

# CHELTENHAM BOROUGH COUNCIL

COUNCIL - 22<sup>nd</sup> APRIL 2002

## THE CONSTITUTION

### JOINT REPORT OF THE MANAGING DIRECTOR AND HEAD OF LEGAL SERVICES / MONITORING OFFICER

#### 1.0 **Summary and Recommendations**

1.1 The Council has now been operating under executive arrangements for some six months and it is an appropriate time to review the effectiveness of the new constitutional arrangements and to make recommendations for improvements so that they can be put in place for the start of the new municipal year.

1.2 Members and officers views have been sought in a number of ways on the new way of working and this report seeks to respond to the comments received.

1.3 A number of the concerns which have been voiced can be addressed by changing the way we deal with matters, but a few require some formal changes to the Council's Constitution.

1.4 We are also taking the opportunity to bring forward changes which have to be made to the Constitution to reflect recent regulations made by the Secretary of State and to address practical difficulties which have been identified during the period since October 2001.

1.5 For convenience we have divided this report into five further sections dealing with:-

- consultation
- the suggested approach
- the implications of the suggested proposals
- statutory changes and
- miscellaneous suggested amendments to the Constitution

#### 1.6 **WE RECOMMEND THAT THE COUNCIL**

- (i) notes the consultation exercises which have been undertaken
- (ii) approves and adopts the suggested changes in working arrangements detailed in Section 3 of this report

concerning

- away days
- overview and scrutiny committees
- community forums
- democratic support
- additional proposals

- (iii) approves the draft terms of reference of community forums set out in paragraph 4.3 of this report.
- (iv) approves the establishment of a Staff and Support Services Committee as described in paragraph 4.4 and with terms of reference set out in Appendix 1 to this report.
- (v) approves the Officer Employment Procedure Rules set out in Appendix 2 in place of the existing Rules.
- (vi) notes the statutory changes flowing from the adoption of the Code of Members Conduct and relating to notice of meetings et cetera
- (vii) approves the miscellaneous amendments to the Constitution detailed in part 6 of this report.

## 2.0 **CONSULTATION**

- 2.1 The views of members and officers on the new constitutional arrangements have been sought in several ways.
- 2.2 The Cabinet and the overview and scrutiny committees have separately participated in “SWOT” exercises to review the effectiveness of the new arrangements.
- 2.3 The key issues identified by the process, including a number of “strengths”, are summarised briefly below. Equally significantly the exercise identified a range of issues requiring attention. There was a notable consensus of views across political parties, amongst participating members, on what needed to change. These are identified under the headings “weaknesses” and “threats”, whilst the “opportunities” list identifies options for improving the current process that were suggested by members who participated in the SWOT process.

### **Strengths**

- Clarity of decision making
- Enthusiasm to try new ways of working
- Improved relationships with officers
- Scrutiny process potentially provides an effective balance to political executive
- Cabinet facilitates faster decision making

### **Weaknesses**

- Limited role for ‘back benches’ to get involved
- Lack of member training
- Mismatch in workload between Cabinet and overview and scrutiny committees
- Mismatch between current democratic arrangements and paid service organisational structure
- Lack of liaison and joint working between Cabinet and overview and scrutiny committees.

- “Process” overly bureaucratic
- Lack of clarity - regarding the respective responsibilities of Cabinet and overview and scrutiny committee members
- Temptation for overview and scrutiny committees not to focus on major topics.
- Role of Area Committees unclear

### **Threats**

- Workload - heavy burden being carried by a small number of politicians and senior officers
- Lack of public interest in new arrangements - (the role of Area Committees is not clear in this respect)
- Relationships - insufficient joint working and liaison.
- Phrasing of the Constitution - e.g. Deputies have to be “summoned” - encourages “conflict” rather than working together.
- No budget for member training and committee support.

### **Opportunities**

- New thematic organisational structure offers opportunity to revisit responsibilities of Deputies and committees and to ‘spread’ workload. For example, it has been suggested that an overview and scrutiny committee could be set up for each of the new groups - Environment, Economy and Business Improvement, Social and Community).
- Good appreciation that greater liaison and joint working between Cabinet and the council’s committees is required and is in the Council’s best interests.
- Collective agreement to improve working relationships and balance workload.
- Willingness to revisit current operational arrangements.
- Willingness and desire to “involve the public” in new constitutional arrangements.
- Willingness to engage in training and develop plain English “how to” guides for implementing the Constitution.
- Opportunities offered by the community planning process to “engage” the public.

