

Part 4 – Rules

Chapter 3 – Employment Procedure Rules

1. Introduction

- 1.1 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').
- 1.2 The Council has a recruitment and selection policy and operational requirements which all Councillors and officers who undertake recruitment, selection and appointment must apply.

2. Responsibility for the Discharge of Employment Functions

- 2.1 Employment functions, including the appointment or discipline of the Chief Executive (Head of Paid Service), Monitoring Officer and Chief Financial Officer (as defined in the Local Government and Housing Act 1989), shall be discharged by the Assembly, or an appointed sub-committee, in accordance with the arrangements set out in Part 2, Chapter 4 of this Constitution.
- 2.2 Employment functions, including the appointment, dismissal or discipline of all other JNC officers, except those specified in paragraph 2.1 above, shall be discharged by the Assembly, or an appointed sub-committee, in accordance with the arrangements set out in Part 2, Chapter 4 of this Constitution.
- 2.3 The dismissal of the Chief Executive (Head of Paid Service), Monitoring Officer and Chief Financial Officer (as defined in the Local Government and Housing Act 1989), shall be discharged by the Assembly in accordance with the arrangements set out in Part 2, Chapter 4 of this Constitution and with regard to the Model Disciplinary Procedure and Guidance (England) published by the Joint Negotiating Committee for Local Authority Chief Executives.
- 2.4 The function of appointment, dismissal or discipline of all other officers, other than those referred to above or in respect of political assistants, shall be discharged on behalf of the Council by the Chief Executive or by an officer nominated by him/her.

3. Conflicts of Interest in Employment Matters

- 3.1 No officer shall take part in the appointment and dismissal of, and taking disciplinary action against, any officer, including making any recommendation in respect of such action, where the officer or a candidate for such appointment is a spouse, partner, close family relative or friend of the officer concerned.
- 3.2 Where an officer identifies that he would be in breach of Rule 3.1, above, he/she shall immediately notify his/her line manager and the Director of Workforce Change of such conflict, and the line manager shall arrange for another officer to take over responsibility in the matter. Where the officer is the Chief Executive, he/she shall inform the Leader and Chair of the Assembly of

such conflict and of the arrangements which he/she has made to avoid such conflict.

- 3.3 The Council will require any candidate for appointment as an officer to state in writing whether he/she is the spouse, partner or close family relative of a serving Councillor or officer or the spouse or partner of such a person. This statement will be included in appropriate recruitment literature.
- 3.4 Where a candidate has declared such a relationship, any offer of employment shall be subject to approval by the appropriate Director or above.
- 3.5 The Council will disqualify from consideration any candidate who directly or indirectly seeks the support of any Councillor or officer (other than in the proper course of interview and selection) for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- 3.6 No Councillor or officer will seek to support any candidate for appointment to the staff of the Council. Councillors shall not stand as referees for candidates for appointment as Officers.
- 3.7 Rules 3.5 and 3.6 above do not prevent an officer acting in a professional capacity as a referee for candidates for appointment.

4. Political Assistants

- 4.1 Appointment of an assistant to a political group shall be made in line with the Council's employment procedures. Representatives of the respective political group may participate in the recruitment process.
- 4.2 No political assistant post shall be allocated by the Council to a political group which does not qualify for one under section 9 of the Local Government and Housing Act 1989.
- 4.3 No political group shall be allocated more than one political assistant and a maximum of three political assistants shall be employed at any time.
- 4.4 A political group must have at least six councillors to qualify. Where more than three political groups qualify, the three groups with the highest number of councillors will have priority.
- 4.5 Disciplinary action and dismissal of an assistant to a political group shall be undertaken by the Chief Executive or an officer designated for that purpose by the Chief Executive.

5. Disciplinary Action – Chief Executive (Head of Paid Service), Monitoring Officer and Chief Financial Officer

- 5.1 The Chief Executive may suspend the Monitoring Officer or the Chief Financial Officer, and the JNC Investigation and Disciplinary Panel may suspend the Chief Executive for the purpose of investigating alleged misconduct. That suspension will be on full pay and shall last no longer than two months unless extended at the direction of the JNC Investigation and Disciplinary Panel.

