

Appendix B – Senior Officer Employment Procedure

1.0 General

- 1.1 Staff within the organisation are employed on behalf of the whole Council and not by parts of the organisation or individuals.
- 1.2 The employment or engagement of all staff will be in compliance with the law and the policies and practices of the Council.
- 1.3 Persons employed or engaged by contractors under specific agreements or contracts are not staff of the Council but are employees engaged by the Contractor.
- 1.4 The Council, as outlined in the Constitution will approve the overall management structure and provide the necessary resources to support it.
- 1.5 Generally (except for certain senior staff appointments and dismissals) the function of appointment and dismissal of and taking disciplinary action against a member of staff of the Council must be discharged on behalf of the Authority by the Chief Executive - Head of the Paid Service or, in most cases, by an officer nominated by him/her.
- 1.6 In relation to staff employed in Community, Voluntary Controlled, Community Special and Maintained Schools and Nursery schools, the responsibility for appointment, discipline and dismissal rests with the governing body and the Local Authority.
- 1.7 In Shropshire Council Chief Officer means employees whose contract of employment is subject to Joint Negotiating Committee (JNC) for Chief Officers terms and conditions. However, for specific purposes there are statutory definitions of Chief Officer in accordance with the Localism Act 2011 and as set out in more detail within the Annex A.

2.0 Definitions

- 2.1 This section sets out the definition of terms used for the purposes of these Rules in respect of particular posts.
- 2.2 “Chief Officer” means each of the following:
 - 2.2.1 Chief Executive - Head of Paid service designated under section 4(1) of the Local Government and Housing Act 1989.
 - 2.2.2 Director of Legal and Governance (Monitoring Officer) designated under section 5(1) of that Act.
 - 2.2.3 Corporate Director Finance and Governance (S151) having responsibility for the purposes of section 151 of Local Government Act 1972
 - 2.2.4 “Statutory Chief Officer” has the meaning as set out in section 2 (6) of the Local Government and Housing Act 1989 and for this Council will be the

Corporate Director Population, Wellbeing and Neighbourhoods (Director of Public Health (DPH)), Corporate Director Growth and Connected Communities, Corporate Director Finance and Governance (S151), Corporate Director Change and Improvement, Director of Children's Services (DCS) and Director of Adult Services (DASS)

2.2.5 "Non - Statutory Chief Officer" means a person who reports to the Chief Executive - Head of the Paid Service or who is directly accountable to the local authority or any committee or subcommittee of the authority as set out in Section 2 (7) of the Local Government and Housing Act 1989 and for this Council will be any other Director appointed by the Council who are not Statutory Chief Officers.

2.2.6 "Deputy Chief Officer" means a person who for most or all of his/her duties is required to report direct, or is directly accountable, to a statutory or non-statutory Chief Officer as set out in section 2 (8) of the 1989 Act (excluding persons whose duties are solely secretarial, clerical or in the nature of support services). See Annex A.

2.3 "Independent Panel" means a panel consisting of at least two Independent Persons. The Independent Persons must already be acting in that capacity either within the Council or at another local authority, and be invited in accordance with the following priority order:

1. a relevant Independent Person who has been appointed by the authority and who is a local government elector;
2. any other relevant Independent Person who has been appointed by the authority;
3. a relevant Independent Person who has been appointed by another authority or authorities

The Panel should comprise solely independent persons, rather than incorporating elected members.

2.4 "Independent Person" means someone appointed under section 28(7) of the Localism Act 2011.

2.5 "Dismissal" means when an employment contract is terminated by the employer for the reasons of misconduct, capability, or a legal reason for 'some other substantial reason', otherwise than by mutual agreement. For the avoidance of doubt this does not include a dismissal on the grounds of redundancy or ill health retirement.

3.0 Recruitment and Appointment of Staff

3.1 All recruitment and appointment of staff will be conducted in accordance with the law, the Council's policies and procedures and the Council's Finance Procedure Rules.