2.4 A questionnaire was also recently sent to all members inviting them to comment on, amongst other things, the new executive arrangements.

At the time of writing this report only four replies had been received. Whether or not this ten per cent return is representative of the views of the whole Council is difficult to assess but the returned forms echo several of the comments made during the SWOT exercises.

Specifically, responses identify concerns about -

- The exclusion of non-Cabinet members from the decision making process.
- The way overview and scrutiny committees operate.
- The concentration of power in the hands of Cabinet members.

and suggest improvements such as -

- Improving communication between the Cabinet and the overview and scrutiny committees
- Strengthening the role of overview and scrutiny committees.
- Having a larger Cabinet structure with great diversification of responsibilities.\*

- 2.5 Article 1 of the Council's Constitution commits the Council to provide leadership to the community and to serve those who live, work and visit Cheltenham, in accordance with the key requirements of the Local Government Act 2000.
- 2.6 A key aspiration of this legislation was to develop, facilitate and promote the process of democratic renewal and engagement. In consequence, it must be of concern to the whole Council that members of both Cabinet and the overview and scrutiny committees have expressed concern about the impact of the new constitutional arrangements as currently implemented.

If the Council is to be a truly representative and inclusive organisation then it is important that its elected representatives have confidence in its democratic process and feel able to make a difference.

- 2.7 Clearly the Council is constrained by the scope of the Local Government Act 2000 but in this context consideration has been given in recent weeks to how the Council's current constitutional arrangements can be improved to reflect members aspirations.
- 2.8 On Monday 15<sup>th</sup> April 2002 the Managing Director outlined her proposed improvements to a meeting of the Leader, the Chairmen/Vice Chairmen of the overview and scrutiny committees and representatives of three of the four political groups.

Members fully supported the Managing Director's proposals.

- 2.9 In consequence and subject to member agreement, a number of changes in the way the Council undertakes its business in the new Council year are proposed. These are set out in section 3 of the report.

### 3. **THE SUGGESTED APPROACH**

- 3.1 The Managing Director's proposals identified the following improvements to the current arrangements:-
- To agree an annual Council work programme that has "member buy in" and support.
  - To revise the current Cabinet and overview and scrutiny committee arrangements to mirror the new thematic operational structure and redistribute workloads.
  - Replace the Area Committees with five community forums that have specific responsibility for taking forward the community planning process and engaging the community.

---

\* The Local Government Act 2000 prescribes the maximum size of local authority executives as ten

- Produce a member training development plan and create a training budget dedicated to providing members with the support they require.
- Produce a plain English summary of the Council's revised Constitution for inclusion in the year book and diary to assist members' understanding of the council's processes.
- Establish a permanent democratic support unit.

### 3.2 **Away Days**

Each new municipal year could commence with an "away day" for the Cabinet, chairmen of overview and scrutiny committees, the chairmen of the Council's community forums, group leaders and the Board of Directors, to identify key issues for the forthcoming year. This event will enable a Council work plan for the year to be drawn up for consideration by the Council. This work plan would drive the future work plans of Cabinet, the overview and scrutiny committees and proposed community forums.

At the same "away day", key tasks within the plan would be assigned to the Cabinet, overview and scrutiny committees and community forums to take forward on the Council's behalf.

- 3.3 These "away days" are considered a vital component of the council's future approach to the new executive arrangements required by government. They should ensure that the work programmes of the Cabinet and the overview and scrutiny committees are complementary and co-ordinated and directly focused on the mutually agreed "big" issues facing the town. Hopefully, such an approach will significantly improve not only the effectiveness of the new constitutional arrangements but also the level of involvement of non-Cabinet members in major policy areas and the linkages between the Cabinet and the other members of the Council.

