

## Officer Employment Procedure Rules

### INTRODUCTION

The Local Government Act 2000, the Local Authorities (Standing Orders) (England) Regulations 2001 as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 require the Council to have rules relating to the recruitment, appointment and dismissal of officers.

#### 1. Recruitment and appointment of all officers

- (1) Seeking support of Councillors, the Cabinet any Panel, any Committee or Sub-Committee of the Council, directly or indirectly, for any appointment under the Council, shall disqualify the candidate for such appointment.

The contents of this Rule shall be included in any particulars supplied relating to the post and in the application form.

- (2) A Councillor shall not solicit for any person any appointment by the Council or recommend any person for such appointment or for promotion but this shall not preclude a Councillor from giving a written testimonial of a candidate's ability, experience or character for submission to the Council with an application for appointment.
- (3) Any candidate for any appointment under the Council shall, disclose in writing on the application form whether to the candidate's knowledge, they are related to any Councillor or Officer.
- (4) A candidate who fails to disclose such a relationship shall be disqualified for such appointment and if appointed, shall be liable to dismissal without notice. Every Councillor and Officer of the Council must disclose any relationship known to exist between the Officer and a candidate for appointment. It shall be the duty of the Proper Officer to report to the Council or to the appropriate Panel, Committee or Sub-Committee any such disclosure.

The contents of this Rule shall be included in any particulars supplied relating to the post and in the application form.

- (5) For the purpose of Rules 1(1)-1(4), persons shall be deemed to be related if they are husband or wife or partner or if either of them or the spouse or partner of either of them is the son or daughter or grandson or grand-daughter or brother or sister or nephew or niece of the other or of the spouse or partner of the other.
- (6) Subject to Rules 2(2) and 2(11), the function of appointment and dismissal of, and taking disciplinary action against, an Officer must be discharged, on behalf of the Council, by the Officer designated under section 4(1) of the Local Government and Housing Act 1989 (designation and reports of Head of Paid Service) as the Head of Paid Service or by an Officer nominated by him.

## **2. Appointment of Head of Paid Service, Executive Directors, Heads of Service and the Chief Finance Officer**

In Rules 2(1)-2(10)

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

"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 these Rules.

"a statutory chief officer" means the Chief Finance Officer

"a non-statutory chief officer" means an Executive Director

"a deputy chief officer" means a Head of Service

- (1) Rule 1(6) shall not apply to the appointment or dismissal of, or disciplinary action against -
  - (a) the Head of Paid Service;
  - (b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act;
  - (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
  - (d) a 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).
- (2) Where a committee, sub-committee or officer is discharging, on behalf of the Council, the function of the appointment or dismissal of the Head of Paid Service, the full Council 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.
- (3) Where a committee or a sub-committee of the Council is discharging, on behalf of the Council, the function of the appointment or dismissal of any officer referred to in paragraphs (a), (b), (c) or (d) of Rule 2(1), at least one member of the Cabinet must be a member of that Committee or Sub-Committee.

### **Appointment Process**

- (4) In Rule 2(5), "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.

- (5) An offer of an appointment as an Officer referred to in paragraphs (a), (b), (c) or (d) of Rule 2(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 Cabinet -
    - (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 of the Council on behalf of the Cabinet to the Proper Officer; and
  - (c) either -
    - (i) the Leader of the Council has, within the period specified in the notice under paragraph (b)(iii) of this Rule 2(5), notified the Appointor that neither he nor any other member of the Cabinet 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 of the Council; or
    - (iii) the Appointor is satisfied that any objection received from the Leader of the Council within that period is not material or is not well-founded.
- (6) Where the Proper Officer receives an objection from the Leader of the Council that is either material or well founded, the Proper Officer shall refer the matter back to the Appointor for reconsideration. In the event that the Appointor still wishes to appoint the person against whom the objection had been made, the Appointor shall refer the matter to full Council for determination.

### **Dismissal of Officers**

- (7) In Rule 2(8), "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.
- (8) Notice of the dismissal of an Officer referred to in paragraphs (a), (b), (c) or (d) of Rule 2(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 Cabinet member 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 of the Council on behalf of the Cabinet to the Proper Officer; and
  - (c) either -
    - (i) the Leader of the Council has, within the period specified in the notice under paragraph (b)(iii) of this Rule 2(8), notified the Dismissor that neither he nor any other member of the Cabinet 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 of the Council; or
    - (iii) the Dismissor is satisfied that any objection received from the Leader of the Council within that period is not material or is not well-founded.
- (9) Where the Proper Officer receives an objection from the Leader of the Council that is either material or well founded, the Proper Officer shall refer the matter back to the Dismissor for reconsideration. In the event that the Dismissor still wishes to appoint the person against whom the objection had been made, the Dismissor shall refer the matter to full Council for determination.
- (10) Nothing in Rule 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.

### **Disciplinary action against the Head of Paid Service, Monitoring Officer and Chief Finance Officer**

- (11) In the following paragraphs—
- (a) “the 2011 Act” means the Localism Act 2011;

- (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;
  - (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 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 head of the authority’s paid service, chief finance officer, or monitoring officer, as the case may be.
- (12) A relevant officer may not be dismissed by an authority unless the procedure set out in the following paragraphs is complied with.
- (13) 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.
- (14) In Rule 2 (13) relevant independent persons 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.
- (15) Subject to Rule 2 (16), the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with Rule 2 (13) 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.
- (16) An authority is not required to appoint more than two relevant independent persons in accordance with Rule 2 (15) but may do so.
- (17) The authority must appoint any Panel at least 20 working days before the relevant meeting.
- (18) 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.
- (19) 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.

### **3. Appointments of other officers**

- (1) Appointment of officers below Head of Service (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.
- (2) Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

### **4. Disciplinary action against other officers**

- (1) Councillors will not be involved in the disciplinary action against any Officer below Head of Service 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 Councillors in respect of disciplinary action.

### **5. Dismissal**

- (1) Councillors will not be involved in the dismissal of any Officer below Head of Service 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 Councillors in respect of dismissals.