4.0 Responsibility of the Chief Officer Employment Panel

- 4.1 The Chief Officer Employment Panel supports, amongst other things as set out below, the recruitment of the Chief Executive – Head of Paid Service. Membership of the Panel shall comprise the Leaders of the three main political parties (or their nominees), and two other members subject to the proportionality rules and the Director of People and Culture or their nominated deputy. The Chair of the Panel will be the Leader of the Council or his/her nominated deputy. Where the appointment isn't relating to the Chief Executive – Head of Paid Service, he/she will form part of the panel membership.
- 4.2 The quorum for each meeting of the Committee/Panel is three, including a member of the Administration and main opposition party.
- 4.3 For the purposes of this procedure, the Proper Officer shall be the Chief Executive - Head of Paid Service, except where the appointment/ dismissal relates to the Chief Executive - Head of Paid Service in which case the Proper Officer shall be the Director of People and Culture.
- 4.4 The Panel is also responsible for hearing and determining any appeals from Chief Officers as appropriate under the Council's discipline, grievance, performance management and grading policies, the suspension of sick pay and the review and determination of matters relating to contracts of employment. In determining these matters, the Panel will have regard to the appropriate provisions of these Rules. The Panel may agree to discharge some of these functions through a Sub-Committee.

5.0 Appointment of Head of the Paid Service.

- 5.1 The appointment is subject to specific requirements as set out below.
- 5.2 The Chief Officer Employment Panel shall:
- a) agree a statement specifying the duties and any qualifications or qualities to be sought in the person to be appointed.
 - b) agree 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) agree for a copy of the statement mentioned above to be sent to any person on request.
 - d) where a post has been advertised as required above, will select from the applications a short list of qualified candidates and will then interview those included in the short list.
 - e) agree interview arrangements e.g. stakeholder panels
 - f) following the interview of candidates, will come to a view as to the most suitable person for the position.
 - g) where following the interviews is of the view that there is no suitable candidate, it will re-advertise the post.

- 5.3 The Director of People and Culture has, within the period specified in the notice under paragraph 5.4 notified the Leader that each member of the Cabinet has stated that they do not have any objection to the making of the offer; or the Director of People and Culture has notified the Leader that no objection was received from any member of the Cabinet within the specified period; or The Leader is satisfied that any objection which has been received from any member of the Cabinet within the specified period is not material and/or is not well-founded or does not outweigh the other factors taken into consideration by the panel
- 5.4 The period within which any objection to the making of the offer is to be notified to the Director of People and Culture. The standard period will be three working days but may be shortened by the Chair of the Panel/Leader where necessary for the proper discharge of the Council's functions, subject to a minimum period of 24 hours.
- 5.5 Where following the above procedure there are no objections to the proposed appointment or any objections are not upheld, the panel will recommend that person for appointment at the next meeting of the Full Council or at a specially convened meeting of the Council. If the full Council approves the recommendation, then a formal offer of appointment can be made.
- 5.6 Where full Council does not approve the recommendation of the panel, they shall indicate how they wish to proceed.
- 6.0 Appointment of Statutory Chief Officers, Director of Legal and Governance (Monitoring Officer) designated under section 5(1) of that Act and Corporate Director of Finance and Governance (S151) Resources (S.151 Officer) having responsibility for the purposes of section 151 of Local Government Act 1972**
- 6.1 Where the Council is appointing the officers to which this section applies the Chief Officer Employment Panel, or their nominated deputies shall be convened and:
- a) agree a statement specifying the duties and any qualifications or qualities to be sought in the person to be appointed.
 - b) agree 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) agree for a copy of the statement mentioned above to be sent to any person on request.
 - d) where a post has been advertised as required above, the panel will select from the applications a short list of qualified candidates and will then interview those included in the short list.
 - e) agree interview arrangements e.g., stakeholder panels

f) following the interview of candidates, will come to a view as to the most suitable person for the position. Cabinet will be notified of the selected candidate with confirmation of appointment at the next available Council meeting.

g) where following the interviews is of the view that there is no suitable candidate, it will re-advertise the post.

6.2 The period within which any objection to the making of the offer is to be notified to The Director of People and Culture. The standard period will be three working days but may be shortened by the Chair of the Panel/Leader where necessary for the proper discharge of the Council's functions, subject to a minimum period of 24 hours.

6.3 The Director of People and Culture has, within the period specified in the notice under paragraph 6.2 notified the Leader that each member of the Cabinet has stated that they do not have any objection to the making of the offer; or the Director of People and Culture has notified the Leader that no objection was received from any member of the Cabinet within the specified period; or The Leader is satisfied that any objection which has been received from any member of the Cabinet within the specified period is not material and/or is not well-founded or does not outweigh the other factors taken into consideration by the panel

6.4 Where following the above procedure there are no objections to the proposed appointment or any objections are not upheld, the panel will recommend that person for appointment.

