

REPORT: Council

DATE: 15 July 2015

REPORTING OFFICER: Strategic Director – Policy and Resources

SUBJECT: Amendments to Standing Orders relating to Staff and the Officer Employment Rules and Establishment of an Independent Persons Panel

WARDS: Boroughwide

1. PURPOSE OF REPORT

The report describes changes to the statutory employment protection for the Head of Paid Service, Chief Finance Officer and Monitoring Officer, and recommends changes to the Constitution to comply with the new requirements.

2. RECOMMENDED:

- 1) To amend the Standing Orders relating to Staff and Officer Employment Procedure Rules as set out in Appendix 2.**
- 2) To amend the Matters Reserved to Full Council, Terms of Reference for the Committees and the Standing Order relating to the Conduct of Council Business which relates to the Constitution of Forums and Panels as set out in Appendix 4.**
- 3) To authorise the Strategic Director – Policy and Resources to invite the Council’s Independent Persons to be considered for appointment to the Panel.**

3. SUPPORTING INFORMATION

- 3.1 Under the Local Government Act 1972, the Local Government Finance Act 1988 and the Local Government and Housing Act 1989 local authorities must designate officers as the “head of paid service”, the “monitoring officer” and the officer “responsible for the administration of the authority’s financial affairs” (called the “chief finance officer” or “section 151 officer”), each of whom has a personal statutory duty to report to Cabinet or full council in certain circumstances, very broadly to prevent or highlight organisational, legal or financial problems. The Council has designated the Chief Executive, Operational Director (Legal and Democratic Services) and Operational Director - Finance to these respective roles.
- 3.2 Because of the personal duty, the post holders have a degree of statutory protection from dismissal or other disciplinary action. Under section 8 of the Local Government and Housing Act 1989, local authorities must make the standing orders relating to staff that are specified in Regulations. Regulations

were made in 1993 about the appointment of chief officers, and in 2001 about the appointment, discipline and dismissal of certain senior officers. Under the Local Authorities (Standing Orders) (England) Regulations 2001/3384, as amended, standing orders had to provide that, beyond suspension on full pay for no more than two months, disciplinary action could not be taken in relation to the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer unless it was recommended by a Designated Independent Person (“DIP”) appointed to carry out an investigation.

- 3.3 The Council’s standing orders, made to comply with those requirements, are the Standing Orders relating to Staff and the Officer Employment Rules in the Council’s Constitution.
- 3.4 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015/881 have changed that protection. The Government believed that the old requirements were too expensive and slow, and led to unnecessarily costly settlements.
- 3.5 The 2015 Regulations replace the DIP arrangements with a new system.
- 3.6 Firstly, the principle that full Council must approve the dismissal of the head of paid service is extended to the other two protected officers. That decision must be taken before notice of dismissal is given. This applies to dismissal for any reason.
- 3.7 Secondly, the following procedure must be followed before a protected officer can be dismissed. The Council must invite a number of the independent persons appointed to advise on member conduct complaints under the Localism Act 2011 (“IPs”) to be appointed to a Panel. If the Council has fewer than two IPs, it must extend the invitation to one or more IPs from another authority. If more accept the invitation than are needed, the appointments must give priority to IPs of the Council who are on the Council’s electoral roll, then to IPs of the Council who are not, then to other authorities’ IPs. At least two IPs must be appointed, but there is no limit. The appointment must be made at least 20 days before Council takes a decision to approve the dismissal of a protected officer. At the full Council meeting, the authority must take into account any advice, views or recommendations of the Panel as well as the conclusions of any investigation and any representations made by the officer.
- 3.8 This procedure only applies to dismissal on disciplinary grounds. Disciplinary action other than dismissal is not now covered by the Regulations. It is currently delegated to the Appointments Committee.
- 3.9 The Council must amend its Standing Orders relating to Staff and Officer Employment Rules, no later than its first ordinary meeting falling after 11th May 2015. Therefore a decision must be taken at this meeting.
- 3.10 The current Standing Orders relating to Staff and the Officer Employment Rules are attached as Appendix 1. The proposed amendments are attached as Appendix 2.

