

1. Purpose and Interpretation

1.1 The purpose of these rules is to ensure that

- the appointment of staff is made on merit
- the accountability of staff is to the Council as a whole and expressed through the management structure
- except for senior staff, all employment decisions and personnel functions are the responsibility of the Head of Paid Service or their nominee

1.2 In these rules

- The 1989 Act means the Local Government and Housing Act 1989
- The 2000 Act means the Local Government Act 2000
- Executive and executive leader have the same meaning as 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
- The Committee means the Appointments Committee or Appeals Committee or a panel of at least three members drawn from those committees
- Disciplinary action means any action occasioned by alleged misconduct which, if proved, would, according to the Council's usual practice, be recorded on the member of staff's personal file. It includes any proposal for dismissal 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 Council has undertaken to renew such a contract
- Appointor means the authority in the case of the head of the paid service, the Appointments Committee or a panel thereof in relation to chief officers and service heads and the head of the paid service or officer they have nominated in relation to all other staff.
- Dismissor means the authority or, where the Committee or another officer is discharging the function of dismissal on behalf of the authority, that Committee or other officer as the case may be.

- Independent person has the same meaning as in Schedule 3 of the Local Authorities (Standing Orders) (England) (Amendment) Regulations Regulations 2015
- Proper officer means an officer appointed by the authority for the purposes of the provisions in these rules as recorded in Part 3 of the constitution.

2. Appointment and Dismissal of Staff

- 2.1 Subject to Rules 2.2, 2.13 and 4.5, the function of appointment and dismissal of a member of staff must be discharged, on behalf of the authority, by the head of the paid service or by an officer they have nominated.
- 2.2 Rule 2.1 does not apply to the appointment or dismissal of –
- The officers designated as the Head of the Paid Service, the Monitoring Officer, the Responsible Finance Officer ;
 - A chief officer or a service head as defined by Article 12 of the constitution
- 2.3 Where the Council intends to appoint a member of staff: -
- a job description and person specification shall be prepared;
 - an advertisement of the vacancy shall be placed in relevant newspapers and/or journals; and
 - copies of the job description and person specification shall be sent to any person on request.
- 2.4 Where the post has been advertised as provided in Rule 2.3, the appointor shall either interview all applicants or those drawn up on a short-list for interview by the appointor or, for a Chief Officer or Service Head post, by the Head of the Paid Service or an Executive Director.
- 2.5 The Council will draw up a statement requiring any candidate for appointment as a member of staff to state in writing whether they are a relative of any serving councillor or member of staff, or of the partner of such a relative.

- 2.6 No candidate so related to a councillor or a member of staff will be appointed without the authority of a chief officer or a member of staff nominated by him/her who is not so related.
- 2.7 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.
- 2.8 No councillor will seek support for any person for any appointment with the Council other than as part of a bona fide analysis of applicants when acting as a member of an appointor body.
- 2.9 Every appointment or dismissal of a Chief Officer or Service Head, other than the Head of the Paid Service, Responsible Finance Officer or Monitoring Officer, shall be made by the Committee which shall have delegated powers to act, and which must include at least one member of the executive.
- 2.10 Where the committee is considering the appointment of the Head of the Paid Service, Responsible Finance Officer or the Monitoring Officer it shall make its recommendation to the Council. No offer of appointment shall be issued until the Council has approved this action.
- 2.11 The appointor shall not make an offer of appointment as a Chief Officer or Service Head until –
- (a) they have notified to the proper officer the name of the person to whom they wish to make the offer and given to the proper officer such other particulars as 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 the appointor has provided; 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 sub-paragraph (b)(iii), notified the appointor that neither the leader 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 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.

2.12 Notice of the dismissal of a Chief Officer (other than the Head of Paid Service, Responsible Finance Officer or Monitoring Officer) or Service Head must not be given by the dismissor until –

- (a) they have notified the proper officer of the name of the person whom they wish to dismiss and such other particulars as 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 the dismissor has provided; 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 sub-paragraph (b)(iii), notified the dismissor that neither the leader 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 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.

2.13 Nothing in Rule 2.1 shall prevent a person from serving as a member of the Appeals Committee to consider an appeal by a member of staff of the authority against any decision relating to the dismissal of that member of staff.

3. Disciplinary Action

3.1 Subject to Rules 3.2, 3.5 and 4.5, the function of taking disciplinary action against a member of staff must be discharged, on behalf of the authority, by the head of the paid service or by an officer they have nominated.