### 3.4 **Overview and Scrutiny Committee**

The Local Government Act 2000 requires all local authorities operating under executive arrangements to appoint one or more overview and scrutiny committees. Authorities are required to ensure that such committees have the power:

- “(a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive,*
- (b) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are the responsibility of the executive,*
- (c) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the executive,*
- (d) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are not the responsibility of the executive,*
- (e) to make reports or recommendations to the authority or the*

*executive on matters which affect the authority's area or the inhabitants of that area".*

and the power under (a) above to review and scrutinise a decision made but not implemented includes power

*"(a) to recommend that the decision be reconsidered by the person who made it, or*

*(b) to arrange for its function under subsection (2) (a), so far as it relates to the decision, to be exercised by the authority."*

If, and to the extent that, a local authority's function of conducting best value reviews is not the responsibility of an executive of the local authority, the authority may arrange for its overview and scrutiny committees to conduct such reviews.

An overview and scrutiny committee may not discharge any functions other than these set out in the Local Government Act 2000.

- 3.5 The current arrangements under which the three overview and scrutiny committees operate have been the subject of the greatest criticism during the consultation exercise.

The Managing Director's proposals seek to respond to those criticisms by redefining the role of the committees within their existing statutory and constitutional position by focusing their activities in the future on policy development and service improvement.

The essential scrutiny role of the committees is not affected by this more inclusive role.

- 3.6 The major change in the way the committees operate is the intention to integrate the overall work programmes of the Cabinet and the overview and scrutiny committees based on the key issues identified at the "away days".

The effect of the approach would be that the committees would be formally commissioned by the Cabinet to contribute to their work.

### 3.7 **The Best Value Process**

For example, the overview and scrutiny committees could assume responsibility for delivery of the best value review process as permitted by the Local Government Act 2000. Cabinet would still need to identify topics for review and be responsible for approving the draft action plans. By contract, overview and scrutiny committees would be responsible for taking forward the challenge, compare and compete components of the best value process and drafting recommendations to Cabinet for inclusion in the action plan. Cabinet would then use the work of the overview and scrutiny committee to produce the best value action plan for submission to the Audit Commission on the Council's behalf.

### **3.8 The Budget Review Process**

Overview and scrutiny committees could also be directly involved in the budget review process. Members of the overview and scrutiny committees would be responsible for reviewing group business plans and draft budget proposals for each group and service division during the budget development process in order to support the Cabinet's budget development process. By contrast, the Cabinet would retain responsibility for approving the final budget for submission to Council.

### **3.9 Policy Development**

Overview and scrutiny committees should also take on an important policy development role.

Key policies requiring review and improvement would be identified during the annual "away day". Cabinet would then commission the relevant overview and scrutiny committee to initiate a "policy review" process within a defined brief. The committee would be responsible for identifying the effectiveness of current policies, the scope of any improvements required and formulating proposals for improving current policies including budgetary implications for consideration by the Cabinet. The Cabinet would then have responsibility for considering, amending or approving any policy changes affecting executive functions.

This approach would ensure that all members are able to be directly involved in developing policy.

### **3.10 External Scrutiny**

Overview and scrutiny committees could also be given the responsibility for reviewing the activities of external stakeholders and the extent to which they were contributing to the Council's corporate plan and the council's aspirations as set out in "Our town, our future".

The procedures and methods of overview and scrutiny lend themselves well to this important role. The three overview and scrutiny committees would work to a joint work plan, previously agreed with the Cabinet and prioritise issues identified during the Community Planning process.

### **3.11 Cabinet/Overview and Scrutiny Committees**

It is suggested also that Cabinet members should regularly attend at least part of relevant overview and scrutiny committees, without the need to be invited or "summoned". The purpose of these sessions would be to facilitate joint working, and:

- to provide an opportunity for informal question and answering in relation to the Cabinet's work programme by members of the committee.
- to enable cabinet members to initiate the commissioning process in relation to particular pieces of work and receive feedback from the committee on progress to date, for example, on agreed best value reviews.

3.12 The chairmen of overview and scrutiny committees should be able to submit and present reports flowing from their committees directly to the cabinet.

### 3.13 **Area Committees**

Area Committees have been only partially successful and questions have been asked about how well they have succeeded in engaging the community.

3.14 It is therefore suggested that they should be replaced by five community forums whose prime role would be to take forward the community planning process on council's behalf.

