

Part 4.7 Officer Employment Procedure Rules

1. Definitions

1.1 In these Rules, the following definitions apply:

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

"the 2000 Act" means the Local Government Act 2000

"Chief Finance Officer" means the officer having responsibility, for the purposes of—
(a) section 151 of the Local Government Act 1972 (financial administration).

"Chief Officer" means:

- a) the Head of Paid Service;
- b) the Chief Finance Officer;
- c) the Monitoring Officer;
- d) a Statutory Chief Officer;
- e) a Non-Statutory Chief Officer

"Deputy Chief Officer" has the same meaning as in s.2(8) of the 1989 Act

"Head of Paid Service" ("HOPS") means the officer designated under Section 4 (1) of the 1989 Act (designation and reports of Head of Paid Service)

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

"Monitoring Officer" ("MO") means the officer designated under section 5(1) of the 1989 Act (designation and reports of monitoring officer)

"Proper Officer" means the Head of Democratic Services.

"Statutory Chief Officer" has the same meaning as in section 2(6) of the Local Government and Housing Act 1989

"Non-statutory Chief Officer" has the same meaning as in section 2(7) the Local Government and Housing Act 1989

2. 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 member or officer of the Council; or of the partner of such persons, or are otherwise known to them in any capacity. Anyone who fails to do this may be disqualified or, if

appointed, liable to summary dismissal on the grounds of gross misconduct.

- (ii) No candidate so related to a member 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 members for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) No member will seek support for any person for any appointment with the Council. Members should not provide references in support of applications for employment by the Council.

(c) Selection and Appointment Process

- (i) Any member or officer who may be involved in the selection or appointment process shall immediately declare any relationship to a candidate as soon as it becomes known to them and shall not take part in the selection/appointment process of any candidates for the post to which the candidate to whom they are related has applied.

3. Recruitment Chief Officers including the Head of Paid Service

3.1. 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;
 - (ii) any qualifications or qualities to be sought in the person to be appointed; and
 - (iii) The terms and conditions within which any appointment may be made.

(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 or it: and

(c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

3.2 Following the process in paragraph 2.1, the Council shall:

- (a) Interview all qualified applicants for the post, or select a short list of such qualified applicants and interview those included on the short list.

- (b) Where no qualified person has applied, make further arrangements for advertisement.

The Head of Paid Service is authorised to make interim arrangements for filling chief officer posts from among existing officers pending permanent recruitment, however the appointment notification process must be followed before an offer can be made. It is not expected that such interim arrangements be in place for more than 6 months.

4. Appointment of Head of Paid Service, Monitoring Officer and Chief Finance Officer

4.1 Full Council will approve the appointment of the Head of Paid Service, Monitoring Officer and Chief Finance Officer following the recommendation of such appointment by a committee or sub-committee of the Council. That committee or sub-committee must include at least one member of the Cabinet.

4.2 Full Council may only make or approve the appointment of the Head of Paid Service where no well-founded objection has been made by any member of the Cabinet.

5. Appointment of Chief Officers

5.1 A committee or sub-committee of the Council will appoint chief officers with the exception of those covered by paragraph 3.1. That committee or sub-committee must include at least one member of the Cabinet.

5.2 An offer of employment as a chief officer shall only be made where no well-founded objection from any member of the Cabinet has been received.

6. Other Appointments

Deputy Chief Officer and Officers below Deputy Chief Officer

6.1 The appointment of Deputy Chief Officer and officers below Deputy Chief Officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee and may not be made by councillors. All such appointments will be carried out in accordance with the Council's human resources policies and procedures.

6.2 For appointments of Deputy Chief Officers, the appointment notification requirements set out below must be followed and an offer can only be made where no well-founded objection from any member of the Cabinet has been received.

Assistants to Political Groups

6.2 In accordance with section 9 of the 1989 Act a political assistant may be appointed to a post which:

- is made for the purpose of providing assistance to Council members of a political group in their role as members of the authority;

- is made at or below the maximum salary prescribed in the relevant regulations in force at that time;
- is or a term fixed by reference to the relevant regulations in force at the time;
- is allocated to a political party that qualifies for such a post.

6.3 Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group. Not more than one post will be allocated to any one political group.

7. Appointment Notification and Offer Requirements

7.1 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, sub-committee or officer is discharging the function of appointment on behalf of the Council, that committee, or sub-committee or officer as the case may be.

7.2 An offer of an appointment as a Chief Officer or Deputy Chief Officer 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 of appointment and any other particular which the appointor considers are relevant to the appointment.

(b) the Proper Officer has notified every member of the Cabinet of:

- the name of the person to whom the appointor wishes to make the offer;
- any other particulars relevant to the appointment which the appointor has notified to the Proper Officer; and
- the period of 3 working days within which any objection to the making of the offer is to be made by any member of the Cabinet to the Proper Officer: and

(c) Either-

- the each member of the Cabinet has, within the period specified in 7.2(b) above, notified the appointor that s/he has no objection to the making of the offer;
- the Proper Officer has notified the appointor that no objection was received by him within that period from any member of the Cabinet; or
- the appointor has determined that any objection received from any member of the Cabinet within the period is not material or is not well-founded.

