

20. Employment rules

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20.1 Appointments Committee

The powers and duties of the Appointments Committee are set out in Part 7.8.

20.2 The Investigation and Disciplinary Committee

The powers and duties of the Investigation and Disciplinary Committee are set out in Part 7.6.

20.3 Independent Persons Panel

The powers and duties of the Independent Persons Panel are set out in Part 7.7

20.4 Appointing the Head of Paid Service (Chief Executive)

The appointment of the Head of Paid Service (Chief Executive) is subject to some specific requirements as set out below.

Where the Council proposes to appoint the Head of Paid Service, the Appointments Committee will oversee the arrangements for filling the vacancy. The Committee shall include at least one member of the Cabinet in its membership. The Head of Paid Service is appointed by Council on the recommendation of the Appointments Committee.

Where it is not proposed that the appointment be made exclusively from among its existing officers, the Council 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 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 (a) above to be sent to any person on request.

Following the interview of candidates, the Appointments Committee will come to a view as to the most suitable person to recommend for the position.

Before an offer of appointment is made by the Appointments Committee for the role of Head of Paid Service (Chief Executive), the Appointments Committee must notify the Head of Law and Governance who it wishes to appoint and anything else that the Appointments Committee considers is relevant to the appointment.

The Head of Law and Governance must notify every member of the Cabinet of:

- (i) The name of the person to whom the Appointments Committee wishes to make the offer;
- (ii) Any other particulars relevant to the appointment which the Appointments Committee has notified; and
- (iii) The period within which any objections to the making of the offer are to be made by the Leader on behalf of the Cabinet to the Head of Law and Governance

An offer of appointment must wait until:

- (i) The Leader has within the period specified in the notice under subparagraph (iii) above, notified the Head of Law and Governance that neither the Leader nor any other member of the Cabinet has any objection to the making of the offer;
- (ii) The Head of Law and Governance has notified the Appointments committee that no objection has been received by them within that period from the Leader; or
- (iii) The Appointments Committee is satisfied that any objection received from the Leader within that period is not material or is not well-founded. Where necessary, the advice of the Head of Law and Governance shall be sought.

Where following the above procedure there are no objections to the proposed appointment or any objections are not up-held, the Appointments Committee will recommend that person for appointment to the next meeting of the Council or at a specially convened meeting of the Council. If the Council approve the recommendation, then a formal offer of appointment can be made.

Where following the interviews the Appointments Committee is of the view that there is no suitable candidate, it will re-advertise the post.

Where the Council does not approve the recommendation of the Appointments Committee, it shall indicate how it wishes to proceed.

20.5 Designating the role of Chief Finance Officer and Monitoring Officer

The roles of Chief Finance Officer (Head of Financial Services) and Monitoring Officer (Head of Law and Governance) will be designated by Council.

20.6 Appointing other Chief Officers and Deputy Chief Officers

Before an offer of appointment is made by the appointor to:

- a statutory chief officer within the meaning of section 2(6) of the Local Government and Housing Act 1989, which for the Council means the Head of Financial Services;
- a non-statutory chief officer within the meaning of section 2(7) of the Local Government and Housing Act 1989, which for the Council includes Assistant Chief Executives, Executive Directors, Project Directors, Monitoring Officer¹ and other posts that report directly to the Chief Executive; or
- a deputy chief officer within the meaning of section 2(8) of the Local Government and Housing Act 1989 which means those posts that report to a statutory or non-statutory chief officer and for the Council includes Heads of Service and some of its service managers;

the appointor must notify the Head of Law and Governance who it wants to appoint and anything else that the appointor considers is relevant to the appointment.

The Head of Law and Governance must notify 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 has notified to the Head of Law and Governance; and
- (iii) The period within which any objections to the making of the offer are to be made by the Leader on behalf of the Cabinet to the Head of Law and Governance

An offer of appointment must wait until:

- (i) The Leader has, within the period specified in the notice under subparagraph (iii) above, notified the Head of Law and Governance that neither the Leader nor any other member of the Cabinet has any objection to the making of the offer;
- (ii) The Head of Law and Governance has notified the appointor that no objection has been received by them within that period from the Leader; or
- (iii) The appointor is satisfied that any objection received from the Leader within that period is not material or is not well-founded. Where necessary, the advice of the Head of Law and Governance shall be sought.

¹ The Monitoring Officer by virtue of Section 5 of the Local Government and Housing Act 1989.

20.7 Dismissing the Chief Executive and Statutory Officers

The Investigation and Disciplinary Committee will be responsible for proposals to dismiss the Chief Executive, Monitoring Officer and Chief Finance Officer.

