

Section 9 - Employment rules

4.9.1 Employment and dismissal of senior officers

- 4.9.1a These Rules shall be regarded as Standing Orders of the Council for the purposes of The Local Authorities (Standing Orders) (England) Regulations 2001 ('the 2001 Regulations') and Local Authorities (Standing Orders) (England)(Amendment) Regulations 2015 ('the 2015 Regulations').
- 4.9.2 Subject to paragraphs 4.9.2 to 4.9.5, 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 head of paid service or his nominees.
- 4.9.3 Paragraph 4.9.2 shall not apply to the appointment or dismissal of, or disciplinary action against:
- (a) head of paid service
 - (b) section 151 officer
 - (c) monitoring officer
 - (d) corporate director, community wellbeing
 - (e) corporate director, children and young people
 - (f) corporate director, economy and environment
 - (g) director of public health
- 4.9.4 Where a committee is discharging, on behalf of Council, the function of the appointment or dismissal of an officer designated as the head of paid service, or the dismissal of the council's monitoring officer or section 151 officer Council must approve that appointment before an offer of appointment is confirmed to him or, as the case may be, must approve that dismissal before notice of dismissal is given. The designation of a post, but not the appointment of an individual to that post, as monitoring officer or section 151 officer must be approved by Council.
- 4.9.5 Where a committee of Council is discharging, on behalf of Council, the function of the appointment or dismissal of any officer referred to in paragraph 4.9.3 at least one member of the cabinet must be a member of that committee or sub-committee. Where the appointment is for the Director of Public Health this process is undertaken jointly with the Secretary of State for Health in accordance with s73A National Health Service Act 2006.
- 4.9.6 In paragraph 4.9.7 "appointor" means, in relation to the appointment of a person as an officer of the council, Council or where a committee is discharging the function of appointment on behalf of Council, that committee, as the case may be.
- 4.9.7 An offer of an appointment as an officer referred to in paragraph 4.9.3 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 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 had 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 on behalf of the cabinet to the proper officer; and
 - (iv) the leader has, within the period specified in the notice notified the appointor that neither they nor any other member of the cabinet has any objection to the making of the offer;
- (c) the proper officer has notified the appointor that no objection was received by them within that period from the leader; or
- (d) the appointor is satisfied that any objection received from the leader within that period is not material or is not well-founded.

4.9.8 In paragraph 4.9.9, “dismissor” means, in relation to the dismissal of an officer of the council, Council or, where a committee, is discharging the function of dismissal on behalf of the council, that committee, as the case may be.

4.9.9 Notice of the dismissal of an officer referred to in paragraph 4.9.3 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 cabinet 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 on behalf of the cabinet to the proper officer; and either:
- (c) the leader has, within the period specified in the notice notified the dismissor that neither they nor any other member of the cabinet has any objection to the dismissal;
- (d) the proper officer has notified the dismissor that no objection was received

by them within that period from the leader; or

- (e) the dismissor is satisfied that any objection received from the leader within that period is not material or is not well-founded.

4.9.10 The employment panel shall be the appropriate body for the purposes of the functions set out in paragraphs 4.9.4 to 4.9.9 of these rules.

4.9.11 Interim senior officer arrangements

4.9.12 The head of paid service will make such interim arrangements under contracts for services for senior officers named in 4.9.3 above as may be necessary from time to time to ensure that the statutory functions of the council are adequately fulfilled.

4.9.13 Appointment of officers

4.9.14 All jobs will be open to competition and appointments will be made on merit except as provided for in the council's employment policies and its recruitment and selection procedures and all appointments will be made in accordance with those policies and procedures.

4.9.15 Where the council propose to appoint an officer to any post the head of paid service or his nominee will:

- (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 post to be advertised in such a way that is likely to bring it to the attention and attract the maximum interest of persons who are qualified to apply for it; and

- (c) make arrangements for a copy of the statement mentioned in paragraph (a) above to be sent to any person on request.

4.9.16 The head of paid service or his nominee shall make arrangements for the long listing, short listing and interview of applicants.

4.9.17 Where the appointment is to a post specified in paragraph 4.9.3 above, the head of paid service or their nominee will carry out all steps related to the appointment following consultation with the leader of the council or their nominee.

4.9.18 Where the appointment is to the post of head of paid service, the leader of the council will nominate an officer to carry out all the steps related to the appointment following consultation with the leader of the council or his nominee.

4.9.19 The short-listing and interview of candidates for posts specified in paragraph 4.9.3 above will be carried out by the employment panel. Where the

appointment is for the Director of Public Health this process is undertaken jointly with the Secretary of State for Health.