The community forums would address key issues of importance to the community in their area. They could, for example,

- assist in the future development of neighbourhood improvement plans
- review the effectiveness of environmental management strategies in the area
- consider proposals for improving the built environment, such as the civic pride initiative
- identify steps to improve social inclusion, or,
- facilitate the Council's approach to improvements in health and well being

Community forums would also play a key roles in explaining the community planning process to members of the community and encourage their active participation. For example, members of each community forum would be expected to meet with resident groups, visit local schools and organisations and generally encourage participation in the community planning process.

The chairmen and members of the five forums would receive facilitation training as the purpose of these meetings would be consultative rather than decision taking. Nevertheless each community forum would have the ability to ask the Cabinet to review or initiate policy improvements identified by their communities. Forums would be accountable to the areas they serve as well as the Council as a whole, and members of overview and scrutiny committees would play an important role in ensuring this in this case.

### 3.15 **Democratic Support**

The Cabinet, the three overview and scrutiny committees and the five consultative forums would be supported by a new democratic services unit to be established as part of the council officer re-structuring.

The Managing Director would continue to support the Cabinet whilst the three Group Directors would each assume responsibility for their relevant overview and scrutiny committee.

The community forums would each be supported by one of the new Assistant Directors proposed in a report elsewhere on the agenda.



### 3.16 **Additional Proposals**

Additional proposals made by the Board of Directors are:-

- The current Structural Review Committee, which was established as a temporary committee, should become a permanent politically balanced standing committee for staff and support services activity to provide the Board with long term advice and support on key staffing issues.
- A politically balanced investment panel should be established comprising members of the Cabinet and representatives of a new economy and business improvement overview and scrutiny committee to review the effectiveness of the Council's debt management and investment strategy

3.17 The current arrangements for planning and licensing committee would continue unamended.

### 4.0 **Implications of the Managing Director's Proposals**

4.1 The Managing Director's proposals are largely about the way the Council works within the existing constitutional framework and to this extent there is no need to change the Constitution. Some changes to the rules and articles are, however, necessary and desirable.

4.2 The regular attendance of Cabinet members at overview and scrutiny committees and the reciprocal attendance of chairman of the overview and scrutiny committees at the Cabinet and their respective roles at such meeting could be built into the Overview and Scrutiny Procedure Rules.

4.3 Article 10 (Area Committees) will require re-framing to reflect the move to community forums.

The areas served by the proposed forums should be the same as for the Area Committees and the majority of the terms of reference of the Area Committees will be common to these of the community forums. The only major changes would be to include -

- *“to be the prime vehicle for progressing the community planning process within their respective areas and to engage the community in that process*
- *to assist in the development of neighbourhood improvement plans*
- *to review the effectiveness of environmental management strategies in the area*
- *to consider proposals for the built environment*
- *to identify steps to improve social inclusion and to facilitate the Council's approach to improvements in health and well being”*

and to omit references to the possibility of their having future delegated decision making powers”

Members have in the past suggested that Area Committees could at some future stage have limited powers to determine planning and licensing applications. There is an increasing recognition that the practical problems such an approach would raise make such delegations inappropriate.

4.4 Members and the Board have previously identified a need for the establishment of a permanent proportional committee of the Council to be available when necessary to assist in matters relating to staff.

Whilst matters relating to officers below Assistant Director level are delegated primarily to the Managing Director and Directors, there are from time to time issues upon which member perspectives are important. A permanent Staff and Support Services Committee would be the best way of securing access to such advice.

The Structural Review Committee has shown how helpful such a committee can be and it is suggested that it can provide a useful blue print for a permanent committee.

In addition to providing support and advice to the Managing Director and the Board on such emerging issues as single status and conditions of service, members of the Committee could provide the member involvement required in certain appointments and dismissals by the Officer Employment Procedure Rules.

They could also represent the Council on all joint staff consultative bodies.

Members of the Committee would need training in the specific skills demanded of their role, and this would be incorporated into the member training plan referred to elsewhere in this report.

Draft terms of reference of the proposed Committee are set out in Appendix 1.

## 5.0 **Statutory Changes**

- 5.1 Three recent regulations made by the Secretary of State require the Council to change the Constitution.

The changes are mandatory and the Council has no discretion as to whether or not to adopt them.