- 3.11 Although other approaches are theoretically possible, a straightforward approach is recommended, whereby (as at present) the Appointments Committee will conduct a hearing and decide whether or not the officer should be dismissed, subject to full Council approval, and, if so, check if executive members object. The Committee will forward its proposal and the necessary information to a Panel of two IPs. The Panel will consider the proposal and the necessary particulars and decide what advice, views or recommendations to make to full Council, if any. Full Council will decide whether or not to approve dismissal having regard to any advice, views or recommendations of the Panel, the conclusions of any investigation and any representations from the officer.
- 3.12 It is recommended that a standing Panel should be established, comprising two IPs appointed in priority order in accordance with the Regulations. The Strategic Director – Policy and Resources would invite the Council’s IPs to be considered for appointment and recommend the appointments of two of the IPs who accept the invitation to Council at a future meeting.
- 3.13 The current Matters Reserved to Full Council, Terms of Reference for the Appeals Committee and Appointments Committee and the Standing Order relating to the Conduct of Council Business which relates to the Constitution of Forums and Panels, Boards and Committees are attached at Appendix 3. Revised versions, and the proposed Terms of Reference for the Independent Panel, are attached at Appendix 4.
- 3.14 Although the abolition of the DIP process will reduce the cost and length of the disciplinary procedure, there will be a new element to the process, there may in practice still be a need for an external investigation, and work will be needed to review terms and conditions of employment and disciplinary procedures at a national level and locally. This will be reported to the Appointments Committee.

4. POLICY IMPLICATIONS

None, the changes are required to comply with new legislation.

5. FINANCIAL IMPLICATIONS

- 5.1 The administrative and legal costs of making the changes are limited and can be contained within 2015/2016 budgets.
- 5.2 The cost of a Panel meeting will only arise if disciplinary proceedings are taken against a protected officer and the Appointments Committee decides to recommend dismissal.

6. IMPLICATIONS FOR THE COUNCIL’S PRIORITIES

- 6.1 **Children and Young People in Halton** – none.
- 6.2 **Employment, Learning and Skills in Halton** – none.

6.3 **A Healthy Halton** – none.

6.4 **A Safer Halton** – none.

6.5 **Halton's Urban Renewal** – none.

7. RISK ANALYSIS

None.

8. EQUALITY AND DIVERSITY ISSUES

None.

9. LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

None under the meaning of the Act.

APPENDIX 1

Current Standing Orders relating to Staff and Officer Employment Rules

STANDING ORDERS RELATING TO STAFF

1. In these standing Orders –
 - "the 1989 Act" means the Local Government and Housing Act 1989;
 - "the 2000 Act" means the Local Government Act 2000;
 - "disciplinary action" has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;
 - "Executive" and "Executive Leader" have the same meaning as in Part II of the 2000 Act;
 - "member of staff" means a person appointed to or holding a paid office or employment under the authority; and
 - "Proper Officer" means the Head of Paid Service (or the Monitoring Officer if the Head of Paid Service is unable to act for any reason) for the purposes of the provisions in these Standing Orders.

2. Subject to paragraphs 3 and 7, 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 Head of Paid Service or by an Officer nominated by him.

3. Paragraph 2 shall not apply to the appointment or dismissal of, or disciplinary action against –
 - (a) the Head of Paid Service;
 - (b) a statutory Chief Officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
 - (c) a non-statutory Chief Officer within the meaning of section 2(7) of the 1989 Act;
 - (d) a Deputy Chief Officer within the meaning of section 2(8) of the 1989 Act; or
 - (e) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).

4. (1) Where a Committee, Sub-committee or Officer is discharging, on behalf of the Authority, the function of the appointment or dismissal of the Head of Paid Service, the Authority must approve that appointment before an offer of appointment is made to him or, as the case may be, must approve that dismissal before notice of dismissal is given to him.
(2) Where a Committee or a Sub-committee of the Authority is discharging, on behalf of the Authority, the function of the appointment or dismissal of any Officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3, at least one Member of the Executive must be a Member of that Committee or Subcommittee.

5. (1) In this paragraph, "appointor" means, in relation to the appointment of a person as an Officer of the Authority, the Authority or, where a Committee, Sub-committee or Officer is discharging the function of appointment on behalf of the Authority, that Committee, Sub-committee or Officer, as the case may be.
(2) An offer of an appointment as an Officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 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 Authority 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.
- 6. (1) In this paragraph, "dismissor" means, in relation to the dismissal of an Officer of the Authority, the Authority or, where a Committee, Sub-committee or another Officer is discharging the function of dismissal on behalf of the Authority, that Committee, Sub-committee or other Officer, as the case may be.
(2) Notice of the dismissal of an Officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 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 authority 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.
- 7. Nothing in paragraph 2 shall prevent a person from serving as a member of any committee or sub-committee established by the authority 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 authority; or
 - (b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.
- 8. In paragraph 9, "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 and "designated independent person" has the same

meaning as in regulation 7 of those Regulations.

