

Officer Employment Procedure Rules



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1.	General
2.	Definitions
3.	Recruitment and Appointment
4.	Recruitment of Head of Paid Service and Chief Officers
5.	Appointment of Head of Paid Service
6.	Appointment of Chief Officers and Directors
7.	Other Appointments
8.	Disciplinary Action
9.	Dismissal of Chief Officers and Deputy Chief Officers
10.	Dismissal of the Head of Paid Service, Chief Finance Officers or Monitoring Officer

Officer Employment Procedure Rules

1. General

Staff within the organisation are employed, appointed, designated or engaged on behalf of the whole Council and not by parts of the organisation or individuals.

The employment, appointment, designation or engagement of all staff will be in compliance with the law and any policies and practices of the Council.

Persons employed, appointed, designated or engaged by contractors under specific agreements or contracts are not staff of the Council, but are employees engaged by the contractor.

The Council will provide the necessary resources to support the appointed officer structure. Officers may be employees and other persons engaged on temporary contracts, consultancy arrangements or other appropriate terms.

Generally (except for certain senior staff appointments) 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 Council by the Head of the Paid Service or by an officer nominated by him/her.

2. Definitions

In this section – Statutory Chief Officers are; the Director of Children's Services, the Director of Adult Social Services, the Director of Public Health, the S151 Officer, the Monitoring Officer and the Head of Paid Service.

Non statutory Chief Officers are persons required to report directly or directly accountable to the Chief Executive Officer

Deputy Chief Officer means a person who is required to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers – Directors/Heads of Service (where applicable).

3. 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, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or of the partner of such a person.
- (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 to actively influence the appointment of any person with the Council.
 - (iii) The appointment of political assistants is exempt from this section

4. Recruitment of Head of Paid Service and Chief Officers

Where the Council proposes to appoint a chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

- (a) draw up a statement specifying:
 - (i) the duties of the officer concerned; and
 - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as 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 (a) to be sent to any person on request.

5. Appointment of Head of Paid Service

This process is subject to Part II of the Local Authorities (Standing Orders) (England) Regulations 2001.

- (a) The full Council will approve the offer of an appointment 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 Cabinet.
- (b) The 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.

6. Appointment of Chief Officers and Directors

This process is subject to Part II of the Local Authorities (Standing Orders) (England) Regulations 2001

- (a) A Committee or Sub-Committee of the Council will appoint Directors. That Committee or Sub-Committee must include at least one member of the Cabinet.
- (b) The Committee or Sub-Committee of the Council will be responsible for the appointment of Directors, except those officers designated as follows:
 - (i) Head of Paid Service (Chief Executive Officer)
 - (ii) Monitoring Officer
 - (iii) Chief Finance Officer (Section 151 Officer)

In the case of these appointments designated above, the Committee or Sub-Committee will recommend to full Council accordingly.

An offer of appointment as a Director shall only be made where:

- (a) the appointing body has notified the proper officer of the name of the person to whom it wishes to make the offer and any other particulars which the it considers are relevant to the appointment;
- (b) the proper officer has notified every member of the Executive (Cabinet) of the Council of:
 - the name of the person to whom the appointing body wishes to make the offer;
 - any other particulars relevant to the appointment which the appointor has notified to the proper officer; and
 - 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:
 - the Executive Leader has, within the period specified notified the appointor that neither he /she nor any other member of the Executive has any 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 the Executive Leader; or
 - the appointing body is satisfied that any objection received from the Executive Leader within that period is not material or is not well-founded.

7. Other Appointments

(a) Officers below Directors/Heads of Service

Appointment of officers below Director (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee only.

(b) Assistants to Political Groups

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

8. Disciplinary Action - Suspension

The Head of Paid Service, Monitoring Officer and Chief Finance Officer 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.

Non statutory Chief Officers and Directors may be suspended whilst an investigation takes place into alleged misconduct. This will be undertaken in line with the Council's Disciplinary, Capability and Related Procedures, as adopted from time to time.

Councillors will not be involved in the disciplinary action against any officer below Director level, 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 councillors in respect of disciplinary action.

9. Dismissal of Chief Officers and Deputy Chief Officers

This procedure has been incorporated into these Rules, as required by the Local Authorities (Standing Orders) (England) Regulations 2001.

In this procedure, "dismissor" means, in relation to the dismissal of a relevant officer, full Council, the committee, sub-committee or officer discharging the function of dismissal.

Notice of the dismissal of a relevant officer 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:
 - (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 on behalf of the executive to the proper officer; and
- (c) Either:
 - (i) the Executive Leader has, within the period specified in the notice notified the dismissor that neither s/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/her 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.

10. Dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer

“Independent person” means a person appointed under section 28(7) of the 2011 Act;

“Local government elector” means a person registered as a local government elector in the register of electors in the Council’s area in accordance with the Representation of the People Acts;

“The Panel” means a committee appointed by the Council 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 Council;

“Relevant independent person” means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another council or councils as the Council considers appropriate.

The Council must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.

The authority must appoint to the Panel such relevant independent persons who have accepted an invitation in accordance with the following priority order:

- (a) a relevant independent person who has been appointed by the authority and who is a local government elector;
- (b) any other relevant independent person who has been appointed by the authority;

- (c) a relevant independent person who has been appointed by another council or councils.

The Council is not required to appoint more than two relevant independent persons but may do so.

The Council must appoint any Panel at least 20 working days before the relevant meeting.

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

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

Any remuneration, allowances or fees paid by the Council to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the 2011 Act.

The full Council will approve the dismissal of the Head of Paid Service, Monitoring Officer or Chief Finance Officer following the recommendation of such a dismissal by a committee or sub-committee of the Council. That committee or sub-committee must include at least one member of the Cabinet and two independent persons.

Councillors will not be involved in the dismissal of any officer below Director/Head of Service 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 councillors in respect of dismissals.