7.0 Employment responsibility of Chief Officers (Non-Statutory), Deputy Chief Officers and below to Chief Officer Service Manager Level.

7.1 Employment responsibilities under the Council's Human Resources policies in respect of posts below Statutory Chief Officer to Service Manager levels will be the responsibility of the Chief Executive - Head of the Paid Service or nominated officer and will be exercised in accordance with the scheme of delegation and relevant personnel policies.

7.2 Appointments may not be made by Councillors.

7.3 A Committee (the Appeals Committee) will be appointed to hear an appeal by an Officer employed by the Council as provided in the Human Resource Policies of the Council from time to time.

8.0. Appointment of Deputy Returning Officer 8.1 The Returning Officer (Chief Executive, Head of Paid Service) may appoint one or more Deputy Returning Officers to exercise all or any of the functions of the Returning Officer, in accordance with the Representation of the People Act 1983. The appointment of a Deputy Returning Officer is a matter reserved to the Returning Officer and

must be made in writing, specifying the functions delegated. Any person appointed as a Deputy Returning Officer shall have the authority to discharge those functions on behalf of the Returning Officer as set out in the written appointment.

9.0 Disciplinary Action Relating to the Head of the Paid Service, Monitoring Officer or S151 Officer in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 (the Regulations) (as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015, the Chief Executive Employment Procedure Rules 2008.

9.1 No disciplinary action in respect of the above Chief Officers may be taken by or on behalf of the Authority) other than in accordance with the provisions set out in Schedule 3 (or provisions to the like effect) of the Local Authorities (Standing Orders) (England) Regulations 2001, as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

9.2 The Chief Executive - Head of Paid Service, Director of Legal & Governance (Monitoring Officer) and Corporate Director of Finance and Governance S151 Officer may be suspended (in accordance with paragraph 8.3 below) while an investigation takes place into alleged misconduct or incapability. Suspension does not itself constitute disciplinary action and does not imply guilt. Any suspension will be on full pay and will be reviewed after two months and periodically thereafter as appropriate.

9.3 The responsibility for implementing the suspension of the Chief Executive – Head of Paid Service will be the Director of People and Culture in consultation with the Leader of the Council and the responsibility for implementing the suspension of the Monitoring Officer and Section 151 Officer will be the Chief Executive – Head of Paid Service and the Director of People and Culture

9.4 Where an allegation is made relating to the conduct of these officers the matter will be considered by the Chief Officer Employment Panel.

9.5 Where the Chief Officer Employment Panel determines that a matter requires more detailed investigation, this will be undertaken by an independent investigator.

9.6 The Chief Officer Employment Panel will determine from the investigation report whether further action is required. Where the decision is any action short of dismissal, the decision will be taken by the Panel itself.

9.7 Where the recommendation is for dismissal, an Independent Panel, as defined at paragraph 2.4 above is convened and approved at full Council.

10.0 Dismissal of Head of the Paid Service, Monitoring Officer or S151 Officer.

10.1 An Independent Panel must be convened in accordance with Schedule 3 the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) having considered and recommend the dismissal of an Officer to whom this

section applies. The panel must be appointed at least 20 working days before a meeting of Council is held to consider any dismissal.

10.2 The Director of People and Culture on behalf of the Independent Panel will submit a report to Council on the recommended dismissal.

10.3 Notice of dismissal must not be given until approval of the Full Council.

11.0 Termination of Employment of the Head of the Paid Service, Monitoring Officer or S151 Officer

11.1 Where a mutually agreed termination of employment is being pursued, the Leader of the council, along with the Chief Executive - Head of Paid Service and Director of People and Culture (or their deputy) shall ensure that the circumstances have been fully considered and documented from the Monitoring Officer and/or independent external legal advisers as appropriate, considering the financial, governance, operational and reputational implications of the proposal. Any discussions with the postholder will be conducted on a without prejudice and confidential basis. With any proposed payment, a business case will be required and approved in line with statutory guidance on special severance payments.

11.2 Where a mutually agreed termination of employment is to be pursued for the Chief Executive, Head of Paid Service this matter will be actioned by the Chief Officer Employment Panel with the support of Director of People and Culture (or their deputy).