9. No disciplinary action in respect of the Head of the Authority's paid service, its Monitoring Officer or its Chief Finance Officer, except action described in paragraph 10, may be taken by the Authority, or by a Committee, a Subcommittee, a Joint Committee on which the Authority is represented or any other person acting on behalf of the Authority, other than in accordance with a recommendation in a report made by a designated independent person under regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001 (investigation of alleged misconduct).
10. The action mentioned in paragraph 9 is suspension of the Officer for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension must be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.

Officer Employment Procedure Rules

1. 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.
- 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) 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 applicant 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

2. Recruitment of Head of Paid Service and Chief Officers

Where the Council proposes to appoint a Chief Officer, (i.e. a Strategic or Operational 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 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 (1) to be sent to any person on request.

3. Appointment of Head of Paid Service

- (a) The full Council will appoint the Head of Paid Service on recommendation from the Council's

Appointments Committee.

(b) The Appointments Committee will consist of the following Members:-

Leader of the Council

Deputy Leader of the Council

The Resources Portfolio Holder (or another Portfolio Holder to be selected by the Leader if the Leader considers the nature of a particular post warrants a particular Portfolio Holder)

The Scrutiny Co-ordinator or a Chair of a Policy and Performance Board (to be selected by the Leader of the Council)

Leader of the Liberal Democrat Group

Leader of the Conservative Group

(or their substitute provided that the Committee includes at least one Member of the Executive)

(c) The appointment of the Head of Paid Service may only take place where the requirements of the Council's Standing Orders relating to staff have been observed.

4. **Appointment of Strategic Directors, Operational Directors, and the Operational Director (Legal and Democratic Services)**

(a) The Council's Appointments Committee will appoint all Strategic Directors and Operational Directors, and the Operational Director (Legal and Democratic Services)

(b) The appointment of Strategic Directors, Operational Directors, and the Operational Director (Legal and Democratic Services) may only take place where the requirements of the Council's Standing Orders relating to Staff have been observed.

5. **Other appointments**

(a) **Officers below Operational Director.** Appointment of Officers below Operational Director (other than assistants to political groups and an assistant to the Mayor) is the responsibility of the Head of Paid Service or his/her nominee, and may 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.

(c) Appointments may only be made where the requirements of the Council's Standing Orders relating to Staff have been observed.

6. **Disciplinary action**

(a) **Suspension.** The Head of Paid Service, Monitoring Officer and Operational Director – Finance 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.

(b) **Independent person.** 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.

(c) Councillors will not be involved in the disciplinary action against any Officer other than those appointed by or on the recommendation of the Appointments Committee 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.

(d) Disciplinary action against the Head of Paid Service and the Strategic Directors shall be the responsibility of the Council's Appointments Committee.

(e) Disciplinary action may only be taken when the requirements of the Council's Standing Orders relating to Staff have been observed.

7. **Dismissal**

(a) Councillors will not be involved in the dismissal of any Officer other than those appointed by/or

on the recommendation of the Appointments Committee 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.

(b) The decision to dismiss the Head of Paid Service may only be taken by full Council on recommendation from the Appointments Committee.

(c) The decision to dismiss the Strategic Directors, Operational Directors and the Operational Director (Legal and Democratic Services) may only be taken by the Appointments Committee.

(d) A decision to dismiss an Officer from their employment with the Council may only be taken where the requirements of the Council's Standing Orders relating to Staff have been complied with.

8. Appointments Committee

(a) The Appointments Committee will have responsibility for all decisions concerning the pay and terms and conditions of the Head of Paid Services, Strategic Directors, Operational Directors and the Operational Director (Legal and Democratic Services).

(b) The Appointments Committee will have responsibility for all decisions concerning the pay and terms and conditions of all other staff except to the extent such matters are delegated to others in the Council's scheme of delegation.

