

Officer Employment Procedure Rules

Note: Provisions marked with an asterisk in these Rules are governed by the Local Authorities (Standing Orders) (England) Regulations 2001

(1) General Responsibilities

- (a) Subject to the provisions set out below, the powers to:
- (i) appoint staff;
 - (ii) determine the terms and conditions on which they hold office;
 - (iii) determine procedures for their dismissal; and
 - (iv) decide appeals under the discipline, grievance and regrading claims procedures;
- are discharged by the Remuneration Committee. In addition, these powers are delegated to directors to the extent set under this Constitution's Scheme of Delegation to Officers and the provisions of these Procedure Rules.
- (b) In educational establishments with delegated budgets the duties and responsibilities of the employer fall partly to governing bodies under the relevant Education legislation.
- (c) Directors have authority over all matters relating to staff in their directorates, but must obtain the advice and agreement of the Director of Human Resources (through the County Human Resources Manager) where proposed action might have corporate or wide-ranging implications e.g. grading of senior posts, redundancies, dismissals, etc.
- (d) General personnel policies, changes to overall establishments and grading structures, are the responsibility of the Cabinet, subject to any policy which for the time being the Council has directed should be reserved for its approval.
- (e) The County Human Resources Manager is responsible for advising on issues of personnel policy and practice.
- (f) Directors are responsible for ensuring the promotion of and adherence to the Council's personnel policies in their own directorates.
- (g) In relation to Corporate Services the functions of a Director under these Rules shall be exercised by the Head of Paid Service or by such other officer as he/she may designate for that purpose.

(2) Structures of Directorates

- (a) Officers in Article 13 have the authority to modify their directorate structures to reflect changing needs, to transfer posts within the approved establishment subject to the concurrence of the Director of Human Resources (through the County Human Resources Manager).

- (b) Major changes to directorate structures and establishments require the approval of the Cabinet.
- (c) Officers in Article 13 are responsible for the management of redundancies and redeployment, subject to the concurrence of the Director of Human Resources (through the County Human Resources Manager).

(3) Salaries and Remuneration

- (a) Changes to the salaries and remuneration of Officers in Article 13 require the approval of the Remuneration Committee or a sub-committee of that committee following consultation with the County Human Resources Manager and the appropriate Cabinet Member.
- (b) The grading of jobs subject to the terms and conditions of the National Joint Council for Local Government Services will be determined by the Council's Job Evaluation Process in accordance with the local agreement of 8 May 2003.
- (c) The Council's Pay Policy will apply to salaries and remuneration.

(4) Recruitment and Appointment of the Head of Paid Service, and Other Officers in Article 13

- (a) * This Rule (4) applies to: ¹
 - the Head of the Paid Service;
 - a statutory chief officer within the meaning of section 2(6) of the Local Government and Housing Act 1989;
 - a non-statutory chief officer within the meaning of section 2(7) of that Act; and
 - a deputy chief officer within the meaning of section 2(8) of that Act. (see Annex 3)
- (b) * Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment of the Head of the Paid Service, the authority must approve that appointment before an offer of appointment is made to him/her.
- (c) * The Head of Paid Service has delegated authority under the Scheme of Delegation to take any decision of a committee or sub-committee; notwithstanding that provision where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the function of the appointment of any officer to whom this Rule applies, at least one member of the Cabinet must be a member of that committee or sub-committee.