11.3 Special Severance payments of £100,000 and above must be approved by a vote of full council, as set out in the Localism Act 2011. Payments of £20,000 and above, but below £100,000, must be personally approved and signed off by the Head of Paid Service, with a clear record of the Leader's approval and that of any others who have signed off the payment. Payments below £20,000 must be approved according to the local authority's scheme of delegation.

12. Disciplinary Action relating to Statutory Chief Officers

12.1 The Chief Officers Employment Panel has power to decide whether to investigate any allegation of misconduct by a Statutory Chief Officer and all matters relating to the conduct of the investigation and/or any subsequent disciplinary process.

12.2 Officers may be suspended whilst an investigation takes place into alleged misconduct. The decision to suspend on full pay shall be made by the Chief Executive - Head of Paid Service or their designated nominee in consultation with the Leader of the Council and/ Deputy Leader and the Director of People and Culture.

12.3 The Chief Officer Employment Panel may decide to dismiss or take disciplinary action short of dismissal. This can only take effect where no well-founded objection has been made by any member of the Cabinet. Any objection needs

to relate to the Council's disciplinary, capability and related procedures and policies.

12.4 The Director of People and Culture on behalf of the Chief Officer Employment Panel will submit a report to Cabinet on the recommended action.

12.5. The period within which any objection to the proposed action is to be notified to The Director of People and Culture. The standard period will be three working days but may be shortened by the Chair of the Panel/Leader where necessary for the proper discharge of the Council's functions, subject to a minimum period of 24 hours.

12.6 The Director of People and Culture has, within the period specified in the notice under paragraph 10.5 notified the Leader that each member of the Cabinet has stated that they do not have any objection to the proposed action; or the Director of People and Culture has notified the Leader that no objection was received from any member of the Cabinet within the specified period; or The Leader is satisfied that any objection which has been received from any member of the Cabinet within the specified period is not material and/or is not well-founded or does not outweigh the other factors taken into consideration by the panel

12.7 In the event that a reasoned objection is received, the Director of People and Culture shall refer the matter to a specially convened meeting of the Chief Officers Employment Panel (the members of the specially convened Panel must be the same members who recommended the dismissal/disciplinary action) and the decision of this specially convened Panel will be final.

13. Grievances

13.1 Grievances made by all Chief Officers and Deputy Chief Officers including the Chief Executive - Head of Paid Service, Corporate Director of Finance and Governance S151 and Director Legal and Governance (Monitoring Officer) will be dealt with in accordance with the Council's relevant procedures at the relevant time or as set out in the Chief Officer Handbook Joint Negotiation Committee in force at the relevant time.

Annex A

Statutory and non-statutory chief officer and deputy chief officer posts are defined in the Localism Act 2011:

The Localism Act 2011, chapter 8, section 43(2) states:

In this Chapter “chief officer”, in relation to a relevant authority, means each of the following:

1. the head of its paid service designated under section 4(1) of the Local Government and Housing Act 1989;
2. its monitoring officer designated under section 5(1) of that Act;
3. a statutory chief officer mentioned in section 2(6) of that Act;
 - a. Corporate Director Population, Wellbeing and Neighbourhoods (Director of Public Health (DPH))
 - b. Corporate Director Growth and Connected Communities
 - c. Corporate Director Finance and Governance (S151)
 - d. Corporate Director Change and Improvement
 - e. Director of Children’s Services (DCS)
 - f. Director of Adult Services (DASS)
4. a non-statutory chief officer mentioned in section 2(7) of that Act;
 - a. Person whom the Head of Paid Service is directly responsible for*.
 - b. Person who, as respects all or most of his post, is required to report directly or is directly accountable to the head of paid service*.
 - c. Any person, who all or most of duties of the post is required to report directly or is directly accountable to the local authority themselves or any committee or sub-committee of the local authority.(*excluding anyone whose duties are secretarial/clerical/in the nature of support services).
5. a deputy chief officer mentioned in section 2(8) of that Act.
 - a. person who, as respects all or most of the duties of their post, is required to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers:
 - i) All of Corporate Director Population, Wellbeing and Neighbourhoods (Director of Public Health (DPH))
 - ii) direct reports
 - iii) All of Corporate Director Finance and Governance (S151) direct reports
 - iv) All of Corporate Director Growth and Connected Communities direct reports.
 - v) All of Corporate Director Change and Improvement direct reports.
 - vi) All of Director of Children’s Services (DCS) direct reports.
 - vii) All of Director of Adult Services (DASS) direct reports