APPENDIX 2

Proposed Standing Orders relating to Staff and Officer Employment Rules

STANDING ORDERS RELATING TO STAFF

1. In these standing Orders –

"the 1989 Act" means the Local Government and Housing Act 1989;

"the 2000 Act" means the Local Government Act 2000;

"the 2001 Regulations" means the Local Authorities (Standing Orders) Regulations 2001;

"Chief Finance Officer" has the same meaning as set out in Regulation 2 of the 2001 Regulations;

"disciplinary action" has the same meaning as in the 2001 Regulations;

"Executive" and "Executive Leader" have the same meaning as in Part II of the 2000 Act;

"Head of the Paid Service" has the same meaning as set out in Regulation 2 of the 2001 Regulations;

"Independent Person" means a person appointed under section 28(7) of the Localism Act 2011 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;

"Independent Persons 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 in accordance with Schedule 3 to the 2001 Regulations, including or comprising at least two Independent Persons who have accepted an invitation to be considered for appointment to the Panel and who have been appointed to it in accordance with the following priority order—

(a) an independent person who has been appointed by the Authority and who is a local government elector in the Authority's area;

(b) any other independent person who has been appointed by the Authority;

(c) a independent person who has been appointed by another authority or authorities.

"member of staff" means a person appointed to or holding a paid office or employment under the Authority;

"Monitoring Officer" has the same meaning as set out in Regulation 2 of the 2001 Regulations; and

"Proper Officer" means the Head of Paid Service (or the Monitoring Officer if the Head of Paid Service is unable to act for any reason) for the purposes of the provisions in these Standing Orders.

2. Subject to paragraphs 3, 4, 7 and 8, 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 Head of Paid Service or by an Officer nominated by him.

3. Paragraph 2 shall not apply to the appointment or dismissal of, or disciplinary action against –

(a) the Head of Paid Service;

(b) a statutory Chief Officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);

(c) a non-statutory Chief Officer within the meaning of section 2(7) of the 1989 Act;

(d) a Deputy Chief Officer within the meaning of section 2(8) of the 1989 Act; or

(e) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).

4. (1) Where a Committee, Sub-committee or Officer is discharging, on behalf of the Authority, the function of the appointment or dismissal of the Head of Paid Service, the Authority must approve that appointment before an offer of appointment is made to him or, as the case may be, must approve that dismissal before notice of dismissal is given to him.
(2) Where a Committee, Sub-committee or Officer is discharging, on behalf of the Authority, the function of the dismissal of the Chief Finance Officer or the Monitoring Officer, the Authority must approve that dismissal before notice of dismissal is given to that officer.
(2) Where a Committee or a Sub-committee of the Authority is discharging, on behalf of the Authority, the function of the appointment or dismissal of any Officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3, at least one Member of the Executive must be a Member of that Committee or Subcommittee.
5. (1) In this paragraph, "appointor" means, in relation to the appointment of a person as an Officer of the Authority, the Authority or, where a Committee, Sub-committee or Officer is discharging the function of appointment on behalf of the Authority, that Committee, Sub-committee or Officer, as the case may be.
(2) An offer of an appointment as an Officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 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 Authority 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.
6. (1) In this paragraph and paragraph 7, "dismissor" means, in relation to the dismissal of an Officer of the Authority, the Authority or, where a Committee, Sub-committee or another Officer is discharging the function of dismissal on behalf of the Authority, that Committee, Sub-committee or other Officer, as the case may be.
(2) Notice of the dismissal of an Officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 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 authority 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.
7. (1) This paragraph applies if the dismissor proposes disciplinary action involving the dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer.
- (2) Where this paragraph applies, the Staffing Committee will provide the Independent Persons Panel with the matters provided to members of the Executive under paragraph 6 and any other particulars relevant to the dismissal that the dismissor considers appropriate or that the Panel may reasonably require.
- (3) The Independent Persons Panel will meet to consider what, if any, advice, views or recommendations to give to the Authority in deciding whether or not to approve the dismissal.
- (4) The Authority will not meet to consider whether or not to approve the proposal of the Staffing Committee to dismiss the officer until a period of at least 20 working days has elapsed from the appointment of the Independent Persons Panel.
- (5) Before the Authority takes a vote at a meeting on whether or not to approve such a dismissal, they must take into account, in particular—
- (a) any advice, views or recommendations of the Independent Persons Panel;
 - (b) the conclusions of any investigation into the proposed dismissal; and
 - (c) any representations from the officer.
8. Nothing in paragraph 2 shall prevent a person from serving as a member of any committee or sub-committee established by the authority 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 authority; or
 - (b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

Officer Employment Procedure Rules

1. 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.