¹ The specified designations are interpreted as including both Directors and Deputy Directors, in addition to the post of Chief Finance Officer

- (d) Where the Council proposes to appoint an officer to whom this Rule applies and it is not proposed that the appointment be made exclusively from among its existing officers, the Council will:
- (i) 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;
 - (ii) 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
 - (iii) make arrangements for a copy of the statement as to canvassing mentioned below to be sent to any person on request.
- (e) The full Council will approve the appointment of the Head of Paid Service and Monitoring Officer following a recommendation as to such an appointment by a sub-committee of the Remuneration Committee.
- (f) Where a sub-committee of the Remuneration Committee appoints officers under Article 13, in doing so it shall receive and take into account the advice of the Head of Paid Service.
- (g) * An offer of an appointment as an officer to whom this Rule applies must not be made until -
- (i) the authority, or the appointing committee, sub-committee or officer, as the case may be, ("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;
 - (ii) the Proper Officer has notified every member of the Cabinet of the authority of -
 - the name of the person to whom the appointor wishes to make the offer;
 - any other particulars relevant to the appointment which the appointor has notified to the Proper Officer; and
 - 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
 - (iii) either -
 - the Leader of the Council has, within the period specified in the notice under sub-paragraph (ii), notified the appointor that neither he/she nor any other member of the Cabinet has any objection to the making of the offer; or
 - the Proper Officer has notified the appointor that no objection was received by him/her within that period from the Leader of the Council; or
 - 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.

(5) Other Appointments

- (a) * Subject to (b) below, the function of appointment of any officer other than those mentioned in Rules (4) and (5) above must be discharged on behalf of the authority by the Head of the Paid Service or by an officer nominated by him/her.
- (b) * Nothing in (a) above shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by another person against any decision relating to the appointment of that other person as a member of staff of the authority.
- (c) All officers and members who take part in the recruitment process must have completed the Council's recruitment and selection training or be trained to the satisfaction of the Director of Human Resources.

(6) Canvassing

- (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, guardian, 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. No candidate so related to a councillor or an officer will be appointed without the authority of the relevant officer in Article 13 or an officer nominated by him/her.
- (b) Subject to (d) below, 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.
- (c) Subject to (d) below, no councillor will seek support for any persons for any appointment with the Council.
- (d) Nothing in (b) and (c) above will preclude a councillor from giving a written reference for a candidate for submission with an application for appointment.

(7) Appraisal and Management Development

- (a) The Director of Human Resources is responsible for the development of effective arrangements for appraisal and management development, including the provision of a management development programme for designated managers on the basis of management competence needs identified by an officer under Article 13.
- (b) Officers under Article 13 are responsible for the conduct of appraisals and management of employees' development and performance.

(8) Health and Safety

- (a) The Director of Human Resources is responsible for producing corporate policy and for monitoring the effectiveness of Health and Safety management.
- (b) Each Officer under Article 13 is responsible for producing policies and methods of working which ensure the Health and Safety of his/her directorate's employees. Managers and supervisors are responsible for ensuring compliance with these policies and for ensuring employees comply with rules and standards.

(9) Equal Opportunities

- (a) The County Human Resources Manager is responsible for ensuring the effective operation of the employment provisions of the Council's Comprehensive Equality Policy.
- (b) Officers are responsible for ensuring the promotion of equal opportunities in employment within their directorates in accordance with the Council's policies and for monitoring progress and providing information to the County Human Resources Manager. Managers and supervisors are responsible for ensuring that employees are aware of their responsibility to avoid unfair discrimination.

(10) Disciplinary Action and Dismissal

- (a) * Subject to (d) below, the functions of taking disciplinary action against and dismissal of any officer other than those mentioned in Rules (4) and (5) above must be discharged on behalf of the authority by the Head of the Paid Service or by an officer nominated by him/her.
- (b) Subject to (a) above, Officers are responsible for the operation of the Council's disciplinary procedures, subject to the advice where appropriate of the Director of Human Resources (through the County Human Resources Manager), with the aim of helping an employee to improve his/her performance or conduct. This responsibility may be delegated via service managers with advice from the appropriate Human Resources Business Partners.
- (c) An employee who fails to fulfil the requirements of his/her employment contract because of incapacity through ill health, repeated misconduct or gross misconduct, shall be liable to dismissal in accordance with the appropriate procedures and subject to the concurrence of the Director of Human Resources (through the County Human Resources Manager).
- (d) * Nothing in (a) above shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

