 The new Regulations also require at least two independent persons to serve on a Panel established by the local authority under section 102(4) of the Local Government Act 1972 to consider the dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer. The Head of Legal & Democratic Services was therefore authorised by the Council, on 27 May 2015, to undertake the appointment process to seek the independent persons, as necessary.

**2. RECOMMENDED ACTION**

2.1 That the revised Officer Employment Procedure Rules, as appended to the report, be approved for inclusion in Part 4 (Rules of Procedure) of the Council's Constitution.

### **3. POLICY CONTEXT**

- 3.1 The new Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 make changes to the process by which the Head of Paid Service, Chief Finance Officer and Monitoring Officer can be dismissed.
- 3.2 In order to comply with the new Regulations the Council must make changes to the Constitution to reflect the revised procedures, most notably to the Officer Employment Procedure Rules.

### **4. THE PROPOSAL**

#### **4.1 Current Position:**

- 4.1.1 The Council adopts a Constitution each year, which includes rules and procedures relating to officer employment. The new Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 have prescribed a process to be followed in the event the local authority wants to dismiss the Head of Paid Service, Chief Finance Officer or Monitoring Officer. Consequently, the Officer Employment Procedure Rules have been reviewed to ensure compliance with the new Regulations.
- 4.1.2 The Council, at its Annual Meeting on 27 May 2015, agreed to update Part 2 of the Council's Constitution: Article 4 (The Full Council); Article 8 (Regulatory Committees - "5. Personnel Committee") and Article 12 (Officers) and review and amend the Officer Employment Procedure Rules.

#### **4.2 Options Proposed**

- 4.2.1 The Council is recommended to approve the revised Officer Employment Procedure Rules as set out in the Appendix to this report.

#### **4.3 Other Options Considered**

- 4.3.1 The option not to make the required changes to the Council's rules of procedure is not recommended.

### **5. CONTRIBUTION TO STRATEGIC AIMS**

- 5.1 The changes to the Officer Employment Procedure Rules are being made in response to new Regulations made by the Government. The changes that need to be made to the Council's procedures, as a result of the new Regulations, are not considered to conflict with any of the Council's Corporate Plan priorities:

1. Safeguarding and protecting those that are most vulnerable;
2. Providing the best start in life through education, early help and healthy living;
3. Providing homes for those in most need;
4. Keeping the town clean, safe, green and active;
5. Providing infrastructure to support the economy; and
6. Remaining financially sustainable to deliver these service priorities.

## **6. COMMUNITY ENGAGEMENT AND INFORMATION**

- 6.1 The revised Officer Employment Procedure Rules will be included in the Council's Constitution, which is published on the website and as such available for public inspection.

## **7. EQUALITY IMPACT ASSESSMENT**

- 7.1 Under the Equality Act 2010, Section 149, a public authority must, in the exercise of its functions, have due regard to the need to—

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 7.2 It is not considered that an Equality Impact Assessment (EIA) is relevant to the decisions arising from this report. This is because the report concerns the adoption, by the Council of new operating arrangements to comply with changes in legislation.

## **8. LEGAL IMPLICATIONS**

- 8.1 The new Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 require the Council to make changes to the following parts of the Constitution:

Part 2: Article 4 (The Full Council);  
Article 8 (Regulatory Committees - "5. Personnel Committee");  
Article 12 (Officers); and  
Part 4: Rules of Procedure - Officer Employment Procedure Rules.

- 8.2 Under Part 2: Article 4 of the Constitution, changes to the Constitution are matters reserved to the Council to determine. As a result, the new Officer Employment Procedure Rules must be approved by full Council.

## **9. FINANCIAL IMPLICATIONS**

- 9.1 There is no specific budget line in the Council's estimates for establishing Committees concerned with the appointment/ dismissal of officers.

- 9.2 The new Regulations require the appointment of at least two independent persons to serve on Committees considering the dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer. By way of comparison, the independent persons/ members on the Standards Committee have received a Special Responsibility Allowance. It is likely that independent members appointed to comply with these Regulations would either receive a Tier 3 payment, currently £1,074 pa or a daily rate equivalent to the councillors' Basic Allowance. This equates to £32.62 a day.

## **10. BACKGROUND PAPERS**

- 10.1 None.

# Officer Employment Procedure Rules

Adopted by Council, 7 July 2015

The Officer Employment Procedure Rules incorporate prescribed Standing Orders relating to staff as required by the Local Authorities (Standing Orders) Regulations 1993, as amended by the Local Authorities (Standing Orders) (England) Regulations 2001; the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014; and the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015. Part IV of Schedule 1 to the 2014 Regulations sets out provisions that must be incorporated into the Standing Orders of an authority operating a committee system. They have been incorporated into the Rules below, in plainer English, and are shown *in italics*:

## 1. Recruitment and Appointment

### (a) Declarations

The Council requires any candidate for appointment as an officer to state on the application form whether they are a partner, spouse or relative of an existing Councillor or officer of the Council.

### (b) Seeking Support for Appointment.

The Council advises all applicants for appointment as an officer that canvassing support from any Councillor or employee of the authority, or giving false information, or omitting to give information, will render the person liable for dismissal if appointed.

No Councillor may seek support for any person for any appointment with the Council.