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) 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 applicant 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

2. **Recruitment of Head of Paid Service and Chief Officers**

Where the Council proposes to appoint a Chief Officer, (i.e. a Strategic or Operational 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 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 (1) to be sent to any person on request.

3. **Appointment of Head of Paid Service**

(a) The full Council will appoint the Head of Paid Service on recommendation from the Council's Appointments Committee.

(b) The Appointments Committee will consist of the following Members:-

Leader of the Council

Deputy Leader of the Council

The Resources Portfolio Holder (or another Portfolio Holder to be selected by the Leader if the Leader considers the nature of a particular post warrants a particular Portfolio Holder)

The Scrutiny Co-ordinator or a Chair of a Policy and Performance Board (to be selected by the Leader of the Council)

Leader of the Liberal Democrat Group

Leader of the Conservative Group

(or their substitute provided that the Committee includes at least one Member of the Executive)

(c) The appointment of the Head of Paid Service may only take place where the requirements of the Council's Standing Orders relating to Staff have been observed.

4. **Appointment of Strategic Directors, Operational Directors, and the Operational Director (Legal and Democratic Services)**

(a) The Council's Appointments Committee will appoint all Strategic Directors and Operational Directors, and the Operational Director (Legal and Democratic Services)

(b) The appointment of Strategic Directors, Operational Directors, and the Operational Director (Legal and Democratic Services) may only take place where the requirements of the Council's Standing Orders relating to Staff have been observed.

5. **Other appointments**

(a) **Officers below Operational Director.** Appointment of Officers below Operational Director (other than assistants to political groups and an assistant to the Mayor) is the responsibility of the Head of Paid Service or his/her nominee, and may 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.

(c) Appointments may only be made where the requirements of the Council's Standing Orders

relating to Staff have been observed.

6. Disciplinary action

(a) Councillors will not be involved in the disciplinary action against any Officer other than those appointed by or on the recommendation of the Appointments Committee 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.

(b) Disciplinary action against the Head of Paid Service and the Strategic Directors shall be the responsibility of the Council's Appointments Committee.

(c) Disciplinary action may only be taken when the requirements of the Council's Standing Orders relating to Staff have been observed.

7. Dismissal

(a) Councillors will not be involved in the dismissal of any Officer other than those appointed by or on the recommendation of the Appointments Committee 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.

(b) The decision to dismiss the Head of Paid Service, Strategic Directors, and Operational Directors and may only be taken by the Appointments Committee.

(c) The decision to dismiss the Head of Paid Service, Chief Finance Officer or Monitoring Officer is subject to approval by full Council.

(d) A decision to dismiss an Officer from his or her employment with the Council may only be taken in compliance with the requirements of the Council's Standing Orders relating to Staff.

8. Appointments Committee

(a) The Appointments Committee will have responsibility for all decisions concerning the pay and terms and conditions of the Head of Paid Services, Strategic Directors, Operational Directors and the Operational Director (Legal and Democratic Services).

(b) The Appointments Committee will have responsibility for all decisions concerning the pay and terms and conditions of all other staff except to the extent such matters are delegated to others in the Council's scheme of delegation.

APPENDIX 3

Matters reserved to Council, Terms of Reference and Standing Orders - current

1. MATTERS RESERVED TO THE COUNCIL

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STAFFING

47. To appoint the Chief Executive on recommendation from the Appointments Committee
48. To deal with the dismissal of the Chief Executive in accordance with the Standing Orders relating to staffing.
49. To ensure equality of opportunity for all applicants for employment, existing employees and inhabitants of the borough, including equality in the delivery of services by the Council.

12. TERMS OF REFERENCE FOR THE APPEALS PANEL

1. To pursue the principles of Best Value at all times.
2. To be responsible for implementing and monitoring the Council's Single Equality Framework and compliance with the Equalities Act and Public Sector Equality Duty.
3. To hear and determine appeals in relation to any disciplinary, grievance, dispute or re-grade processes (including appeals from teachers working in schools with or without a delegated budget) and any other appeals made in connection with employment issues with the exception of appeals relating to the job evaluation process.
4. To hear and determine all other appeals and decision review processes including the following appellate and decision review functions:-
 1. Housing Homelessness, Discretionary Housing Payment and Council Tax - Discretionary Reduction in Liability appeals
 2. School Transport
 3. Contracts
 4. Assets of Community Value and Community Right to Bid

...