- (e) * Neither the Head of Paid Service, the Monitoring Officer nor the Chief Finance Officer may be dismissed by unless the procedure set out in Annex 1 to these rules is complied with.
- (f) * Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of dismissal of the Head of the Paid Service, the Monitoring Officer or the Chief Finance Officer, the authority must approve that dismissal before notice of dismissal is given to him/her. For the avoidance of doubt, a decision to dismiss any of the aforementioned postholders must be taken by Full Council.
- (g) * The Head of Paid Service has delegated authority under the Scheme of Delegation to take any decision of a committee or sub-committee; notwithstanding that provision where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the function of dismissal of any officer to whom Rule (4) applies, at least one member of the Cabinet must be a member of that committee or sub-committee.
- (h) * Notice of the dismissal of an officer to whom Rule (4) applies must not be given until:
- (i) the authority, or the dismissing committee, sub-committee or officer, as the case may be, ("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;
 - (ii) the Proper Officer has notified every member of the Cabinet of -
 - the name of the person who the dismissor wishes to dismiss;
 - any other particulars relevant to the dismissal which the dismissor has notified to the Proper Officer; and
 - 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
 - (iii) either -
 - the Leader of the Council has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither he/she nor any other member of the Cabinet has any objection to the dismissal;
 - the Proper Officer has notified the dismissor that no objection was received by him/her within that period from the Leader of the Council; or
 - 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.

(11) Employee Relations and Communications

Individual Officers, in conjunction with the Director of Human Resources, are responsible for ensuring good working relations with employees and the recognised trade union representatives of the workforce. Officers are responsible for informing and consulting both employees and appropriate recognised trade unions about issues which affect the staff in their directorates and are responsible for local joint consultative working groups.

- (a) The Council's Grievance Procedure sets out arrangements for settling grievances at the lowest possible level in the organisation. Where agreement is not reached within the directorate the County Human Resources Manager is to be consulted.
- (b) Provisions and guidance on relations and communication between members of the Council and staff are contained in the Protocol on Member/Officer Relations.

(12) Protocol for Employees Working Part-Time and/or Temporarily for, or Providing Consultancy to, other Bodies or Councils

Annex 2 to these Rules is a Protocol which members of staff wishing to take up such forms of employment while employed by the County Council are expected to observe.

Annex 1 – Procedure to be complied with in respect of dismissal of senior officers

The following procedure is to be followed under Rule 10(e) of the Officer Employment Procedure Rules before the dismissal of the following posts can be undertaken²:

- Head of Paid Service
 - Monitoring Officer
 - Chief Finance Officer
1. The authority **must** invite relevant independent persons to be considered for appointment to a Panel to be established for the purposes of advising the authority on matters relating to the dismissal of the relevant officer, with a view to appointing at least two such persons to the Panel³;
 2. The ‘independent person(s)’ so appointed means any independent person who has been appointed by the authority under section 28(7) of the Localism Act 2011 (for the purposes of advising the authority on complaints against the members’ code of conduct);
 3. Where the authority has fewer than two such independent persons, such independent persons as appointed by another authority or authorities **may** be appointed, as the authority considers appropriate;
 4. Specifically, the authority **must** appoint to the Panel such independent persons who have accepted the invitation to join it, in accordance with the following priority order:
 - (a) An independent person 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.
 5. The authority is not required to appoint more than two independent persons but **may** do so;
 6. The authority **must** appoint any such Panel at least 20 **working days** before the relevant meeting of the authority⁴;

² For the avoidance of doubt, the procedure outlined here is the procedure required to be undertaken under Schedule 3 of the Local Government (Standing Orders)(England) Regulations 2001 (as amended).

³ The ‘Panel’ means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes outlined in that paragraph.

⁴ That is, the meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer

7. Before taking a vote at the relevant meeting of the authority 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 representation from the relevant officer.