

**COUNCIL
24 SEPTEMBER 2003**

**REVIEW OF THE CONSTITUTION:
OFFICER EMPLOYMENT PROCEDURE RULES
(Report of the Constitution Review Group)**

1 INTRODUCTION

- 1.1 At its meeting on 11 September 2003, the Constitution Review Group considered a minor amendment to the Officer Employment Procedure Rules, which would provide clarification to the Rules by specifying the process for appointments to Deputy Director posts, where it is proposed that such an appointment is to made exclusively from the Council's existing staff.

2. RECOMMENDATION

- 2.1 **That the amendments to Section 4 of Part 4.8 of the Constitution (attached as an Annex) be approved; and**
- 2.2 **That the consequential amendments to Table 1 of the Officer Employment Procedure rules be noted.**

3. ADVICE FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 3.1 There is nothing to add to the report.

Section 151 Officer

- 3.2 There are no financial implications arising from this report.

Borough Personnel Manager

- 3.3 The suggested change will significantly improve the process by which senior appointments are made.

Access Implications

- 3.4 There are no access implications arising from this report.

4. SUPPORTING INFORMATION

- 4.1 The Officer Employment Procedure Rules, as set out in Part 4.8 of the Constitution, relate to the recruitment, appointment and dismissal of and disciplinary action against staff. A significant part of these rules are prescribed by the Regulations [The Local Authorities (Standing Orders) Regulations 2001] and the Council therefore has limited discretion in its ability to alter them.

- 4.2 The Officer Employment Procedure Rules, in accordance with the Regulations, specify that with the exception of chief officers (ie the Chief Executive and Directors) and deputy chief officers (ie officers reporting to chief officers, but excluding secretarial and clerical staff) all appointments must be made by the Head of Paid Service or his nominated representative. However, where appointments are made to chief officer and deputy chief officer posts, the Council has discretion under the regulations, firstly to decide whether a committee (or a sub committee) undertake the appointment process or whether an officer discharges this function on behalf of the Council, and secondly to make an appointment to such posts exclusively from within the Council's existing staff. Although this discretion is implied in the Council's Procedure Rules, it is not explicit and in particular does not adequately cater for situations where an appointment is proposed exclusively from the Council's existing staff.
- 4.3 In order to clarify the current position, a provision is proposed for insertion in the Procedure Rules, whereby the Head of Paid Service, or his representative, may determine whether an appointment should be made to a deputy chief officer post exclusively from the Council's existing staff. This authority would be exercised in consultation with the relevant Executive Member or Members and the Leader of the Council. This provision would only apply to deputy chief officer posts. The provision would also enable the Head of Paid Service, or his representative, to make the appointment. For chief officer posts, there would need to be a determination by the Council if an appointment were to be proposed exclusively from the Council's existing staff. Where an external recruitment process is undertaken for deputy chief officer posts, it will involve the final decision on the appointment resting with a specially appointed committee.
- 4.4 This additional provision also allows the Head of Paid Service to implement organisational change by the appointment of existing staff to certain posts (sometimes as an alternative to the redundancy of those post holders). An example of this is the proposed reorganisation of the Policy Development Unit, which has involved the deletion of one deputy chief officer post (Head of Policy Development) and the creation of three other deputy chief officer posts (Head of Communications; Head of Performance and Improvement; and Head of Regeneration and Partnerships).
- 4.5. The proposed amendment to Section 4 of the Officer Employment Procedure Rules is set out in the Annex, with the proposed additional text in bold type and deletions in strikethrough text. The Annex also includes consequential amendments to the Officer Employment Procedure Rules arising from the recent organisational changes, in particular to Table 1 to the Rules.

Councillor Bob Wade
Chairman

Background Papers

Report to Constitution Review Group, 11 September 2003 (Item 5 of the agenda)

Contact for Further Information

Simon Evans (01344) 352263

simon.evans@bracknell-forest.gov.uk

Part 4.8 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, or are otherwise known to them in any capacity.
- (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.

2. Recruitment of Head of Paid Service, Directors and ~~Head of Policy Development~~ Deputy Chief Officers

Where the Council proposes to make an appointment to the designated posts listed in table 1 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;
- (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**

The full Council will approve the appointment or dismissal of the Head of Paid Service following the recommendation of such an appointment by a committee or sub committee of the Council. That committee or sub committee must include at least one member of the executive.

4 **Appointment to Designated Posts**

Chief Officer Posts

Unless otherwise directed by the Council, a committee or sub committee of the Council will appoint chief officers ~~and the other designated posts~~ listed in Table 1. That committee or sub committee must include at least one member of the executive.

