

4 Part 4.6 — Officer Employment Rules

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2	Appointment Principles
3	Vacancies in the Officer Establishment

4.6 - 1 Purpose

4.6 - 1.1 These Rules concern the appointment and dismissal of officers (including employees) and incorporate mandatory statutory standing orders.

4.6 - 1.2 These Rules should not be read in isolation from other relevant matters such as, for example, the Members' Code of Conduct and the Code of Conduct for Local Government Employees. In particular, attention is drawn to the ever present requirement to avoid conflicts of interest. Individuals, whether Members or Officers, with conflicts of interests in any particular appointment, or disciplinary action including dismissal, shall stand down from the decision-making process to ensure that the public interest is served and is seen to be served.

4.6 - 2 Appointment Principles

4.6 - 2.1 The Council shall appoint such officers as they think necessary for the proper discharge by the Authority of such of their functions or those of any local authority's functions as fall to be discharged by the Authority and the carrying out of any obligations incurred by the Authority in connection with any secondment arrangements.

4.6 - 2.2 All appointments to a paid office or employment under the Authority shall be on merit (subject to limited exceptions specially laid down by statutory provision such as those relating to disability under the Equality Act 2010).

4.6 - 2.3 An officer appointed by the Council shall hold office on such reasonable terms and conditions, including conditions as to remuneration, as the Council thinks fit. With regard to Chief Officers, this is subject to the requirement for determinations relating to terms and conditions of Chief Officers to comply with the Authority's 'Pay Policy Statement' required to be published and reviewed under the Localism Act 2011.

4.6 - 2.4 The term 'Chief Officer' includes:-

- the Head of Paid Service
- the Chief Finance Officer (Section 151 Officer)
- any 'non-statutory chief officer' defined in section 2(7) of the Local Government and Housing Act 1989, namely:-
 - a person for whom the Head of Paid Service is directly responsible; or
 - a person who, as respects all or most of the duties of his/her post, is required to report directly or is directly accountable to the Head of Paid Service; or
 - any person who, as respects all or most of the duties of his/her post, is required to report directly or is directly accountable to the Authority or any committee or sub-committee of the Authority; or
 - any 'deputy chief officer' defined in section 2(8) of the Local Government and Housing Act 1989, namely a person who, as respects all or most of the duties of his/her post, is required to report directly or is directly accountable to one or more of the Head of Paid Service or non-statutory chief officers.

NB. A person whose duties are solely secretarial or clerical or are otherwise in the nature of support services shall not be regarded as a non-statutory chief officer or a deputy chief officer. There are no political assistants appointed by the Authority.

4.6 - 3 Vacancies in the Officer Establishment

4.6 - 3.1 Public Advertisement of Vacancies

Subject to 4.6 – 3.2.1, any vacancy to be filled in an office or employed post under the Authority shall be publicly advertised in a way as is likely to bring it to the attention of persons who are qualified to apply for it.

4.6 - 3.2 Internal Advertisement etc.

To ensure the effective provision of services and to make the best use of the Authority's establishment, the Head of Paid Service may make arrangements to fill any vacancies through internal advertisement only or through restricted internal competition through proper ring-fencing if slotting-in is not, in the opinion of the Head of Paid Service, appropriate. The Head of Paid Service shall also make suitable arrangements where there is to be a selection process.

4.6 - 3.3 Selection Process where Public Advertisement of Vacancies

3.3.1 Where the Council proposes to fill a salaried office or employed post, other than through internal promotion or transfer, the Council or their committee or sub-committee or any of their chief officers shall –

- (a) draw up a statement specifying the duties of the officer concerned and any qualifications or qualities to be sought in the person to be appointed
- (b) make arrangements for the office or employed 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 4.6 – 3.3.1 (a) to be sent to any person on request.

3.3.2 Where an office or employed post has been advertised publicly –

- (a) all qualified applicants for the office or employed post shall be interviewed; or
- (b) a short list of such qualified applicants shall be selected and those included on the short list shall be interviewed; or
- (c) further arrangements for advertisement shall be made where no qualified person(s) have applied in such a way as is likely to bring the office or employed post to the attention of persons qualified to apply for it.

Any of these steps set out in 4.6 – 3.3.2 may be taken by the Council, their committee or sub-committee or any of their Chief Officers.