- 5.2 The three changes relate to -

- the current Members Standing Orders
- the present Officer Employment Procedure Rules
- the requirements for notice of Council, Cabinet and Committee meetings

- 5.3 The changes to the Members Standing Orders necessitated by the imminent adoption by the Council of its Code of Conduct have been considered and recommended by the Standards Committee. They will be before the Council as part of another item on its agenda and need not be referred to again here.

- 5.4 The Local Authorities (Standing Orders) (England) Regulations 2001 require all local authorities to adopt certain standing orders or rules touching on, amongst other things, the appointment of staff.

The Council's Constitution follows the model constitution published in December 2000 by the former Secretary of State for the Environment, Transport and Regions. This included model Officer Employment Procedure Rules which had been prepared in the knowledge that certain Regulations were to be made by the Secretary of State.

The Regulations have now been made and although the model Officer Employment Procedure Rules (as adopted by the Council) accurately anticipated much of the Regulations, in some areas the Regulations were more detailed than the model anticipated.

The Council is obliged to incorporate into its Constitution rules in the form prescribed by the 2001 Regulations or provisions to the like effect.

We therefore, recommend the adoption of new Officer Employment Procedure Rules in the form set out in Appendix 2.

- 5.5 The Local Authorities (Access to Meetings and Documents) (Period of Notice) (England) Order 2002 which comes into force on the 1<sup>st</sup> October 2002 will extend the period of public notice of Council, committee and sub-committee meetings, and the period in which agenda and other documents must be open for public inspection, from at least three clear days to at least five clear days.

An item of business is not normally able to be considered at a meeting if less notice, or a shorter period of public inspection, has been given.

A similar Order has been made regarding executive functions.

- 5.6 This change will pose particular difficulties for the Planning Committee as it means that officers' reports will have to be completed two weeks before the date of the meeting. This will inevitably result in a greater number of "up date" reports being prepared to cater for "late" arriving information.

There will also be a greater number of applications being deferred with a knock on effect on the processing of applications within the prescribed eight weeks period - a key government performance indicators. The Council must comply with the enlarged notice periods but members should be aware of their impact.

## 6.0 **Miscellaneous Suggested Amendments**

- 6.1 A number of practical issues have been identified from the operation of the new Constitution arrangements during the past six months.

We set out our recommendations upon them below.

### 6.2 **Items placed on agendas by non-overview and scrutiny committee members**

Paragraph 8 of the Overview and Scrutiny Rules allows any member to put an item on the agenda of an overview and scrutiny committee.

The Rules do not say what happens at the actual meeting and we suggest that the Rules be amended by the addition of the following:

*The member or co-optee who asked for the item to be included on the agenda shall be notified of the date and time of the meeting(s) at which it will be considered and given the opportunity to speak for no more than three minutes at the beginning of the committee's consideration of the item. He may, with the chairman's consent, speak again for no more than three minutes at the close of the committee's discussion of the item..*

### **6.3 Items placed on agendas of Cabinet by non-Cabinet members**

Paragraph 2.5 of the Cabinet Procedure Rules allows any member to request the Leader to put an item on the agenda of a Cabinet meeting.

The Rules requires the member to be given notice of the Cabinet meeting at which the item is to be considered and invited to attend. They do not, however, give him the opportunity to speak and we suggest that such members should be given the opportunity to speak for no more than three minutes at the beginning and, with the Leader's consent, the end of the Cabinets consideration of the item.

### **6.4 Petitions**

Article 3.1(c) allows citizens to petition the Council about any matter which causes concern to them and affects the Borough.

It does not say how petitions can be presented to the Council nor what happens to them.

We suggest Article 3 be extended by adding the following:

*Petitions may be presented to the Council or to the Cabinet*

*Any person registered as a local government elector for the Borough may in presenting a petition speak about it for no more than five minutes, provided he has delivered a written statement about the petition to the Proper Officer not later than three working days before the meeting and the petition relates to a policy matter and is signed by at least ten local government electors for the Borough. If the Proper Officer considers the petition does not fall within the responsibilities of the Council, or deals solely with "confidential" or "exempt business" or is otherwise inappropriate, he will determine that the petition shall not be presented and notify the petitioner accordingly.*

*Where a petition is presented to the Council, the Mayor, and where a petition is presented to the Cabinet, the Leader shall determine how it should be considered and who should respond to the petitioner and his determination shall be recorded in the minutes of the meeting concerned*

### **6.5 The Cabinet**

Article 7 sets out the role and composition of the Cabinet.

