

PART 4.8 - OFFICER EMPLOYMENT PROCEDURE RULES

1.0 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. (This will be included in application forms).

(ii) No candidate so related to a councillor or an officer will be appointed without the authority of the relevant **Head of Paid Service or Director** ~~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) Councillor shall not solicit for any person any Council appointment or give a written testimonial of a candidate's ability, experience or character for an application for appointment with the Council.

~~No councillor will seek support for any person for any appointment with the Council.~~

2.0 Recruitment of Head of Paid Service and ~~Chief Officers~~Directors

(1) Where the authority propose to appoint a Head of Paid Service or Director ~~Chief Officer~~, and it is not proposed that the appointment be made exclusively from among their existing officers, they shall

(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. ~~(Minute No. 1076(2)/3/93).~~

(2) In relation to potential appointment from among existing officers -the arrangements set out in 2(1) (a)-(c) will apply.

(3) On occasions where it is appropriate in the business interests of the Council to appoint from among existing officers on an interim basis to cover the Head of Service roles and above then the same arrangements as set out in -(a) -(c) will apply. The appointment to cover a Head of Service role will involve a joint Member officer decision making panel the membership of which will be agreed between the Leader, the Chief Executive and the relevant cabinet member. In the event of these interim arrangements continuing in place for a period of 6 months (or such other shorter period agreed between the Head of Paid Service, the Leader and the relevant cabinet member then any proposal to make arrangements permanent will be subject to a competitive process as set out in 2 (1) (a)-(c) Where the role involved is a shared service role then regard should be had to any comments received from the chief executives and Leaders of the partner authorities.

2.1 Appointment of Head of Paid Service

(a) ~~(a)~~ The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by the Appointments Sub-Committee. This Committee should include at least one Member of the Cabinet. The authority must approve the appointment before an offer of appointment is made to that person.

(b) The full Council may only approve the appointment of Head of Paid Service where no well-founded objection has been made by any Member of the Cabinet.

Comment [KB1]: This is set out in the Local Authorities (Standing Orders) (England) Regulations 2001, Schedule 1, Part II and cannot be removed.

2.2 Appointment of ~~Chief Officers~~Directors, Chief Financial Officer and Monitoring Officer (Other than Head of Paid Service)

The Appointments Sub-Committee will appoint ~~Chief Officers~~Directors and will make a recommendation to Council regarding the appointment of the Head of Paid Service, ~~Chief Financial Officer and the Monitoring Officer~~. An offer of employment shall only be made where no well-founded objection has been made by any Member of the Cabinet.

Comment [KB2]: See previous comment

2.3 Other Appointments

(a) Officers below ~~Chief Officer~~Directors – Appointment of officers ~~below chief officers~~below Directors (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. This is subject to the provisions of the Chief Executive's general delegation number two which states that for Heads of Service appointments a joint member officer decision making panel will be constituted, the membership of which

will be agreed between the Leader and Chief Executive. (Membership should include the relevant Cabinet Member).

(b) Assistants to political groups – Appointment of an assistant to a political groups shall be made in accordance with the wishes of that political group.

(c) Other Statutory Appointments –

In relation to the Data Protection Officer, this would be subject to appointment by a constituted joint member officer decision making panel the membership of which will be agreed between the Leader and Chief Executive. The decision of that panel would then be ratified as set out on in 3.0 below.

3.0 Procedure for appointment to certain posts

“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.

An offer of an appointment as an officer designated as:

- ☐ The Head of the Authority’s Paid Service
- The Chief Financial officer having responsibility, for the purposes of section 151 of the Local Government Act 1972, for the administration of the authority’s financial affairs.
- ☐ A Statutory Chief Officer within the meaning of section 2(6) of the Local Government and Housing Act 1989 Act (Directors), or
- ☐ A Deputy Chief Officer within the meaning of section 2(8) of the 1989 Act (Heads of Service)
- the Monitoring Officer

must not be made by the appointer 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 appointment;

(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 subparagraph (iii), notified the appointor that neither he nor any other member of the Executive has any objection to the making of the offer; or

(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.

4.0 Disciplinary Action against certain postholders

If a complaint of misconduct is received about the Chief Executive, Chief Finance Officer or Monitoring Officer, the complaint will be dealt with in accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 as set out in Appendix 1. If so, the General Purposes Committee will appoint the independent person required under the Regulations.