Deputy Chief Officer Posts

The Head of Paid Service, or his/her nominated representative, in consultation with the relevant Executive Member or Members and the Leader of the Council, may determine whether any appointment to the deputy chief officer posts listed in Table 1 is to be made exclusively from the Council's existing officers. Where the Head of Paid Service, or his/her nominated representative, determines that such an appointment is to be made exclusively from the Council's existing officers, such an appointment may be made by the Head of Paid Service, or his/her nominated representative.

Where a recruitment process is undertaken involving external candidates, a committee or sub committee will be appointed to interview the short-listed candidates and to make the final appointment. That committee or sub committee must include at least one member of the executive

5 **Assistants to Political Groups.**

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

Appointment and Dismissal of Staff and Disciplinary Action

6. Subject to paragraphs 7 and 11 below, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the Council must be discharged by the Head of Paid Service or by an officer nominated by him/her.
7. Paragraph 6 shall not apply to the appointment or dismissal of, or disciplinary action against –
 - (a) the officer designated as the head of the Council's paid service;
 - (b) a statutory chief officer within the meaning of section 2(6) of the Local Government & Housing Act 1989;
 - (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 to political groups)

8. Where a committee or sub committee of the Council is discharging, on behalf of the Council, the function of the appointment or dismissal of any officer referred to in (a), (b), (c) or (d) of paragraph 7 above, at least one member of the executive must be a member of that committee or sub committee.

9.
 - (1) In this paragraph “appointor” means, in relation to the appointment of a person as an officer of the Council, the Council or, where a committee, or sub committee or officer is discharging the function of appointment on behalf of the Council, that committee, sub committee or officer, as the case may be.
 - (2) An offer of appointment as an officer referred to in sub paragraph (a), (b), (c) or (d) of paragraph 7 above must not be made by the appointor until –
 - (a) the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
 - (b) the proper officer has notified every member of the executive of the Council of –
 - (i) the name of the person to whom the appointor wishes to make the offer
 - (ii) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and
 - (iii) the period within which any objection to the making of the offer is to be made by the executive leader on behalf of the executive to the proper officer; and
 - (c) either –
 - (i) the executive Leader has, within the period specified in the notice under sub paragraph (b)(iii), notified the appointor that neither he nor any other member of the executive has any objection to the making of the offer;
 - (ii) the proper officer has notified the appointor that no objection was received by him within that period from the executive Leader; or
 - (iii) the appointor is satisfied that any objection received from the executive Leader within that period is not material or is not well-founded.

10.
 - (1) In this paragraph, “dismissor” means, in relation to the dismissal of an officer of the Council, the Council or, where a committee, sub committee or another officer is discharging the function of dismissal on behalf of the Council, that committee, sub committee or other officer, as the case may be.
 - (2) Notice of the dismissal of an officer referred to in sub paragraph (a), (b), (c) or (d) of paragraph 7 above must not be given by the dismissor until –
 - (a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;

- (b) the proper officer has notified every member of the executive of the Council of –
 - (i) the name of the person to whom 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.

- 11 Nothing in paragraph 6 shall prevent a person from serving as a member of any committee or sub committee established by the Council to consider an appeal by –
- (a) another person against any decision relating to the appointment of that person as a member of staff of the Council; or
 - (b) a member of staff of the Council against any decision relating to the dismissal of , or taking disciplinary action against, that member of staff.
- 12 In paragraph 13, “chief finance officer”, “disciplinary action”, “head of the 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.
- 13 No disciplinary action in respect of the head of the Council’s paid service, its monitoring officer or its chief finance officer, except action described in paragraph 14, may be taken by the Council, or by a committee, a sub committee, a joint committee on which the Council is represented or any other person acting on behalf of the Council, 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).
- 14 The action mentioned in paragraph 13 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.

The following posts are designated for the purpose of the Officer Employment Procedure Rules.

Chief Executive

Head of Communications
Head of Policy and Improvement
Head of Regeneration and Partnerships

Director of Corporate Services

Borough Finance Officer
Borough IT Services Manager
Borough Personnel Manager
Borough Solicitor

Director of Education

Assistant Director of Education (Curriculum, Quality and Achievement)
Assistant Director of Education (Strategy, Policy and Resources)
Assistant Director of Education (Pupils, Students and Families)

Director of Leisure Services

Assistant Director of Leisure Services ~~Head of Leisure and Amenities~~
Head of Libraries, Arts and Information
Head of Open Spaces, Countryside and Heritage
Head of Youth and Community

Director of Environment

Assistant Director (Resources)
Assistant Director (Sustainability)
Assistant Director (Street Care)

Director of Social Services and Housing

~~Head of~~ **Assistant Director** (Strategy, **Commissioning** and Resources)
~~Head of~~ **Assistant Director** (Adult Services)
~~Head of~~ **Assistant Director** (Housing Services)
~~Head of Housing Policy~~
Head of Children's Services

~~Head of Policy Development~~