

# Part 4 Officer Employment Procedure Rules



## Officer Employment Procedure Rules

This section contains the framework of the Council's employment procedure rules but they are supplemented in detail by the Council's recruitment, disciplinary and grievance procedures, its confidential reporting policy, individual conditions of service and all other relevant employment policies, protocols or codes of conduct.

### 1. Definitions

For the purposes of these Officer Employment Procedure 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

"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 of employment under the authority

"proper officer" shall mean the Council's Personnel Officer

"section 151 officer", "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 and "designated independent person" has the same meaning as in Regulation 7 of those Regulations.

### 2 Recruitment and appointment

#### (a) Declarations

- i) The Council will draw up a statement requiring any candidate for appointment as a member of staff 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.

## 2. Recruitment and appointment (cont'd)

- (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 support for any person for any appointment with the Council.

## 3 Recruitment of Head of Paid Service and Directors

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.

## 4 Appointments and Dismissals

- A Subject to paragraphs B and F, the function 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 as the head of the authority's paid service or by an officer nominated by him or her
- B. Paragraph A shall not apply to the appointment or dismissal of, or disciplinary action against –
  - (i) the officer designated as the head of the authority's paid service;
  - (ii) a statutory strategic director within the meaning of section 2(6) of the 1989 Act;
  - (iii) a non-statutory strategic director within the meaning of section 2(7) of the 1989 Act;
  - (iv) a deputy strategic director within the meaning of section 2(8) of the 1989 Act; or
  - (v) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).

#### 4 Appointments and Dismissals (cont'd)

- C. (i) 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 the authority's paid service, the authority must approve that appointment before an offer of appointment is made to him or her or, as the case may be, must approve that dismissal before notice of dismissal is given to him or her.
- (ii) 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 (i), (ii), (iii) or (iv) of paragraph B, at least one member of the executive must be a member of that committee or sub-committee. That committee or sub-committee will also have the benefit of independent external advice whenever any or all of the statutory officers recommend that it is appropriate for that to occur or where it is required in law.
- D (i) 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.
- (ii) An offer of an appointment as an officer referred to in sub-paragraph (i), (ii), (iii) or (iv) of paragraph B 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 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 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 he nor any other member of the executive has any objection to the making of the offer;

#### 4 Appointments and Dismissals (cont'd)

- (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.
  
- E. (i) 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.
  - (ii) Notice of the dismissal of an officer referred to in sub-paragraph (i), (ii), (iii) or (iv) of paragraph B 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 sub-paragraph (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 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.
  
- F. Nothing in paragraph B shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by –

#### 4 Appointments and Dismissals (cont'd)

- (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.
- G. Notwithstanding the statutory requirements of Paragraph A above the appointment or dismissal of, or disciplinary action against officers below statutory strategic director or non-statutory strategic director shall be the responsibility of the Head of Paid Service and may not be exercised by councillors (but this shall not preclude rights of appeal to councillors in respect of dismissals or disciplinary action where the Council's disciplinary, capability and related procedures [as adopted from time to time] may permit and are otherwise permissible in law).

#### H Disciplinary Action

- (i) No disciplinary action in respect of the head of the authority's paid service, its monitoring officer or its section 151 officer, except action described in paragraph (ii) below 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 procedures set out in the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (SI881/2015)
- (ii) The action mentioned in paragraph (i) 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.