

Part 4 H

Officer Employment Procedure Rules

Part 4H – Officer Employment Procedure Rules

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**RULE 1
Interpretation**

In these Rules –

‘The 1989 Act’ means the Local Government and Housing Act 1989;

‘The 2000 Act’ means the Local Government Act 2000;

‘Disciplinary Action’ has the same meaning as in the Local Authorities (Standing Orders) Regulations 2001;

‘The Executive’ and ‘The Leader’ have the same meanings as in Part II of the 2000 Act; and

‘Member of staff’ means a person appointed to or holding a paid office or employment under the County Council.

**RULE 2
Responsibility for Appointing, Dismissing and Disciplining Employees**

- (1) Subject to paragraph (2) below and to Rule 10 below, the power to appoint, dismiss and take disciplinary action against a member of staff of the County Council must be discharged, on behalf of the County Council, by the Chief Executive (as the officer designated under Section 4(1) of the 1989 Act as the Head of Paid Service) or by an officer nominated by him.
- (2) The provisions of paragraph (1) above shall not apply to the appointment or dismissal of, or disciplinary action against –
 - (a) the Chief Executive as the officer designated as the Head of Paid Service;
 - (b) the Director of Children and Family Services, the Director of Adults and Communities and the Chief Financial Officer as statutory chief officers within the meaning of Section 2(6) of the 1989 Act;
 - (c) any other Chief Officer as a non-statutory chief officer within the meaning of Section 2(7) of the 1989 Act;
 - (d) a formally designated Deputy Chief Officer or in the absence of such a post any member of a departmental management team as a deputy chief officer within the meaning of Section 2(8) of the 1989 Act; or

- (e) an assistant for a political group appointed under Section 9 of the 1989 Act.

RULE 3 Head of Paid Service

Where a committee, sub-committee or officer is discharging, on behalf of the County Council, the function of the appointment of an officer designated as the Head of Paid Service, the full County Council must approve that appointment before an offer of appointment is made to that person.

RULE 4 Composition of Member Body

Where a committee or subcommittee of the County Council is discharging, on behalf of the County Council, the function of the appointment or dismissal of any officer referred to in sub-paragraphs (a) (b) (c) or (d) of Rule 2(2) above, at least one member of the Executive must be a member of that committee or subcommittee.

RULE 5 Procedure Regarding Appointments

- (1) In this Rule, 'appointor' means, in relation to the appointment of a person as an officer of the County Council, the full County Council, or where a committee, subcommittee or officer is discharging the function of appointment on behalf of the County Council, that committee, subcommittee or officer, as the case may be.
- (2) An offer of an appointment as an officer referred to in sub-paragraphs (a), (b), (c) or (d) of Rule 2(2) above must not be made by the appointor until:
 - (a) the appointor has notified the Chief Executive 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 Chief Executive has notified every member of the Executive 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 Chief Executive; 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 Executive to the Chief Executive; and
- (c) either –
- (i) the Leader has, within the period specified in the notice under sub-paragraph (b) (iii) above, notified the appointor that neither he nor any other member of the Executive has any objection to the making of the offer;
 - (ii) the Chief Executive has notified the appointor that no objection was received by him 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.

RULE 6
Appointment of Chief Officers

- (1) Where the County Council proposes to appoint a Chief Officer, and it is not proposed that the appointment be made exclusively from among its existing officers, the County Council shall -
- (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 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 referred to in sub-paragraph (a) above to be sent to any person on request.
- (2) Where a post has been advertised as provided in sub-paragraph (1) (b) above, the County Council shall –
- (a) interview all qualified applicants for the post, or
 - (b) select a shortlist of such qualified applicants and interview those included on the shortlist.

- (3) Where no qualified person has applied, the County Council shall make further arrangements for advertisement in accordance with sub-paragraph (1) (b) above.
- (4) The steps to be taken under paragraphs (1) or (2) above may be taken by a committee, subcommittee or chief officer of the County Council. Every appointment of a chief officer shall be made by the County Council or by a committee or subcommittee of the County Council.
- (5) For the purposes of this Rule, 'chief officer' includes the post of Chief Executive.