## 2. Appointment, Dismissal and Disciplinary Action

2.1 *The appointment and dismissal of, and taking disciplinary action against, a member of staff of the Council shall be carried out by the Managing Director as the Head of the Council's Paid Service or by an officer nominated by him/her. A record of officers nominated by the Managing Director shall be maintained by the Human Resources Manager.*

2.2 *Paragraph 2.1 shall not apply to the appointment or dismissal of, or disciplinary action against an officer holding a post described in Sections 2 and 9 of the Local Government & Housing Act 1989. This includes the following:-*

- (a) *the Head of the Authority's Paid Service (Managing Director)*
- (b) *the Director of Adult Care and Health Services, Director of Children, Education and Early Help Services and the Director of Environment and Neighbourhood Services*
- (c) *the Head of Finance (Chief Finance Officer)*
- (d) *the Monitoring Officer (Head of Legal & Democratic Services)*
- (e) *persons who, as respects all or most of their duties, report directly to or are directly accountable to the Head of the Council's Paid Service*
- (f) *persons who, as respects all or most of their duties, report directly to or are accountable to any of the posts listed above (other than staff whose duties are of a clerical or support nature)*
- (g) *persons who, as respects all or most of their duties report directly or are directly accountable to the Council or a Committee or Sub-Committee of the Council*
- (h) *assistants for political groups.*

2.3 *Any appointment or dismissal of an officer designated as the Head of the Council's Paid Service, shall be approved by the full Council before any offer of appointment or notice of dismissal is given to the person concerned.*

2.4 *Any dismissal of an officer designated as the Chief Finance Officer or Monitoring Officer, shall be approved by the full Council before any notice of dismissal is given to the person concerned.*

2.5 Where the Council appoints a Committee or a Sub-Committee to carry out the function of appointing or dismissing any officer to or from the positions referred to in paragraph 2.2 above, the Committee or Sub-Committee shall include at least one Lead Councillor.

### **3. Appointment of Chief Officers - Process**

3.1 Where the Council wishes to appoint a Chief Officer as defined by statute, and wishes to seek applicants from outside existing officers of the Council, the following procedure will apply:

- (a) the appointment will be co-ordinated and made by the Personnel Committee, or by any other Committee or Sub-Committee authorised by full Council or the Personnel Committee to make the appointment;
- (b) the post will be advertised publicly, to bring it to the attention of people who are qualified to apply for it;
- (c) a job description and person specification will be produced, and sent to all applicants for the job, specifying:
  - (i) the duties of the post
  - (ii) the qualifications and qualities being sought by the Council
- (d) the Personnel Committee will either:
  - (a) interview all qualified applicants for the post, or
  - (b) select a short-list of qualified applicants in accordance with the Council's recruitment and selection policy and procedures.
- (e) If no suitably qualified person applies for the post, any re-advertisement will comply with paragraph (3) above.

3.2 The Personnel Committee has delegated powers to appoint Corporate Directors, the Monitoring Officer, the Section 151 Officer and posts falling within the definition of Deputy Chief Officer in Section 2(1) of the Local Government & Housing Act 1989.

### **4. Disciplinary Proceedings against the Head of Paid Service, Monitoring Officer and Chief Finance Officer**

4.1 *No disciplinary action as defined by Regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001 may be taken against the Head of the Authority's Paid Service, the Monitoring Officer or the Chief Finance Officer in cases of alleged misconduct, otherwise than in accordance with a recommendation contained in a report made by a designated independent person appointed in accordance with the provisions of Regulation 7 of these Regulations.*

4.2 *Such disciplinary action means any action occasioned by alleged misconduct which, if proved, would be recorded under normal Council procedures on the officer's personal file, and includes any proposal for dismissal for reasons other than redundancy, permanent ill-health or infirmity of mind or body. It does not include failure to renew a fixed-term contract of employment unless the authority has undertaken to review such a contract.*

4.3 The process will be initiated by the Personnel Committee, unless any other Committee has been authorised to take this action.

4.4 *The relevant officer may be suspended whilst the investigation is taking place, and if so, the suspension will be on full pay and will last for no longer than two months.*

4.5 Further disciplinary action may only be taken as recommended in the report made by the designated independent person.

- 4.6 *Dismissal of the Head of the Authority's Paid Service, the Monitoring Officer or the Chief Finance Officer may only be exercised by the full Council, having taken into consideration a recommendation of a Personnel Panel.*
- 4.7 *The Personnel Committee shall be responsible for establishing a Panel (Sub-Committee) under section 102(4) of the Local Government Act 1972 for the purposes of making recommendations to the Council on matters relating to the dismissal of the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer of the authority, in accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015, which include the requirement for the Panel to include at least two independent persons appointed under section 28(7) of the Localism Act 2011;*
- 4.8 The Personnel Committee has delegated powers to dismiss Corporate Directors and posts falling within the definition of Deputy Chief Officer in Section 2(1) of the Local Government & Housing Act 1989.
5. **Appeal**
- 5.1 *Nothing in this Standing Order shall prevent a Member from serving as a member of any Committee or Sub-Committee established by the Council to consider an appeal by:*
- (i) a person against any decision relating to the appointment of that person as a member of staff of the authority, or*
  - (ii) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.*