8. Disciplinary action

Head of Paid Service, Monitoring Officer and Chief Finance Officer (“the statutory governance officers”)

8.1 Any disciplinary action taken against the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer (“the statutory governance officers”) will be in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 as amended and the authority’s disciplinary procedure for the statutory governance officers.

8.2 The dismissal of a statutory governance officer may only be confirmed where no well-founded objection has been made any member of the Cabinet.

8.3 The dismissal of a statutory governance officer requires the approval of full Council before a notice of dismissal can be given.

8.4 Consideration of disciplinary action which could result in dismissal or any disciplinary action short of dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer will be the responsibility of the Investigations and Disciplinary Committee (IDC) set up for this purpose. The IDC shall include at least one Member of the Executive when consideration is being given to dismissal of the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer.

8.5 The IDC is responsible for determining whether there is a case that requires further investigation. If it determines that there is, an Independent Investigator should be formally appointed from the list maintained by the National Joint Secretaries.

8.6 The IDC will consider the report of the Independent Investigator, give the employee an opportunity to state his/her case and question any witnesses, where relevant, before making a decision. The IDC may:

- Take no further action.
- Recommend informal resolution or other appropriate procedures.
- Refer back to the Independent Investigator for further investigation and report.
- Take disciplinary action against the employee short of dismissal.
- Propose dismissal of the employee to the Council.

Action short of dismissal

8.7 Where the IDC recommends an action short of dismissal, the action shall be taken by the Committee itself. If the employee wishes to exercise their right of appeal, they will present this to the Appeals Committee, whose role it is to hear appeals against action taken short of dismissal. Its power is to confirm the action, impose no sanction or impose a lesser sanction.

Dismissal

8.6 Where the IDC recommends dismissal, the dismissal notification procedure will be followed, providing members of the Cabinet an opportunity to object. The IDC is responsible for determining whether any objection is both material and well-founded.

8.7 If the IDC has determined there are no material and well-founded objections, the matter will be referred to the Independent Panel who will prepare an independent report and recommendations to Full Council for consideration and final determination of Full Council. The Independent Panel will review the decision and prepare a report for Council.

8.7 Before the taking of a vote at the relevant Council meeting on whether or not to approve such a dismissal, Full Council must take into account, in particular:

- a) any advice, views or recommendations of the Independent Panel;
- b) the conclusions of any investigation into the proposed dismissal; and
- c) any representations from the employee.

8.8 Where the IDC has made a proposal to dismiss a statutory officer, a hearing by the Council will fulfil the appeal function. The decision of the Council will be final.

Suspension pending decision

8.9 Suspension: The Head of Paid Service, Chief Finance Officer or Monitoring Officer may be suspended by resolution of the IDC on normal pay while a disciplinary investigation and disciplinary proceedings are conducted into alleged misconduct or gross incapability.

8.10 Urgent suspension: As set out in Part 3.6, the statutory governance officers have distinct and limited powers to temporarily suspend the Head of Paid Service, Chief Finance Officer or Monitoring Officer for up to ten days pending the Appointments and Disciplinary Committee being convened to consider suspension.

Other Chief Officers

8.11 A committee or sub-committee of the Council will discharge the function of dismissal of the other chief officers (i.e. excluding the statutory governance officers). That committee or sub-committee must include at least one member of the Cabinet.

8.12 Any disciplinary action taken against the other chief officers shall be in accordance with the authority's disciplinary procedure for these officers.

8.13 The dismissal of the other chief officer shall only be made where no well-founded objection from any member of the Cabinet has been received.

Officers below Chief Officer level

8.14 Disciplinary action in relation to officers below chief officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee and may not be made by councillors. Such disciplinary action will be carried out in accordance with the Council's human resources policies and procedures.

9. Dismissal Notification Requirements

9.1 In paragraph 10 below "dismissor" means, in relation to the dismissal of a person as an officer of the authority, the authority, or where a committee, sub-committee is discharging the function of dismissal on behalf of the authority, that committee, or sub-committee as the case may be.

10.1 A notice of dismissal of the statutory governance officers or the other chief officers 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 particular which the dismissor considers are relevant to the dismissal.

(b) the Proper Officer has notified every member of the Cabinet of:

- the name of the person who the dismissor wishes to dismiss;
- any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
- the period of 3 working days within which any objection to the dismissal is to be made by any member of the Council to the Proper Officer: and

(c) Either-

- all members of the Council have, within the period specified in 10.1(b) above notified the dismissor that s/he has no objection to the dismissal;
- the Proper Officer has notified the dismissor that no objection was received by him within that period;

(d)Or-

- the dismissor is satisfied that any objection received from a member of the Cabinet within the specified period is not material or is not well founded.

10.2 Where the dismissor is satisfied that a material objection has been raised under this procedure, the Appointments and Disciplinary Committee will be reconvened to consider the objection and satisfy itself as to whether any of the objections are both material and well-founded.