Any disciplinary action short of dismissal, including a decision to suspend, against the Chief Executive, Monitoring Officer or Chief Finance Officer (“the Statutory Officers”) will be the responsibility of the Investigation and Disciplinary Committee.

Any dismissal of one of the Statutory Officers must be approved by Council, following a decision of the Investigation and Disciplinary Committee and consideration by the Independent Persons Panel.

Notice of dismissal of one of the Statutory Officers must not be given until the Investigation and Disciplinary Committee has notified the Head of Law and Governance that it wishes to dismiss the officer and any other particulars which the Investigation and Disciplinary Committee considers are relevant to the dismissal.

The Head of Law and Governance must notify every member of the Cabinet of:

- (i) The fact that the Investigation and Disciplinary Committee wishes to dismiss the officer;
- (ii) Any other particulars relevant to the dismissal which the Investigation and Disciplinary Committee has notified to the Head of Law and Governance; and
- (iii) The period within which any objections to the making of the dismissal are to be made by the Leader on behalf of the Cabinet to the Head of Law and Governance

And either:

- (i) The Leader has, within the period specified in the notice under subparagraph (iii) above, notified the Head of Law and Governance that neither the Leader nor any other member of the Cabinet has any objection to the making of the dismissal;
- (ii) The Head of Law and Governance has notified the Investigation and Disciplinary Committee that no objection has been received by them within that period from the Leader; or
- (iii) The Investigation and Disciplinary Committee is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

Where following the above procedure there are no objections to the proposed dismissal or the objections are not upheld, the Investigation and Disciplinary Committee will follow the procedure set out in paragraph 20.8 below to recommend the dismissal to a meeting of the Council.

20.8 Procedure for proposed disciplinary action against a Statutory Officer involving dismissal

This procedure applies if the Investigation and Disciplinary Committee proposes disciplinary action involving the dismissal of the Head of Paid Service, Head of Financial Services or Monitoring Officer.

- (a) Where this procedure applies, the Investigation and Disciplinary Committee will provide the Independent Persons Panel with the information and any other matters provided to members of the Cabinet and any other particulars relevant to the dismissal that the Investigation and Disciplinary Committee considers appropriate or that the Panel may reasonably require. The Investigation and Disciplinary Committee may invite the Independent Persons Panel to attend any disciplinary or capability hearing.
- (b) The Independent Persons Panel will meet to consider what, if any, advice, views or recommendations to give to the Council.
- (c) The Council may pay remuneration, allowances or fees to an Independent Person appointed to the Panel as it thinks appropriate having due regard to the level of fees payable to that Independent Person in their role as Independent Person under the Localism Act 2011 .
- (d) Council will not meet to consider whether or not to approve the proposal of the Investigation and Disciplinary Committee to dismiss the officer until a period of at least 20 working days has elapsed from the appointment of the Independent Persons Panel.
- (e) Before Council takes a vote at a meeting on whether or not to approve such a dismissal, it must take into account, in particular:
 - (i) any advice, views or recommendations of the Independent Persons Panel;
 - (ii) the conclusions of any investigation into the proposed dismissal; and
 - (iii) any representations from the Statutory Officer.
- (f) If the Council approves the recommendation of the Investigation and Disciplinary Committee, then notice of dismissal can be issued. Where the Council does not approve the recommendation, it shall indicate how it wishes to proceed.

The requirements of the Local Authorities (Standing Orders)(England) Regulations 2001 as amended will be followed.

20.9 Procedure for Investigation and Disciplinary Committee

(a) Fact Finding and Investigation

It will be in the interests of all parties that the proceedings be conducted expeditiously and fairly.

In considering any complaint/allegations made the Committee may:

- make such enquiries of the Statutory Officer or any other person as it considers appropriate

- request additional information, explanations or documents from any person
- invite or receive representations from any person.

The Committee having carried out such steps as it considers appropriate and having heard representations from the Statutory Officer or his/ her adviser/representative will decide whether the issues:

- require no further formal action, or
- should be referred to an Independent Investigator (“an II”)

In considering whether the threshold in deciding to appoint an II has been met the Committee will assess whether:

- if the allegations are proved it would be such as to lead to the dismissal or other action which would be recorded on the officer’s personnel file
- there is evidence in support of the allegation/issue sufficient to require further investigation.

In deciding whether the threshold for the appointment of an II has been reached the Committee may carry out such preliminary investigations as it considers appropriate or necessary or authorise officers to do so. This will be solely for the purpose of establishing whether or not the threshold for appointing an II to carry out an investigation has been met.