14. TERMS OF REFERENCE FOR THE APPOINTMENTS COMMITTEE

1. To deal with Appointments, Disciplinary Matters and Dismissals relating to the Head of Paid Service, Strategic Directors, Operational Directors, and the Operational Director (Legal and Democratic Services) as set out in the Officer Employment Procedure Rules and subject to the Standing Orders relating to Staff.
2. To deal with all matters concerning the pay and terms and conditions of staff (including procedures for dismissal), except to the extent that such matters are delegated to others under the Standing Orders relating to Powers of Proper Officers and Delegation to Officers or fall to be dealt with by the Council's Appeals Panel under the Standing Orders relating to Powers and Duties of Executive Boards, Policy and Performance Boards, Committees and Forums and Panels.
3. To consider and deal with requests for ill-health retirement in respect of the Head of Paid Service, Strategic Directors, Operational Directors, and the Operational Director (Legal and Democratic Services) and to approve any redundancy/severance arrangements in accordance with the Council's Policy (subject to the approval of full Council in the case of matters relating to the Chief Executive).

STANDING ORDERS RELATING TO CONDUCT OF COUNCIL BUSINESS

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31. Constitution of Forums and Panels, Boards and Committees

(1) The following Forums and Panels, Boards and Committees shall be the Standing Committees of the Council:-

	Membership	
Executive Board	10	(quorum 5)
Executive Board Sub-Committee	5	(quorum 3)
Mersey Gateway Executive Board	5	(quorum 3)
Health and Wellbeing Board	25	(see note)
Schools Forum	See note	(quorum 40%)
Development Control Committee	13	(quorum 6)
Appeals Panel	Pool of 20	
	Composition 3	(quorum 2 or such number statutorily required)
Corporate Policy and Performance Board	11	(quorum 5)
Health Policy and Performance Board	11	(quorum 5)
Employment, Learning, Skills and Community Policy and Performance Board	11	(quorum 5)
Children, Young People and Families Policy and Performance Board	11	(quorum 5)
Safer Policy and Performance Board	11	(quorum 5)
Environment and Urban Renewal Policy and Performance Board	11	(quorum 5)
Business Efficiency Board	*11	(quorum 5)
Standards Committee	**9	
	Plus up to 4 nonvoting co-optees	(quorum 3)
Appointments Committee	6	(quorum 3)
Mayoral Committee	5	(quorum 3)
Regulatory Committee	11	(quorum 5)
Regulatory Sub-Committees	3	(quorum 2)

Note:

Health and Wellbeing Board – the meeting shall be quorate provided at least 50% of all members are present. This should include the Chair or Vice Chair and at least one Officer of the PCT and one Officer of the Local Authority. Where a Board is not quorate, business may proceed but decisions will need to be ratified.

Schools Forum – must have Schools Members, Academy Members and Non-Schools Members; Schools and Academy Members together must number at least two-thirds of the total membership of the Schools Forum and the balance between Primary, Secondary and

Academies Members must be broadly proportionate to the pupil numbers in each category. The meeting shall be quorate provided at least 40% of the total current membership is present. Where a Forum is not quorate, the meeting can respond to authority consultation and give views to the authority.

(*NB Membership may include up to 2 Executive Board Members.)

(** NB Membership may include one Executive Board Member)

APPENDIX 4

Matters reserved to Council, Terms of Reference and Standing Orders – proposed

1. MATTERS RESERVED TO THE COUNCIL

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STAFFING

47. To appoint the Chief Executive on recommendation from the Appointments Committee.
48. To approve the dismissal of the Chief Executive (Head of Paid Service), Chief Finance Officer or Monitoring Officer.

12. TERMS OF REFERENCE FOR THE APPEALS PANEL

1. To pursue the principles of Best Value at all times.
2. To be responsible for implementing and monitoring the Council's Single Equality Framework and compliance with the Equalities Act and Public Sector Equality Duty.
3. To hear and determine appeals in relation to any disciplinary, grievance, dispute or re-grade processes, (including appeals from teachers working in schools with or without a delegated budget) and any other appeals made in connection with employment issues with the exception of appeals relating to the job evaluation process, where this function is not discharged by the full Council.
4. To hear and determine all other appeals and decision review processes including the following appellate and decision review functions:-
 1. Housing Homelessness, Discretionary Housing Payment and Council Tax – Discretionary Reduction in Liability appeals
 2. School Transport
 3. Contracts
 4. Assets of Community Value and Community Right to Bid

...