It is suggested that provision should be made within this Article to make it clear that the Cabinet continues to have responsibility for executive functions until a new Cabinet is appointed by the Council.

## 6.6 Alterations due to changes in names et cetera

The Constitution refers to members and officers by their titles which will be changed from time to time as a result, for example, of the present officer structure review.

We suggest that the Monitoring Officer be given authority to make any necessary amendments to the Constitution to keep it up to date in consultation with the Managing Director and the appropriate Deputy without having to seek further Council or Cabinet approval.

## 6.7 Miscellaneous corrections et cetera

We also suggest that the Monitoring Officer be authorised again in consultation where appropriate with the Managing Director and the appropriate Deputy to correct any typographical or other inadvertent errors found in the Constitution.

## 7.0 Implications

<b>Financial</b>	The establishment of a democratic support unit and member training budget will have financial implications for the council. These are currently being assessed and will be the subject of a further report, if such expenditure cannot be contained once members training requirements have been identified and quantified.
<b>Legal</b>	As set out in this report.
<b>Personnel</b>	As set out in this report.
<b>Equal opportunities, social justice and anti-poverty Environmental</b>	The proposals regarding the future establishment of community forums outlined in this report should play an important role in ensuring that the council's future policies as set out in the community plan, address the needs of the community socially, environmentally and economically to contribute to social justice and the delivery of equality of opportunity.

**Contact Officers:** Christine Laird, Managing Director  
Tel: 01242-264100

Gerald Ford, Head of Legal Services  
Tel: 01242-264109

## **STAFF AND SUPPORT SERVICES COMMITTEE**

### **1. MEMBERSHIP**

A proportional committee of the Council including the leaders of all of the political groups represented on the Council (or their deputies).

#### **Notes:**

1. The Functions and Responsibilities Regulations provide that:

“the power to appoint staff and to determine the terms and conditions on which they hold office (including procedures for dismissal)”

shall not be exercised by the executive.

2. This provision does not prohibit the Council appointing a member or members of the Cabinet to the proposed Committee, but clearly they would then be acting on behalf of the Council.

#### **Terms of Reference**

- 1.1 To be the committee responsible under the Officer Employment Procedure Rules for making recommendations to the Council as to the appointment of the Head of Paid Service.
- 1.2 To be the committee under the Officer Employment Procedure Rules for making appointments of Directors or Deputy Chief Officers or from which, as appropriate, a sub-committee is drawn to make such appointments.
- 1.3 To be the committee responsible for determining matters relating to the early retirement of the Head of Paid Service or a Director as required by the Officer Employment Procedure Rules.
- 1.4 To support the Head of Paid Service and Directors in the exercise of their delegated powers relating to staffing matters.
- 1.5 To appoint from amongst its membership any necessary appeals panels to determine grading or disciplinary appeals as may be provided from time to time by the Council's rules.
- 1.6 To develop and determine the personnel policies of the Council including those relating to equal opportunities.
- 1.7 To nominate members of the Committee to represent the Council on all joint staff and staff consultative committees.

## OFFICER EMPLOYMENT PROCEDURE RULES

### 1. DEFINITIONS

In these Officer Employment Procedure Rules:

**“Appointor”** means, in relation to the appointment of an officer, the Council or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the Council, that committee, sub-committee or officer.

**“Chief Finance Officer”** means the officer having responsibility for the purposes of Section 151 of the Local Government Act 1972.

**“Designated Independent Person”** means the person appointed to investigate and report on an allegation of misconduct by:

- the Head of Paid Service
- the Monitoring Officer
- the Chief Finance Officer

in accordance with these Rules.

**“Deputy Chief Officer”** means an officer defined as such by Section 2(8) of the Local Government and Housing Act 1989.

**“Disciplinary action”** means in relation to a member of the Council’s staff any action occasioned by alleged misconduct which, if proved, would according to the Council’s usual practice 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, but does not include failure to renew a contract of employment for a fixed term unless the Council has undertaken to renew such a contract.