Before deciding to appoint an II or suspend a Statutory Officer the Committee will invite representations from the Statutory Officer unless it is impracticable to do so.

The Statutory Officer will have the right to be accompanied at the Committee meeting.

(b) Receiving the Independent Investigator’s Report/ Hearing

The Committee should receive any report produced by an II in relation to a Statutory Officer within one month of the receipt of the report by the Council. The Statutory Officer will have the right to attend and be accompanied at the committee meeting which considers the II’s report.

The Committee will consider the II’s report and invite representations from the Statutory Officer and/or his/her adviser/representative. The Committee may impose disciplinary sanctions as set out in the Council’s disciplinary procedures, the JNC Terms and Conditions Handbook for Chief Officers and the JNC Terms and Conditions Handbook for Chief Executives. In conducting any hearing the Committee will have regard to the model disciplinary procedure in the JNC handbook for Chief Executives.

(c) Decision

If the Committee decides that the Statutory Officer should be dismissed the Council will consider the Committee’s recommendation of dismissal.

Prior to consideration by Council the Independent Persons Panel will consider the matter and the Head of Law and Governance will give all members of the

Cabinet the opportunity to raise any objections prior to the decision as set out above.

If a Statutory Officer has been suspended for a period of two months (or in the case of a decision to suspend taken under any appropriate urgency provisions) then the Committee will review that suspension. The Committee will continue to review any continuing suspension every 2 months. In carrying out any such review the Committee will consider any representations made by the IL and the Statutory Officer and/or his or her adviser/representative.

For the avoidance of doubt, if a Statutory Officer chooses to retain professional advice and/or representation at or in respect of any meeting of or hearing before the Committee, then the Statutory Officer in question will be responsible for the cost of that advice or representation.

20.10 Dismissing other chief officers and deputy chief officers

The Investigation and Disciplinary Committee will be responsible for proposals to dismiss the Assistant Chief Executives and Executive Directors.

Notice of dismissal may not be given by the dismisser to:

- 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 the Local Government and Housing Act 1989 which for the Council includes Assistant Chief Executives, Executive Directors, Project Directors and other posts that report directly to the Chief Executive; or
- a deputy chief officer within the meaning of section 2(8) of the Local Government and Housing Act 1989 which means those posts that report to a statutory or non-statutory chief officer and for the Council includes Heads of Service and some of its service managers;

until the dismisser has notified the Head of Law and Governance who it wants to dismiss and anything else that the dismisser considers is relevant to the dismissal.

The Head of Law and Governance must notify every member of the Cabinet of:

- (i) The name of the person whom the dismisser wishes to dismiss;
- (ii) Any other particulars relevant to the dismissal which the dismisser has notified to the Head of Law and Governance; and
- (iii) The period within which any objections to the making of the dismissal are to be made by the Leader on behalf of the Cabinet to the Head of Law and Governance

And either:

- (i) The Leader has, within the period specified in the notice under subparagraph (iii) above, notified the Head of Law and Governance that neither the Leader nor any other member of the Cabinet has any objection to the making of the dismissal;

- (ii) The Head of Law and Governance has notified the dismissor that no objection has been received by them within that period from the Leader; or
- (iii) The dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

20.11 Appointing political assistants

Appointments of political assistants will follow the wishes of the respective political group.

20.12 Councillors not to be involved in appointing or dismissing other officers

Councillors will not be involved in appointing or dismissing anyone except as set out above. The members of the Cabinet will be consulted in relation to the appointment or dismissal of chief officers and deputy chief officers as set out above. Other officers are appointed and dismissed by their Head of Service. The delegated powers in relation to the appointment and dismissal of staff are set out in Part 5.15.

All officers except political assistants must be appointed on merit.

Councillors may be invited to observe disciplinary appeal hearings against dismissal.

20.13 Recruitment and selection procedure

All appointments must follow the Council's recruitment and selection procedure.

20.14 Relationships with councillors and officers

Candidates must disclose on their application form whether they are related to any councillor or officer or any councillor or officer's partner as their partner, parent, child, stepchild, adopted child, grandparent, grandchild, brother, sister, uncle, aunt, niece or nephew.

If a candidate declares a relationship with a councillor or officer or their partner, their appointment must be approved by the appropriate head of service. (If they have declared a relationship with the head of service or their partner, it must be approved by the appropriate director).

20.15 Lobbying

Councillors and officers must not lobby for or against candidates. The Council will disqualify candidates who lobby councillors or officers or get other people to lobby them. Candidates will be warned about this in the recruitment literature.

20.16 Employee Code of Conduct

All officers must adhere to the Employee Code of Conduct.