



## Rules of Procedure

# Officer Employment Procedure Rules

# OFFICER EMPLOYMENT PROCEDURE RULES

## Explanatory Note

These rules are to be read, where appropriate with the Scheme of Delegation to Staff (Council and Executive Functions)

1. In this part:-

“the 1989 Act” means the Local Government and Housing Act 1989;

“the 2000 Act” means the Local Government Act 2000;

“authority” in these rules means the Council;

“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 and Executive Leader has the same meaning as “Leader” elsewhere in the constitution;

“member of staff” means a person appointed to or holding a paid office or employment;

“Proper Officer” means an officer appointed by the authority for the purposes of the provisions of these Rules (see Section 8 of Part 3 of the Constitution);

“designated independent person” has the same meaning as in the Local Authorities (Standing Orders)(England) Regulations 2001;

“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; and

“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.

## Responsibility for Employment

2. Subject to paragraphs 3 and 8, 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 an officer appointed by her.

3. Paragraph 2 shall not apply to the appointment or dismissal of, or disciplinary action against:-
  - (a) the officer designated as the authority's head of the paid service;
  - (b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
  - (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;
  - (e) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).

#### **Head of the Paid Service**

4. 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/her or, as the case may be, approve that dismissal before notice or dismissal is given.

#### **Appointments Committee**

5. 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 (a),(b),(c) or (d) of paragraph 3, at least one member of the Executive Board must be a member of that committee or sub-committee.

#### **Notification Procedure for Appointment**

6. An offer of an appointment as an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 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 particulars which the appointor considers are relevant to the appointment;

- (b) the Proper Officer has notified every member of the Executive Board 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 Board 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;
  - (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.

### **Notification Procedure for Dismissals**

7. Notice of the dismissal of an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 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 Executive Board of:-
    - (i) the name of the person 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 Board 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.

### **Appeals Committee**

8. Nothing in paragraph 2 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) 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.

### **Recruitment and Selection Code of Practice**

9. All appointments will be made in accordance with the authority's recruitment and selection procedure.

### **Political Group Assistants**

10. Appointments of any assistant to a political group shall be in accordance with the wishes of that group.

### **Requirements of Candidates**

11. Declarations:
- (a) the authority will draw up a statement requiring any candidate for the appointment as an officer to state in writing whether they are the partner, grandparent, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, niece or nephew of a serving Member or employee of the authority or of the partner of such a person. This statement will be included in appropriate recruitment literature.

- (b) where a candidate has declared such a relationship, any offer of employment shall be subject to approval by the appropriate Business Manager, except where the Business Manager is the officer to whom the candidate has declared a relationship, in which case the appropriate Strategic Director will approve any proposed offer of employment.

12. Seeking support for appointment:

- (a) the authority will disqualify any candidate who directly or indirectly seeks the support of any Councillor for any appointment with the authority. The content of this paragraph will be included in any recruitment literature.
- (b) no Councillor will seek to support any candidate for appointment

**Head of Service and Strategic Directors**

13. Where the authority proposes to appoint the head of paid service or a Strategic Director, the authority 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 openly and publicly 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 sub-paragraph (a) to be sent to any person on request.

**Disciplinary Action**

- 14. The head of the paid service, the monitoring officer and the chief finance officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.
- 15. No other disciplinary action may be taken against any of those officers except in accordance with a recommendation in a report made by a designated independent person.
- 16. Councillors will not be involved in disciplinary action against any officers who are not included in the list in sub-paragraphs (a), (b), (c) and (d) of paragraph 3 and who are not Strategic Directors, Business Managers or employees whose conditions are governed by the JNC for Chief Officers except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the authority's disciplinary, capability and related

procedures, as adopted from time to time may allow a right of appeal to a sub-committee of members in respect of disciplinary action taken.

17. Councillors will not be involved in disciplinary action against any officers who are not included in the list in sub-paragraphs (a), (b), (c) and (d) of paragraph 3 and who are not Strategic Directors, Business Managers or employees whose conditions are governed by the JNC for Chief Officers except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the authority's disciplinary, capability and related procedures as adopted from time to time may allow a right of appeal to members in respect of dismissals.

References:

The Local Authorities (Standing Order) Regulations 2001