(a) In paragraph (b), 'Chief Finance Officer', 'Council Manager', 'Disciplinary Action', 'Head of 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.

(b) No disciplinary action in respect of the head of authority's paid service (unless he is also a Council manager of the authority), its monitoring officer, or chief finance officer, except action described in paragraph (c) may be taken by the authority, or by a committee, a sub-committee, 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.

(c) The action mentioned in paragraph (b) 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 designated independent person must be such a person as may be agreed between the Authority and the relevant officer or, in default of such agreement, nominated by the Secretary of State.

The designated independent person:

(a) may direct:

(i) that the Authority terminates any suspension of the relevant officer;

- (ii) that any such suspension must continue after the expiry of two months;
- (iii) that the terms on which any such suspension has taken place must be varied in accordance with the direction; or
- (iv) that no steps (whether by the Authority or any Committee, Sub-Committee or officer acting on behalf of the Authority) towards disciplinary action or further disciplinary action against the relevant officer, other than steps taken in the presence, or with the agreement, of the Designated Independent Person, are to be taken before a report is made under Sub-Paragraph (d) below;
- (b) may inspect any documents relating to the conduct of the relevant officer which are in the possession of the Authority, or which the Authority has power to authorise him to inspect;
- (c) may require any member of staff of the Authority to answer questions concerning the conduct of the relevant officer;
- (d) must make a report to the General Purposes Committee:
 - (i) stating his opinion as to whether (and, if so, the extent to which) the evidence he has obtained supports any allegation of misconduct against the relevant officer; and
 - (ii) recommending any disciplinary action which appears to him to be appropriate for the Authority to take against the relevant officer; and
- (e) must no later than the time at which he makes his report under Sub-Paragraph (d) above, send a copy of the report to the relevant officer.

A Local Authority must pay reasonable remuneration to a Designated Independent Person appointed by the Authority and any costs incurred by him in, or in connection with, the discharge of his functions under this Standing Order. (The Local Authorities (Standing Orders) (England) Regulations 2001)

Note: Where disciplinary action is contemplated against the Chief Executive, Chief Finance Officer or Monitoring Officer any investigation and hearing will be conducted in accordance with procedures contained within the current version of the Joint Negotiating Committee for Chief Executives of Local Authorities Chief Executives' Handbook.

5.0 Disciplinary Action

~~Councillors will not be involved in the disciplinary action against any officer below Chief Officer 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.~~

Councillors will not be involved in any disciplinary action nor dismissal against any officer (other than the Statutory Officers mentioned above) except where such involvement is necessary for any investigation or inquiry into alleged misconduct. However, 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 or capability from decisions made by the Chief Executive or the involvement of Councillors in consultation with the Chief Executive in relation to disciplinary matters.

~~6.0 Dismissal Councillors will not be involved in the dismissal of any officer below Chief Officer 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.~~

76.0 Procedure for dismissal from certain posts

“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.

Notice of the dismissal of an officer designated as:

- The Head of the Authority's Paid Service
- A Statutory Chief Officer within the meaning of section 2(6) of the Local Government and Housing Act 1989 Act (Directors), or

A Deputy Chief Officer within the meaning of section 2(8) of the 1989 Act (Heads of Service)

- The Chief Finance officer having responsibility, for the purposes of section 151 of the Local Government Act 1972, for the administration of the authority's financial affairs.
- the Monitoring 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 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 subparagraph (iii), notified the dismissor that neither he nor any other member of the Executive had any objection to the dismissal; or
 - (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.

NB 1 The power to approve the appointment or dismissal of the Head of the Authority's Paid Service shall be exercised by the Full Council following a recommendation from the General Purposes Committee. Neither courses of action may be delegated to a Committee or SubCommittee.

NB 2 "Disciplinary Action" in relation to a member of staff of a Local Authority means any action occasioned by alleged misconduct which, if proved, would according to the usual practice of the Authority, be recorded on the member of staff's personal file, and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the Authority has undertaken to renew such a contract.

"Member of Staff" means a person appointed to or holding a paid office or employment under the authority.

NB 3 Other Policies

Except as set out in these Officer Employment Procedure Rules, or as required by law or under a contract of employment, all appointments shall be made and disciplinary action shall be taken in accordance with the Authority's personnel and Human Resources practices and procedures which may add to these Rules but not conflict with them.