

Section 10

Officer Employment Procedure Rules

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1 Definitions

In this Part:

"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;

"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 Council; and

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

2 General

- 2.1 Subject to paragraphs 3 and 7, 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 officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service) as the head of the Council's paid service or by an officer nominated by them.
- 2.2 Nothing in paragraph 2.1 shall prevent a person from serving as a Member of any Committee or Sub Committee established by the Council 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 Council; or
 - (b) a member of staff of the Council against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

3 Chief Officers etc

- 3.1 Paragraph 2 shall not apply to the appointment or dismissal of, or disciplinary action against;
- (1) the officer designated as the head of the Council's paid service;
 - (2) a statutory Chief Officer within the meaning of section 2(6) of the 1989 Act;
 - (3) a non-statutory Chief Officer within the meaning of section 2(7) of the 1989 Act;
 - (4) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).
 - (5) a person employed as a Head of Service.

- 3.2 (1) Where a Committee, Sub Committee or officer is discharging, on behalf of the Council, the function of the appointment of an officer designated as the head of the Council's paid service, the Council must approve that appointment before an offer of appointment is made to that person.
- (2) Where a Committee or a Sub Committee of the Council is discharging, on behalf of the Council, the function of the dismissal of an officer designated as the head of the Council's paid service, as the Council's chief finance officer, or as the Council's monitoring officer, the Council must approve that dismissal before notice of dismissal is given to that person.
- 3.3 (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, Sub Committee or officer, as the case may be.
- (2) An offer of an appointment as an officer referred to in sub-paragraph (1), (2), (3) or (4) of paragraph 3.1 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 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 Council 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 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 they 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 them 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.

- 3.4 (1) In this paragraph, "dismissor" means, in relation to the dismissal of an officer of the Council, the Council or, where a Committee, Sub Committee or another officer is discharging the function of dismissal on behalf of the Council, 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 (1), (2), (3) or (4) of paragraph 3.1 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 Council 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 sub-paragraph (b)(iii), notified the dismissor that neither they 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 them 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.

- 3.5 Where the Council propose to appoint a Chief Officer, and it is not proposed that the appointment be made exclusively from among its existing officers, it must -
- (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.
- 3.6 Where a post has been advertised as provided in paragraph 3.5(b), the appropriate Committee or Sub Committee must
- (a) interview all qualified applicants for the post, or
 - (b) select a short list of such qualified applicants and interview those included on the short list.
- 3.7 Where no qualified person has applied, the Council shall make further arrangements for advertisement in accordance with 3.5(b) above.
- 3.8 This paragraph applies where any step towards the making of an appointment is to be taken by a Committee or a Panel containing Members of the Council.
- (1) There must be constituted for each appointment a Committee or a Panel which meets the requirements of paragraph (2). The same Committee or Panel may be appointed to deal with more than one appointment.
 - (2) A Panel meets the requirements of this paragraph if it consists solely of Members of the Council, officers of the Council and not more than one other person nominated by an appropriate professional body,
 - (3) the seats on a Committee or Panel to be occupied by Members of the Council are to be allocated to the political groups (if any) into which the Council is divided in accordance with Sections 13 to 15 of the 1989 Act.
 - (4) Unless the Council so determines that such a step to be taken by an officer, the Committee or Panel shall be responsible for determining the job description and the person and the content of any advertisement for the appointment, for selecting the candidates for interview and for interviewing the candidates.
 - (5) Unless the Council determines otherwise and subject to paragraph 3.2(1) and 3.3 a Committee may appoint a candidate.

- (6) A Panel may not be responsible for appointing a candidate but may recommend an appointment to a Committee or to the Council.
- (7) In respect of each proposed appointment to which this Standing Order applies, the Monitoring Officer must sign a report stating whether to the best of their knowledge and belief the proposed appointment can be made:
 - (a) without contravening any provision made by or under Part I of the 1989 Act; and
 - (b) without any matter being taken into account which could not properly be taken into account;

and, if in their opinion it cannot be so made, the reasons for so thinking.

- (8) Until either
 - (a) the Monitoring Officer has signed a report stating that the proposed appointment can be made in accordance with subparagraphs (a) and (b) of the previous paragraph, or
 - (b) the Council have considered the report under the previous paragraph and have nevertheless decided to make the appointment

no offer of appointment shall be made which is not conditional upon the happening of one or other of those events.

- (9) For the purposes of this rule, an appropriate professional body is the Local Government Management Board or an association of professional people who represent a profession relevant to the post in question.

4 Discipline of Statutory Officers

4.1 In paragraphs 4.2 to 4.9 —

- (a) “the 2011 Act” means the Localism Act 2011(1);
- (b) “chief finance officer”, “disciplinary action”, “head of the authority’s paid service” and “monitoring officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001(2);
- (c) “independent person” means a person appointed under section 28(7) of the 2011 Act;
- (d) “local government elector” means a person registered as a local government elector in the register of electors in the authority’s area in accordance with the Representation of the People Acts;

- (e) “the Panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972(3) for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;
 - (f) “relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and
 - (g) “relevant officer” means the chief finance officer, head of the authority’s paid service or monitoring officer, as the case may be.
- 4.2 A relevant officer may not be dismissed by an authority unless the procedure set out in paragraphs 4.3 to 4.8 is complied with.
- 4.3 The authority 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.
- 4.4 In paragraph 4.3 “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 authority or authorities as the authority considers appropriate.
- 4.5 Subject to paragraph 4.6, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 4.3 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 authority or authorities.
- 4.6 An authority is not required to appoint more than two relevant independent persons in accordance with paragraph 4.5 but may do so.
- 4.7 The authority must appoint any Panel at least 20 working days before the relevant meeting.
- 4.8 Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority 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.
- 4.9 Any remuneration, allowances or fees paid by the authority 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.

5 Recruitment and appointment

5.1 (1) Declarations

- (a) 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.
- (b) 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 them.

(2) Seeking support for appointment.

- (a) 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.
- (b) No Councillor will seek support for any person for any appointment with the Council.

6 Disciplinary action

6.1 This rule is subject to rules 3 and 4.

6.2 In this rule, "disciplinary action" in relation to an Officer of the Council means any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the Council, be recorded on the Officer's personal file, and includes any proposal for dismissal of an officer for any reason other than redundancy or permanent ill-health or infirmity of mind or body.

6.3 No disciplinary action shall be initiated or taken by any person or body of persons other than the Head of the Council's Paid Service or the Head of the Service in which the employee works or such other officer as the head of the Council's paid service or a Executive Director or Head of Service may authorise for that purpose.

7 Suspension of Statutory Officers

7.1 The Head of Paid Service, the Monitoring Officer and the Section 151 Officer may be suspended by the Employee Appeals and Disciplinary Committee whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months. The suspension periods may only be extended beyond two months following a decision by the Employee Appeals and Disciplinary Committee.