

**BOSTON BOROUGH COUNCIL**

**CONSTITUTION  
MAY 2016**

**Part 4 (F)**

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## **PART 4 (Section F)**

### **Officer Employment Procedure Rules**

## **Officer Employment Rules**

These rules deal with the appointment and dismissal of, and disciplinary action against staff.

### **Staff Appointments, Dismissals and Disciplinary Action**

Subject to specific provision relating to Chief Officers, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the Authority must be discharged, on behalf of the Authority, by the Officer designated as the Head of the Authority's Paid Service or by an Officer nominated by him.

This shall not apply to the appointment, dismissal of or disciplinary action against Chief Officers namely:

- Head of Paid Service (Chief Executive)
- Monitoring Officer (Corporate Director)
- Chief Finance Office (Corporate Director)

### **Procedure for Recruitment and Appointment**

#### **(i) General Provisions Relating to 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 (in law), grandparent, partner (civil), child, stepchild, adopted child, grandchild, brother (in law), sister (in law), uncle, aunt, nephew or niece of an existing Councillor or Officer of the Council; or of the partner of such persons.
- (ii) No candidate so related to a Councillor or an Officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

##### **(b) Seeking Support for Appointment:**

- (i) 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) No Councillor will seek support for any person for any appointment with the Council.
- (iii) Recruitment of Head of Paid Service and Chief Officers.

- (ii) Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will:
  - (a) draw up a statement specifying:
    - (i) the duties of the Officer concerned; and
    - (ii) any qualifications or qualities to be sought in the person to be appointed;
  - (b) make arrangements for the post to be advertised in such a way as it 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 (I) to be sent to any person on request.

The Chief Officer Employment Panel will be responsible for recruitment and appointment of Chief Officers and will be advised by the Head of Service with responsibility for Human Resources.

(iii) Appointment of Head of Paid Service

- (a) The Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by the Chief Officer Employment Panel.

(iv) Appointment of Chief Officers

- (a) "Chief Officers" means those Officers specified in the Council's Constitution namely the Chief Executive (Head of Paid Service), Chief Finance Officer (Corporate Director) and Monitoring Officer (Corporate Director).
- (b) Chief Officers will be appointed by the Chief Officer Employment Panel. The Panel has delegated authority to make such appointments other than in the case of the Head of Paid Service where the appointment must be approved by the Council.

**Appointments below Chief Officer**

- (a) Appointments below Chief Officer shall be the responsibility of the Head of Paid Service, relevant Chief Officer or their nominated deputy.
- (b) In the case of Deputy Chief Officers, Chief Officers may consult Members on such appointments, but are not required to do so.

## **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 Chief Officer to whom the Officer will report or his/her nominee. Such appointments must not be made by Councillors.
- (b) Assistants to Political Groups. Appointment of an Assistant to a Political Group shall be made in accordance with the wishes of that Political Group.

## **Disciplinary Action / Dismissal**

Councillors will not be involved in disciplinary action or dismissal of any officer below Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct. Deputy Chief Officers will be subject to the same disciplinary procedures as apply to other members of staff.

## **Dismissal of Chief Officers**

Matters relating to redundancy, permanent ill-health, expiration of fixed term contracts and/or grievances will be dealt with under established local policies and processes. The Chief Officer Employment Panel will normally be involved in any such decisions however if this is for the post of Head of Paid Service (Chief Executive), Full Council would be expected to approve such a decision.

## **Disciplinary Action for Chief Officers**

Any decision to take disciplinary action against or to dismiss any employee of the Borough Council shall be in line with the Council's Disciplinary Policy subject to statutory provisions contained in the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

No action may be taken by the Chief Officer Employment Panel - except for suspension - relating to the dismissal of either the Head of the Paid Service, the Monitoring Officer or the Chief Finance Officer other than in accordance with The Local Authorities (Standing Order) (England) (Amendment) Regulations 2015) (No 881) and as set out below. Any such suspension shall be on full pay and terminate no later than the expiry of two months from the day on which the suspension takes effect unless the Committee has directed that it may continue beyond that period for good reason.

Where there is a proposal to dismiss the Head of Paid Service, Monitoring Officer or Chief Finance Officer, such dismissal must be approved by the Council and only following consideration of those matters and any views or advice from an Independent Panel required under The Local Authorities (Standing Order) (England) (Amendment) Regulations 2015) (No.881). In the case of the Borough Council the ' Statutory Officers Panel'.

## Statutory Officers Panel

1. In the following paragraphs:-

- (a) “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;
- (c) “Independent Person” means a person appointed under section 28(7) of the 2011 Act;
- (d) “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;
- (e) “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;
- (f) “relevant meeting” means a meeting of the Authority to consider whether or not to approve a proposal to dismiss a relevant Officer; and
- (g) “relevant Officer” means the Chief Finance Officer, Head of the Authority’s Paid Service or Monitoring Officer, as the case may be.

2. A relevant Officer may not be dismissed by the Authority unless the procedure set out in the following paragraphs is complied with.

3. The Authority must invite relevant independent persons to be considered for appointment to the Statutory Officers Panel, with a view to appointing at least three such persons to the Panel along with four Elected Members selected on a political proportionality basis.

4. In paragraph 3 “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.

5. Subject to paragraph 6, 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:-

- (a) a relevant independent person who has been appointed by the Authority and who is a Local Government Elector;

- (b) any other relevant independent person who has been appointed by the Authority;
  - (c) a relevant independent person who has been appointed by another Authority or Authorities.
- 6. An Authority is not required to appoint more than two relevant independent persons in accordance with paragraph 5 but may do so.
- 7. The Authority must appoint any Panel at least 20 working days before any relevant meeting of the Authority where dismissal may be considered.
- 8. Before the taking of a vote at the relevant meeting of the Authority on whether or not to approve such a dismissal, the Authority must take into account, in particular:-
  - (a) any advice, views or recommendations of the Panel;
  - (b) the conclusion of any investigation into the proposed dismissal; and
  - (c) any representations from the relevant Officer.
- 9. 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.
- 10. The Panel will normally receive advice from the Head of Service with responsibility for Human Resources.

### **Terms upon the cessation of employment**

In respect of any potential dismissal of the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer, the Chief Officer Employment Panel will refer the matter to the Statutory Officers Employment Advisory Panel. The Panel may appoint an Independent Investigating Officer (IIO) to examine the circumstances of the case and to advise them on any action to be taken. That Panel will thereafter make a recommendation to the Council for consideration, including any terms for cessation of employment as set out below, thereby enabling the Council to have regard at the same time to any further advice or views of the Panel established in accordance with The Local Authorities (Standing Order) (England) (Amendment) Regulations 2015 (No 881) and the outcome of the aforementioned investigation and any views from the relevant Chief Officer.

In any case of dismissal of any Chief Officer the Panel will determine and make recommendations to the Council whether any payments should be made. Such payments will only be made:

- (a) In circumstances where compensation is justified (for example on the grounds of redundancy); and
- (b) In accordance with statutory regulations and guidance; and
- (c) In accordance with the Council's employment policies including the policy statement on employer severance and pension discretions allowed under the Local Government Pension Scheme; and/or
- (d) Where they comply with the specific term(s) of a Settlement Agreement.
- (e) In making recommendations the Committee shall take account of any data, advice, evidence or views collected from appropriate sources, including the Council's Head of Service with responsibility for Human Resources, National and/or Regional Employers' Organisations, independent external pay data and submissions made by the Association of Local Authority Chief Executives on behalf of their members.

### **Statement of Pay Policy**

A statement of the Council's Pay Policy will be published annually.