5.2 No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by the JNC Investigation and Disciplinary Panel.

6. Disciplinary Action – Other Employees

6.1 Except where such involvement is necessary for any investigation or inquiry into alleged misconduct, Councillors will not be involved in disciplinary action against any officer. This provision does not extend to Councillors when acting in an appointed capacity on any committee or sub-committee set up for the purposes of determining disciplinary matters against JNC officers or any committee or sub-committee set up to consider appeals by officers against disciplinary action.

7. Notification Procedure for Appointment / Dismissal of Head of Paid Service and Chief Officers

7.1 In accordance with the provisions of the 2001 Regulations, an offer of an appointment as Head of Paid Service or a Chief Officer, or a decision to dismiss such Officer, must not be made by the decision-maker until:

- (a) the decision-maker has notified the Chief Executive of the name of the person in respect of whom the proposed action is to be taken together with any relevant particulars which the decision-maker considers relevant. Where the final decision rests with the Assembly, the decision of the relevant committee to recommend such action to the Assembly shall be deemed to be a decision that the Council wishes to take the proposed action, and the committee shall be treated as the decision-maker for the purpose of notifying the Chief Executive thereof;
- (b) The Chief Executive has notified each Cabinet Member of:
 - (i) the name of the person in respect of whom the action is proposed;
 - (ii) any other particulars relevant to the action notified to the Chief Executive by the decision-maker, and
 - (iii) the period within which any objection to the making of the decision is to be made by the Leader on behalf of the Cabinet.

The notification shall be by e-mail or in writing to all Cabinet Members and the period of objection will be two working days or such longer period as the decision-maker shall determine. If the period of objection is to be shortened, notification will be by telephone and e-mail, and

- (c) either:
 - (i) the Leader notifies the decision-maker that neither he/she nor any other Cabinet Member has an objection to the action proposed;
 - (ii) the Chief Executive has notified the decision-maker that no objection was received by him/her from the Leader within that period;

- (iii) the decision-maker has considered any objection received from the Leader within that period and is satisfied that such objection is not material or is not well-founded.

8. Dismissal Procedure for the Chief Executive (Head of Paid Service), Monitoring Officer and Chief Financial Officer

8.1 In the following paragraphs:

“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;

“relevant meeting” means a meeting of the Assembly to consider whether or not to approve a proposal to dismiss a relevant officer; and

“relevant officer” means the Chief Executive (Head of Paid Service), the Monitoring Officer or the Chief Financial Officer, as the case may be.

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

8.3 The Council must invite at least two Independent Persons to be considered for appointment to a JNC Independent Persons Committee, established under section 102(4) of the Local Government Act 1972 for the purposes of advising the Assembly on matters relating to the dismissal of relevant officers of the Council.

8.4 Subject to paragraph 8.5, the Council must appoint to the JNC Independent Persons Committee such relevant Independent Persons who have accepted an invitation issued in accordance with paragraph 8.3, in the following priority order:

- (i) an Independent Person who has been appointed by the Council and who is a local government elector;
- (ii) any other Independent Person who has been appointed by the Council;
- (iii) an Independent Person who has been appointed by another Authority.

8.5 The Council is not required to appoint more than two Independent Persons in accordance with paragraph 8.4 but may do so.

8.6 The Council must appoint any JNC Independent Persons Committee at least 20 working days before the relevant meeting.

8.7 Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the Council must take into account, in particular, any advice, views or recommendations of the JNC Independent Persons Committee.

9. Other Polices

9.1 Except as set out in these Employment Rules, or as required by law or under a contract of employment, all appointments shall be made and disciplinary action

shall be taken in accordance with the Council's Human Resources policies, practices and procedures which may add to these Rules but not conflict with them.