RULE 7 Recruitment and Appointment

- (1) Declarations:
 - (a) The County Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing county councillor or officer of the County Council; or of the partner of such persons.
 - (b) No candidate so related to a county councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.
- (2) Seeking support for appointment:
 - (a) The County Council will disqualify any applicant who directly or indirectly seeks the support of any county councillor for any appointment with the County Council. The content of this paragraph will be included in any recruitment information.
 - (b) No county councillor will seek support for any person for any appointment with the County Council.

[Note: A request for, and the provision of, a formal reference will not constitute seeking support for the purposes of this Rule.]

RULE 8
Appointment of Assistants for Political Groups

- (1) A political assistant appointed under Section 9 of the 1989 Act may only provide assistance to members of a political group in order to help them discharge their functions as members of the County Council.
- (2) The County Council will allocate a political assistant to each political group which qualifies for such a post under Section 9 of the 1989 Act, and the appointment of any person as a political assistant shall not take effect until such an allocation has been made.
- (3) The County Council shall not allocate a political assistant to any group which does not qualify for such a post, and shall not allocate more than one post to any one political group.
- (4) Unless the political group to which a post is allocated indicate that they are content that the terms and conditions of that post shall be less favourable than they would otherwise be, then those for each post allocated to political groups shall be the same.
- (5) Nothing in this Rule shall require a political group to make any appointment to a post allocated to them. However, where a group wishes an appointment to be made, and the post is vacant, the Chief Executive shall, in accordance with the wishes of that political group –
 - (i) place an advertisement on the County Council's website giving details of the post together with up to two advertisements in such newspapers or periodicals designated by that group;
 - (ii) make arrangements for meetings of such members of that group as the group nominate for the purpose of choosing a shortlist of and interviewing candidates for the post; and
 - (iii) appoint such person as that group shall indicate, on the terms and conditions as approved by the County Council.
- (6) A political assistant who fails to fulfil the requirements of his employment contract because of incapacity through ill health, repeated misconduct or gross misconduct shall be liable to dismissal in accordance with appropriate procedures. The political group will follow advice from the Head of Human Resources on the procedure to be used.

RULE 9
Procedure Regarding Dismissals

- (1) In this paragraph, 'dismissor' means, in relation to the dismissal of an officer of the County Council, the full County Council or, where a

committee, subcommittee or officer is discharging the function of dismissal on behalf of the County Council, that committee, subcommittee or officer, as the case may be.

- (2) Notice of the dismissal of an officer referred to in sub-paragraphs (a) (b) (c) or (d) of Rule 2 (2) above must not be given by the dismissor until –
- (a) the dismissor has notified the Chief Executive 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 Chief Executive has notified every member of the Executive 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 Chief Executive; and
 - (iii) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Executive to the Chief Executive; and
 - (c) either –
 - (i) the Leader has, within the period specified in the notice under sub-paragraph (b) (iii) above, notified the dismissor that neither he nor any other member of the Executive has any objection to the dismissal;
 - (ii) the Chief Executive has notified the dismissor that no objection was received by him 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.

RULE 10

The Role of Members in Disciplinary Action

Nothing in Rule 2 above shall prevent a member of the County Council (or other person) from –

- (a) serving as a member of any committee or subcommittee established by the County Council to consider an appeal by a member of staff of the

County Council against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

- (b) acting as a witness (if necessary) in any investigation or inquiry into alleged misconduct by an officer.

RULE 11

Disciplinary Action against Certain Employees

- (1) No action may be taken by the Employment Committee - except for suspension – relating to the dismissal of either the Head of the Paid Service, the Monitoring Officer or the Chief Financial Officer other than in accordance with The Local Authorities (Standing Order) (England) (Amendment) Regulations 2015) and as set out below.
- (2) In respect of the proposed dismissal of the Head of Paid Service, the Monitoring Officer or the Chief Financial Officer, the Employment Committee may appoint an Independent Investigating Officer (IIO) to examine the circumstances of the case and to advise the Committee on any action to be taken.
- (3) Where consideration is being given to the dismissal of the Head of Paid Service, the Monitoring Officer or the Chief Financial Officer a Panel (comprising an Advisory Committee established under section 102(4) of the Local Government Act 1972) will be set up which shall consist of three Independent Persons and which shall meet at least 20 working days before any meeting of the County Council at which any proposed dismissal is to be considered.
- (4) The Employment Committee will, having considered the advice of any Independent Investigating Officer appointed, make a recommendation to the Council for consideration, including any terms for cessation of employment.
- (5) Where a committee, subcommittee or officer is discharging, on behalf of the County Council, the function of the dismissal of an officer designated as the Head of Paid Service, as the Chief Financial Officer, or as the Monitoring Officer, the full County Council must approve that dismissal before notice is given to that person.
- (6) Any proposal to dismiss the Head of the Paid Service, the Monitoring Officer and the Chief Financial Officer may only be taken by the Council following consideration of
 - a. any advice, views or recommendations from the Panel set up under paragraph 3 above.
 - b. the conclusions of any investigation into the proposed dismissal : and
 - c. any representations from the officer concerned.