4.6 - 3.4 Disclosure/Declaration of Relationships

3.4.1 The Council shall draw up a statement requiring any candidate for appointment as an officer of the Authority to state in writing whether they are the parent, grandparent, great grandparent, spouse, civil partner, partner, child, stepchild, adopted child,

grandchild, great grandchild, foster child, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Authority, or of the partner of any such persons. (The word “partner” in this context means a member of a couple who live together).

4.6 - 3.4.2 No candidate so related to such a councillor or an officer shall be appointed without the authority of the Head of Paid Service or an officer nominated by him or her or of Full Council. No such authority shall be given by any such officer who has a conflict of interests in any appointment decision.

4.6 - 3.4.3 Every councillor and officer shall disclose in writing to the Head of Paid Service any relationship known to him/her to exist between himself/herself and any person who he/she knows is a candidate for an appointment to a Chief Officer post. For the appointment of officers below Chief Officer level, such relationship should be disclosed in writing to the Head of Paid Service and/or an Executive Director.

4.6 - 3.4.4 The Head of Paid Service or Executive Director shall record such a disclosure made to him/her and advise and give actual notification of such disclosure to the Monitoring Officer in writing.

4.6 - 3.4.5 A candidate who fails to disclose/declare such a relationship shall normally be disqualified for the appointment and, if appointed, shall be liable to dismissal without notice. The content of this rule shall be included in all recruitment information made available to all candidates.

4.6 - 3.5 Canvassing and Recommendations by Members

3.5.1 A Member shall not solicit for any person for any appointment under the Authority, but this shall not preclude a Member from giving a written reference/testimonial of a candidate’s ability, experience, or character for submission to the Council with an application for appointment.

3.5.2 Subject to 4.6 – 3.5.1 above, the Council shall disqualify any applicant who directly or indirectly seeks the support of any Member for any appointment with the Authority.

4.6 - 3.6 Allocation of Responsibility for Appointment of Officers

4.6 - 3.6.1 Appointment of Officers below Chief Officer Level

3.6.1.1 No Member of the Council shall have the power to appoint any officer below Chief Officer level. The function of the appointment of an officer of the Authority below Chief Officer shall only be discharged on behalf of the Council by the Head of Paid Service or by an officer of the Authority nominated by him/her.

3.6.2 Appointment of Head of Paid Service

3.6.2.1 The function of the approving the appointment of the Head of Paid Service shall only be exercised by Full Council.

3.6.2.2 Where a committee or sub-committee is discharging on behalf of the Council the function of the appointment of the Head of Paid Service, at least one Member of the Cabinet must be a member of that committee or sub-committee.

3.6.2.3 Where a committee, sub-committee or an officer is discharging on behalf of the Council the function of the appointment of the Head of Paid Service, such a body or person shall not make an offer of appointment to the office of Head of Paid Service without first:

- (a) notifying the proper officer of the name of that person to whom an offer of appointment is proposed to be made and any other particulars which such body or person considers relevant to the appointment;
- (b) ensuring that the proper officer has notified every member of the Cabinet of:
 - (i) the name of the person to whom such body or person wishes to make the offer of appointment;
 - (ii) any other particulars relevant to the appointment which such body or person has notified to the proper officer; and
 - (iii) the period within which any objection to the making of the offer of appointment is to be made by the Leader of the Cabinet on behalf of the Cabinet to the proper officer
- (c) determining that within the above objection period:
 - (i) that the Leader of the Cabinet has notified the proper officer that neither he (the Leader of the Cabinet) nor any member of his/her Cabinet has any objection to the making of the offer of appointment; or

- (ii) that the proper officer has confirmed to such body or person that the proper officer has not received from the Leader of the Cabinet any objection; or
 - (iii) any such objection received from the Leader of the Cabinet is not material or is not well-founded; and
- (d) ensuring that the Full Council has resolved to approve the appointment of the Head of Paid Service.

4.6 - 3.6.3 Appointment of the Chief Finance Officer and the Monitoring Officer

3.6.3.1 The rules under 4.6 – 3.6.2 shall apply to the appointment of the Chief Finance Officer and the Monitoring Officer and accordingly the reference in those rules to the Head of Paid Service shall include a reference to the posts of Chief Finance Officer and the Monitoring Officer

4.6 - 3.6.4 Appointment of Other Chief Officers

3.6.4.1 With the exception of the posts of Head of Paid Service, the Chief Finance Officer and the Monitoring Officer, the function of the appointment of all other Chief Officers shall be discharged on behalf of the Council by the Head of Paid Service or by an officer of the Authority nominated by him/her unless the Council decides that such function ought to be exercised by the full Council or their Committee or Sub-Committee.