3.2 Rule 3.1 does not apply to the taking of disciplinary action against –

- The officers designated as the Head of the Paid Service, the Monitoring Officer, or the Responsible Finance Officer A chief officer is defined by Article 12 of the constitution

3.3. Disciplinary action against the Head of Paid Service, Monitoring Officer and Responsible Finance Officer

3.4 The Head of Paid Service, Monitoring Officer and Responsible 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.

4 Dismissal of Head of Paid Service, Monitoring Officer or Responsible Finance Officer

4.1 The Head of Paid Service, the Monitoring Officer and the Responsible Finance Officer may not be dismissed by the Council unless the following procedure is complied with. [The procedure is drawn from the local government JNC Conditions of Service Handbook as it relates to statutory officers, and the Handbook's provisions about the standards applied to an investigation, communications around the process and outcome and detailed stages of work should be adhered to throughout.](#)

- 4.2 The Council's Employment Committee, in its designated role as the Investigating and Disciplinary Committee, (IDC) should be convened to consider any allegations against the statutory officer concerned. If they consider, after hearing the officer's representations or comments, that the case cannot be dismissed and requires further investigation and that, if the allegations were to be upheld, they would result in a Sanction greater than an informal warning, they should appoint an independent investigator and consider suspension.. ~~must appoint a panel for the purposes of advising the full Council on matters relating to the dismissal of the head of Paid Service, Responsible Finance Officer or Monitoring Officer. The panel must be a committee of the Council. The Council must appoint the panel at least 20 working days before the meeting of full Council to consider whether or not to approve a proposal to dismiss the Head of Paid Service, Monitoring Officer or Responsible Finance Officer.~~
- 4.3 An investigator shall be appointed from a list kept by the JNC Joint Secretaries and that person will collect evidence, hear submissions and formulate a recommendation for consideration by the IDC. Alternatively, the independent investigator may hear the case and produce a report for consideration by the IDC.
- 4.4. The IDC will consider the recommendations, carry out further hearings as necessary to and take a view about the appropriate sanction. In the case of a sanction short of dismissal, the officer has a right of appeal to an appeals committee (see 4.8 below). Where there is a recommendation to dismiss, the reports of the independent investigator and the IDC should be sent to an independent panel (IP) for its considerations. The officer may make written representations to the IP.
- 4.5. The IP will comprise three persons appointed by the Standards Advisory Committee who are not members of the Council. The IP should review the decision, taking evidence as necessary and prepare a report for the full Council.

4.6. The IP report to full Council will comprise the recommendations of the IDC, the report of the independent investigator and any comments on these from the IP. Full Council should then consider the recommendation to dismiss.

4.7. The officer concerned has a right of appeal against the decision and be entitled to attend this meeting and address Council. The Council should confirm or reject the recommendation to dismiss, or impose a lesser sanction.

4.8. An appeal committee will be established comprising five members, including one member of the Executive Committee, who are not members of the IDC. Its role is to hear appeals against actions taken short of dismissal and to take a decision to confirm the action, impose no sanction or a lesser sanction.

4.9 In cases where an immediate suspension of the Head of Paid Service is warranted by the allegation, the Chair of the Employment Committee will have the power to agree a suspension. Recommendations to suspend the Head of Paid Service may only be made by the Monitoring Officer and the Head of Resources, acting together and in agreement. The Council must invite relevant Independent Persons to be considered for appointment to the panel, with a view to appointing at least two Independent Persons to the panel. An Independent Person:

i) means an Independent Person who has been appointed under section 28(7) of the Localism Act 207 (in relation to the Members' Code of Conduct); and

ii) is an Independent person who has been appointed by the Council or where there are fewer than two persons appointed by the Council, such Independent Persons as have been appointed by another authority or authorities as the Council considers appropriate.

4.4 The Council must appoint to the panel such Independent Persons who have accepted an invitation issued in accordance with rule 4.3 in accordance with the following priority order:

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~~i) a relevant Independent Person who has been appointed by the Council and who is a local government elector;~~

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~~ii) any other relevant Independent Person who has been appointed by the Council;~~

~~iii) a relevant Independent person who has been appointed by another authority or authorities;~~

~~4.5 The Council may appoint more than two relevant Independent Persons but is not required to do so.~~

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4.6 Before full Council takes a vote on whether or not to approve a dismissal of a Head of Paid Service, Monitoring Officer or responsible Finance Officer, the Council must take into account, in particular:

- i) any advice, views or recommendations of the Panel;
- ii) the conclusion of any investigation into the proposed dismissal;
- iii) any representations from the officer in question.

4.7 Paragraphs 13 and 13A (England) and Appendix 5A of the Conditions of service Handbook of the Joint negotiating Committee for Local Authority Chief Executives (13th October 2016) give effect to these statutory requirements and will be used in circumstances where disciplinary action against the Head of Paid Service, Monitoring Officer, or responsible Finance Officer.