- 4.9.20 Every appointment of any officer specified in paragraph 4.9.3 above shall be made by the employment panel, save that the appointment of a head of paid service must be approved by full Council.
- 4.9.21 The employment panel shall be advised by the head of paid service or in the event of the appointment of the head of paid service by the officer nominated for that purpose by the leader of the council.
- 4.9.22 The leader of the council (in relation to the appointment of the head of paid service) and the head of paid service in consultation with the leader in relation to those officers to be appointed by the employment panel may appoint external recruitment consultants to assist or advise the employment panel.
- 4.9.23 Disciplinary action – head of paid service, section 151 officer and monitoring officer**
- 4.9.23a The Employment Panel has power to decide whether to investigate any allegation of misconduct by a statutory chief officer, and all matters relating to the conduct of the investigation and/or any subsequent disciplinary process.
- 4.9.23b These rules are in accordance with the 2015 Regulations.
- 4.9.23c **Suspension**
- 4.9.23d The Chief Executive (Head of Paid Service), Monitoring Officer and Chief Finance Officer may be suspended on full pay whilst an investigation takes place into alleged misconduct.
- 4.9.23e The decision to suspend the Chief Executive (Head of Paid Service) will be the Monitoring Officer and the Director of Human Resources with the Leader of the Council. The decision to suspend the Monitoring Officer and Chief Finance Officer will be the Chief Executive and the Director of Human Resources.
- 4.9.23f The Employment Panel may take disciplinary action short of dismissal or recommend to full Council that the Chief Executive (Head of Paid Service) or the Chief Finance Officer (S151 Officer) or the Monitoring Officer be dismissed.
- 4.9.23g Only full Council can approve the dismissal of the Chief Executive (Head of Paid Service), the Chief Finance Officer (S151 Officer) or the Monitoring Officer.
- 4.9.23h The disciplinary procedure involves four stages: an Investigating and Disciplinary Committee, an Appeals Committee, the Independent Panel and the Council.
- 4.9.23i The Employment Panel is a politically balanced committee comprising six members, at least two of whom will be a member of the Cabinet. Arrangements for flexibility will be required, including the use of reserve members or substitutes, in the event that a member of the Panel has a conflict of interest in the matter to be considered.

- 4.9.23j The Investigating and Disciplinary Committee (IDC) is a committee comprising of three elected members from the Employment panel and at least one of whom will be a member of cabinet.
- 4.9.23k The Appeals Committee is a committee comprising three members selected from the Employment Panel and at least one of whom will be a member of the Cabinet, who have not been involved in the IDC. It hears appeals against action short of dismissal, and decides either to confirm the action, impose no sanction or a lesser sanction.
- 4.9.23l The Independent Panel is an advisory panel comprising at least two independent persons appointed by the Council for the purposes of hearing complaints under the Members' standards regime. The Independent Panel is only used if the IDC, having received the report of the independent investigator and held a hearing, is minded to recommend dismissal to full Council.
- 4.9.23m If the recommendation is for any action short of dismissal such as a written warning, the Employment Panel has the power to impose this without referring to either the Independent Panel or full Council. The relevant officer can then appeal the sanction to the Appeals Committee.
- 4.9.23n If the Employment Panel recommendation is dismissal, then the Independent Panel will hold a hearing where it will listen to both the chair of the IDC and the relevant officer and a report from an independent investigator and will then give their advice/views/recommendations to Council. The matter then goes to full Council for a decision. The relevant officer is allowed to put his or her case to council before a decision is taken.
- 4.9.24 The head of paid service, section 151 officer and monitoring officer may not be dismissed unless the procedure set out in these rules are complied with. The head of paid service will be the proper officer for these purposes except where the disciplinary action or dismissal relates to the head of paid service in which case the leader of the council will nominate an officer to carry out these steps in accordance with the JNC for chief officers' model procedures.
- 4.9.24a The IDC and Appeals committee will also hear grievances by the chief executive.
- 4.9.25 The investigating and disciplinary committee (IDC) will meet at least 20 working days before the full Council meeting and will consider whether or not to dismiss.
- 4.9.25a The IDC and Appeals committee will also hear grievances by the chief executive.
- 4.9.26 An "*independent person*" means any independent person who has been appointed by the council and who has accepted an invitation issued by the monitoring officer in accordance with the following priority order -
- (a) a relevant independent person who has been appointed by the authority under section 28(7) of the localism act 2011 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.
- 4.9.27 [No longer used]
- 4.9.28 Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, Council must take into account, in particular -
 - (a) any advice, views or recommendations of the independent advisory panel;
 - (b) the conclusions of any investigation into the proposed dismissal; and
 - (c) any representations from the relevant officer.
- 4.9.29 The employment panel**
- 4.9.30 The employment panel consists of six members of the council and must include at least two members of the cabinet.
- 4.9.31 Terms and conditions of employment**
- 4.9.32 The employment panel shall be responsible for determining the terms and conditions of employment of the officers specified in paragraph 4.9.3 above, and will be a consultee on overall employment terms and conditions (including policies) to be determined by the head of paid service.
- 4.9.33 Voting on appointments**
- 4.9.34 Where three or more candidates are interviewed for a post and there is not a majority of votes cast at the relevant meeting of the employment panel in favour of one candidate, the candidate receiving the least number of votes shall be disregarded and a fresh vote taken and so on until one candidate receives a majority of the votes.
- 4.9.35 Declarations and member involvement**
- 4.9.36 Candidates for appointment to any post within the council will be required to declare whether they are related to an existing member or officer of the council; any candidate making such a declaration will not be appointed without the independent authorisation of the relevant director or head of paid service as appropriate
- 4.9.37 No member will seek support for any person for any appointment.
- 4.9.38 The council shall disqualify any applicant who directly or indirectly seeks the support of any member for any appointment with the council