4.6 - 3.6.5 Disciplinary Action Against and/or Dismissal of Officers

3.6.5.1 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 and ‘dismissal’ includes the actual dismissal or any proposal for dismissal of a relevant officer from his/her post(s) with the Authority 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 Authority has undertaken to renew such a contract);

- (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 Chief Finance Officer, Head of the Authority’s Paid Service or Monitoring Officer, as the case may be.

3.6.5.2 Any disciplinary action taken or to be taken against or dismissal of an officer of the Authority shall be carried out in accordance with the Council’s agreed policies and procedures subject to law.

3.6.5.3 No Member shall exercise the function of taking disciplinary action against, or dismissal of, an officer of the Authority below the level of Chief Officer. Such function may only be exercised on behalf of the Authority by the Head of Paid Service or an officer nominated by him/her for that purpose. A Member may, however, be involved where such involvement is necessary for any investigation or inquiry into alleged misconduct and where the Council’s disciplinary, capability and related procedures, as adopted from time to time, allow a right of appeal to Members in respect of disciplinary action or dismissal.

3.6.5.4 The function of approving the dismissal of a relevant officer shall only be exercised by Full Council.

3.6.5.5 A relevant officer may not be dismissed by the Authority unless the procedure set out in the following paragraphs is complied with.

3.6.5.6 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.

3.6.5.7 In paragraph 4.6 – 3.6.5.6 “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.

3.6.5.8 Subject to paragraph 4.6 – 3.6.5.9, the Authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 4.6 – 3.6.5.6 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.

3.6.5.9 The Authority is not required to appoint more than two relevant independent persons in accordance with paragraph 4.6 - 3.6.5.8 but may do so and the Authority has determined that the Panel shall consist of at least three relevant independent persons and that no Member shall be a member of the Panel given that Panel’s independent advisory role.

3.6.5.9 The Authority must appoint any Panel at least 20 working days before the relevant meeting and that Panel must

- meet to commission a proper investigation to be undertaken in accordance with such arrangements as from time to time may be laid down for Chief Officers and for the investigator to report to that Panel and
- make recommendations to the relevant meeting.

3.6.5.10 A relevant officer may be suspended for the purpose of facilitating an investigation whilst an investigation takes place into alleged misconduct and any such suspension shall be on full pay. Such suspension shall terminate after no later than two

months (beginning on the day on which such suspension takes effect) unless the Panel otherwise directs.

3.6.5.11 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;
- (c) any representations from the relevant officer; and
- (d) the advice of the Authority's personnel section and legal advisers.

3.6.5.12 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.

3.6.5.13 Where a committee, sub-committee or an officer of the Authority is exercising the function of dismissal of, a Chief Officer, such a body or person shall not give notice of dismissal to any such Chief Officer without first:

- (a) notifying the proper officer of the name of the person such body or person wishes to dismiss and any other particulars which such body or person considers relevant;
- (b) ensuring that the proper officer has notified every Member of the Cabinet of:
 - (i) the name of the person whom such body or person wishes to dismiss;
 - (ii) any other particulars relevant to the dismissal which such body or person 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 Cabinet on behalf of the Cabinet to the proper officer
- (c) determining within the above objection period
 - (i) that the Leader of the Cabinet has notified such body or person that neither the Leader of the Cabinet nor any other Member of the Cabinet has any objection to the dismissal; or
 - (ii) that the proper officer has notified such body or person that no objection has been received by him/her; or
 - (iii) that such body or person is satisfied that any objection received from the Leader of the Cabinet is not material or is not well founded; and

- (d) in the case of the dismissal of a relevant officer, ensuring that Full Council has approved the dismissal. For the sake of clarity, this requires that Full Council first approves the dismissal of any such relevant officer from any contractual post or office held, not just from his/her designated role as Head of Paid Service, or Chief Finance Officer or Monitoring Officer.

The proper officer for the purposes of these Rules shall be the Head of Paid Service or if conflicted out, then the Chief Finance Officer, or if conflicted out, then the Monitoring Officer or if conflicted out, then the Deputy Monitoring Officer.

3.6.14 [The Council is currently awaiting further guidance from the Local Government Association.]