[end of Officer Employment Procedure Rules]

[Note. The following Procedure, which is set out here for the sake of completeness does not form part of the Officer Employment Procedure Rules.]

PROCEDURE FOR THE APPOINTMENT OF THE HEAD OF PAID SERVICE, CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS

This procedure sets out the arrangements for the appointment of the Head of Paid Service, Chief Officers and Deputy Chief Officers, in order to comply with Part 4H of the Constitution of the County Council – Officer Employment Procedure Rules – and the Local Authorities (Standing Orders) (England) Regulations 2001.

[Note – “Deputy Chief Officers” is defined as officers who in respect of all or most of their duties are required to report directly or are directly accountable to one or more of the statutory or non-statutory Chief Officers (excluding secretarial/ administrative/other support staff). For the purpose of this procedure, unless there is a formally designated Deputy Chief Officer, this is taken to mean all members of a Departmental Management Team.]

Head of Paid Service

- 1 The appointment has to be made by the full County Council following a recommendation from an Appointment Committee.*
- 2 The selection process up to and including the making of a recommendation is carried out by an Appointment Committee established for that purpose by the Council. The Chief Executive has delegated power to appoint such a committee where it is not practical to wait until the next meeting of the Council. At least one member of the Cabinet must be a member of the Appointment Committee.*
- 3 When the Appointment Committee has made its recommendation, it must immediately notify the Head of Human Resources of the name of the recommended appointee and any other particulars which they consider are relevant to the appointment.*
- 4 The Head of Human Resources will notify every member of the Cabinet who was not a member of the Appointment Committee of the name of the recommended appointee and any other particulars which the Committee considers are relevant. Notification may be by telephone, fax or email. The Head of Human Resources will give them 24 hours within which to indicate whether they have any objection to the recommended appointee.*

- 5 *If an objection is made, the Head of Human Resources will advise the Leader immediately. The Leader will need to speak to the objector to clarify the nature of the objection. If the Leader does not consider the objection to be well-founded he/she may seek to persuade him/her to withdraw his/her objection, but cannot insist on that. The Leader will then advise the Head of Human Resources of the outcome of these discussions.*
- 6 *The recommendation can be taken forward when the time period has passed and either no objections have been lodged, any objections have been withdrawn or the Appointment Committee is satisfied that any remaining objection is not material or well-founded.*
- 7 *If the Appointment Committee is satisfied that an objection received within the 24-hour period is material and well-founded the recommendation cannot be made and the Appointment Committee would have to decide what action to take. This could include considering another recommendation or restarting the process. Note – the recommended appointee would be entitled to see the grounds of objection if he or she asked*
- 8 *A report containing a recommendation of the Appointment Committee will be prepared and presented to the Council by the Chairman of the Committee for a decision.*

Chief Officers

- 9 *The appointment is made by an Appointment Committee established in accordance with paragraph 2 above. The procedure set out in paragraphs 3-7 above applies. The offer of appointment can be made when the position described in paragraph 6 above has been reached.*

Deputy Chief Officers

- 10 *The appointment is an officer appointment and is made by the Chief Executive or his nominee (the appointer). When the appointer has formed a view who he or she wishes to appoint, the procedure set out in paragraphs 3-7 above will apply, but references to the Appointment Committee should be read as references to the officer responsible for the appointment. The offer of appointment can be made when the position described in paragraph 6 above has been reached.*

[end of Note]