14. TERMS OF REFERENCE FOR THE APPOINTMENTS COMMITTEE

1. To deal with Appointments, Disciplinary Matters and Dismissals relating to the Head of Paid Service, Strategic Directors, Operational Directors, and the Operational Director (Legal and Democratic Services) as set out in the Officer Employment Procedure Rules and subject to the Standing Orders relating to Staff.
2. To deal with all matters concerning the pay and terms and conditions of staff (including procedures for dismissal), except to the extent that such matters are delegated to others under the Standing Orders relating to Powers of Proper Officers and Delegation to Officers or fall to be dealt with by the Council's Appeals Panel under the Standing Orders relating to Powers and Duties of Executive Boards, Policy and Performance Boards, Committees and Forums and Panels.
3. To consider and deal with requests for ill-health retirement in respect of the Head of Paid Service, Strategic Directors, Operational Directors, and the Operational Director (Legal and Democratic Services) and to approve any redundancy/severance arrangements in accordance with the Council's Policy (subject to the approval of full Council in the case of matters relating to the Chief Executive).

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18. TERMS OF REFERENCE FOR THE INDEPENDENT PERSONS PANEL

1. To advise the Council on matters relating to the dismissal of the officers designated as the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer.

STANDING ORDERS RELATING TO CONDUCT OF COUNCIL BUSINESS

...

31. Constitution of Forums and Panels, Boards and Committees

(1) The following Forums and Panels, Boards and Committees shall be the Standing Committees of the Council:-

	Membership	
Executive Board	10	(quorum 5)
Executive Board Sub-Committee	5	(quorum 3)
Mersey Gateway Executive Board	5	(quorum 3)
Health and Wellbeing Board	25	(see note)
Schools Forum	See note	(quorum 40%)
Development Control Committee	13	(quorum 6)
Appeals Panel	Pool of 20	
	Composition 3	(quorum 2 or such number statutorily required)
Corporate Policy and Performance Board	11	(quorum 5)
Health Policy and Performance Board	11	(quorum 5)
Employment, Learning, Skills and Community Policy and Performance Board	11	(quorum 5)
Children, Young People and Families Policy and Performance Board	11	(quorum 5)
Safer Policy and Performance Board	11	(quorum 5)
Environment and Urban Renewal Policy and Performance Board	11	(quorum 5)
Business Efficiency Board	*11	(quorum 5)
Standards Committee	**9	
	Plus up to 4 non voting co-optees	
		(quorum 3)
Appointments Committee	6	(quorum 3)
Mayoral Committee	5	(quorum 3)
Regulatory Committee	11	(quorum 5)
Regulatory Sub-Committees	3	(quorum 2)
Independent Persons Panel	2	(quorum 2)
	(see note)	

Note:

Health and Wellbeing Board – the meeting shall be quorate provided at least 50% of all members are present. This should include the Chair or Vice Chair and at least one Officer of the PCT and one Officer of the Local Authority. Where a Board is not quorate, business may proceed but decisions will need to be ratified.

Schools Forum – must have Schools Members, Academy Members and Non-Schools Members; Schools and Academy Members together must number at least two-thirds of the total membership of the Schools Forum and the balance between Primary, Secondary and Academies Members must be broadly proportionate to the pupil numbers in each category. The meeting shall be quorate provided at least 40% of the total current membership is present. Where a Forum is not quorate, the meeting can respond to authority consultation and give views to the authority.

Independent Persons Panel – comprises two of the Independent Persons appointed under section 28(7) of the Localism Act 2011 (to advise on member conduct allegations) by the Council. If there are fewer than two such persons, independent persons appointed by another authority may be appointed. The Panel will be appointed from those Independent Persons who have accepted an invitation to be considered for appointment, in accordance with the following priority order—

- (a) an Independent Person who has been appointed by the authority and who is a local government elector in the Council's area;
- (b) any other Independent Person who has been appointed by the authority;
- (c) a Independent Person who has been appointed by another authority or authorities.

(*NB Membership may include up to 2 Executive Board Members.)

(** NB Membership may include one Executive Board Member)