**“Dismissor”** means, in relation to the dismissal of an officer, the Council or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the Council, that committee, sub-committee or other officer.

**“Head of Paid Service”** means the officer designated under Section 4(1) of the Local Government and Housing Act 1989.

**“Monitoring Officer”** means the officer designated under Section 5(1) of the Local Government and Housing Act 1989.

## **2. RECRUITMENT AND APPOINTMENT GENERALLY**

- (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 spouse, 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 director or an officer nominated by him.
- (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) Nothing in paragraphs (i) and (ii) above will preclude a councillor from giving a written reference for a candidate for submission with an application for appointment.

## **3. RECRUITMENT OF HEAD OF PAID SERVICE AND DIRECTORS**

Where the Council proposes to appoint the Head of Paid Service or a director 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 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.



#### **4. APPOINTMENT OF HEAD OF PAID SERVICE**

- (a) The Council will approve the appointment of the Head of Paid Service having received the recommendation of a committee or sub-committee of the Council. That committee or sub-committee must include the Leader of the Council.
- (b) An offer of appointment as Head of Paid Service shall not be made by the Appointor until:
  - (i) the proposed appointment has been approved by the Council; and
  - (ii) the Appointor has notified the Proper Officer of the name of the person to whom the Appointor wishes to make the offer and of any other particulars which the Appointor considers are relevant to the appointment; and
  - (iii) the Proper Officer has notified every member of the Cabinet of:
    - the name of the person to whom the Appointor wishes to make the offer
    - any other particulars relevant to the appointment which the Appointor has notified to the Proper Officer; and
    - the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the Proper Officer; and
- (c) Either:
  - (i) the Leader has, within the specified period, notified the Appointor that neither he nor any other member of the Cabinet 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 the specified period from the Leader; or
  - (iii) the Appointor is satisfied that any objection received from the Leader within the specified period is not material or is not well-founded.

#### **5. APPOINTMENT OF DIRECTORS AND DEPUTY CHIEF OFFICERS**

- (a) A committee or sub-committee of the Council will appoint Directors and Deputy Chief Officers.

That committee or sub-committee must include at least one member of the Cabinet.
- (b) An offer of appointment as Director or Deputy Chief Officer shall not be made by the Appointor until:

- (i) the proposed appointment has been approved by the Council; and
  - (ii) the Appointor has notified the Proper Officer of the name of the person to whom the Appointor wishes to make the offer and of any other particulars which the Appointor considers are relevant to the appointment; and
  - (iii) the Proper Officer has notified every member of the Cabinet of:
    - the name of the person to whom the Appointor wishes to make the offer;
    - any other particulars relevant to the appointment which the Appointor has notified to the Proper Officer; and
    - the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the Proper Officer; and
- (c) Either:
- (i) the Leader has, within the specified period, notified the Appointor that neither he nor any other member of the Cabinet 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 the specified period from the Leader;
  - (iii) the Appointor is satisfied that any objection received from the Leader within the specified period is not material or is not well-founded.

## **6. OTHER APPOINTMENTS**

### **(a) Officers below Deputy Chief Officer level**

Appointment of officers below Deputy Chief Officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or her nominee and may not be made by councillors.

### **(b) Assistants to Political Groups**

The appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

## **7. DISCIPLINARY ACTION**

### **(a) Suspension**

The Head of Paid Service, Monitoring Officer, Chief Finance Officer and directors 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.

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.

- (b) Councillors will not be involved in the disciplinary action against any officer other than the Head of Paid Service, Monitoring Officer, Chief Finance Officer and Directors, except where such involvement is necessary for any investigation or inquiry into alleged misconduct, or where the Council's disciplinary, capability and related procedures, as adopted from time to time, allow a right of appeal to members in respect of disciplinary action.

## **8. DISMISSAL**

Councillors will not be involved in the dismissal of any officer below Deputy 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.

## **9. EARLY RETIREMENT**

In the case of the possible early retirement of the Head of Paid Service and/or a Director the Council will appoint a committee to determine the matter.

The Council will also deal with other early retirement situations in accordance with advice given, from time to time, by the Audit Commission.