

## **Officer Employment Procedure Rules**

*These Officer Employment Procedure Rules embody the requirements of the Local Government and Housing Act 1989, the Local Authorities (Standing Orders) Regulations 1993, the Local Authorities' (Standing Orders) (England) Regulations 2001 and Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 which require the adoption of certain Standing Orders. These Employment Procedure Rules constitute those Standing Orders.*

1. In these Rules –

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

"the 2000 Act" means the Local Government Act 2000;

"disciplinary action" has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001 and 2015;

"Executive" and have the same meaning as "Executive" and "Executive Leader" in Part II of the 2000 Act;

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

"proper officer" means an officer appointed by the authority for the purposes of the provisions in this Part.

2. Subject to paragraphs 3 and 7, the functions and duties contained within Section 112 Local Government Act 1972, including the functions of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the officer designated under section 4(1) of the 1989 Act (designation and reports of Head of Paid Service) as the Head of Paid Service or by an officer nominated by him.

3. Paragraph 2 shall not apply to the appointment or dismissal of, or disciplinary action against:–

- (a) the officer designated as the Head of Paid Service;
- (b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
- (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
- (d) 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 for political groups).

4. (1) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment or dismissal of an officer designated as the Head of Paid Service, the authority must approve that appointment before an offer of appointment is made to him or, as the case may be, must

approve that dismissal before notice of dismissal is given to him.

- (2) Where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the function of the appointment or dismissal of any officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3, at least one member of the Executive must be a member of that committee or sub-committee.
5.
  - (1) In this paragraph, "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.
  - (2) An offer of an appointment as an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be made by the appointor until –
    - (a) the appointor has notified the proper officer, Service Director: Human Resources & Organisational Development, 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 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 Leader on behalf of the Executive to the proper officer; and
    - (c) either –
      - (i) the Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither s/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 Leader; or
      - (iii) the appointor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.
6.
  - (1) In this paragraph, "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.
  - (2) Notice of the dismissal of an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 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 Leader on behalf of the Executive to the proper officer; and
  - (c) either –
    - (i) the Leader has, within the period specified in the notice under subparagraph (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 Leader; or
    - (iii) the dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.
- 7. Nothing in paragraph 2 shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by –
  - (a) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
  - (b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.
- 8. In paragraph 9, "Chief Financial Officer", "council manager", "disciplinary action", "Head of Paid Service" and "Monitoring Officer", are Relevant Officers and have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and "relevant independent person" has the same meaning as in regulation 4 of those Regulations.
- 9. No disciplinary action in respect of the Head of Paid Service (unless they are also a council manager of the authority), its Monitoring Officer or its Chief Financial Officer, except action described in paragraph 10, 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 the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015. This includes the appointment of an Independent Panel and the decision maker having regard to (i) any advice, views and recommendations of the Panel, (ii) the conclusions of any investigation into the proposed dismissal and (iii) any representations from the relevant officer
- 10. The action mentioned in paragraph 9 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.
- 11. Recruitment and appointment
  - a. Declarations
    - i. The Full Council, a duly authorised Committee, Sub-Committee, or an Officer acting under delegated powers (as appropriate) 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.

- 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. Subject to paragraph (iii), 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. Subject to paragraph (iii), no Councillor will seek support for any person for any appointment with the Council.
  - iii. Nothing in paragraphs (i) and (ii) above will preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment provided that Councillor has no role in the decision process of recruitment / appointment to that position.

## 12. Recruitment of Head of Paid Service and Chief Officers

Where the Council proposes to appoint a Head of Paid Service or 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;
- c. make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

## 13. Dismissal

Councillors will not be involved in the dismissal of any officer below deputy 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 dismissals.