

(9) Officer Employment Procedure Rules

1. Recruitment and appointment

(a) Declarations

- i) The 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 councillor or officer of the Council; or of the partner of such persons.
- ii) Every member and Chief Officer or Deputy Chief Officer of the Council shall disclose to the Assistant Chief Executive any relationship known to him or her to exist between himself or herself and any person known to be a candidate for an appointment under the Council. The Assistant Chief Executive shall report to the members or Chief Officer responsible for making the appointment details of the disclosure.
- iii) No candidate so related to a councillor or an officer will be appointed without the authority of the Assistant Chief Executive and relevant chief officer and another chief officer or officers nominated by them.

(b) Seeking support for appointment

- i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- ii) Subject to paragraph (iii), no councillor will seek support for any person for any appointment with the Council.
- iii) Nothing in paragraphs i) and ii) above will preclude a councillor from giving a reference for a candidate for submission with an application for appointment.

2. Recruitment of head of paid service and chief officers

Where the Council proposes to appoint a chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council 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 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 paragraph (1) to be sent to any person on request.

3. Appointment of head of paid service

(a) The full council will approve the appointment of the head of paid service following the recommendation of such an appointment by a committee or sub-committee of the Council. That committee or sub-committee must include at least one member of the Cabinet.

(b) The full Council may only make or approve the appointment of the head of paid service where no well-founded objection has been made by any member of the Cabinet.

4. Appointment of chief officers and deputy chief officers

(a) A committee or sub-committee of the Council will appoint chief officers and deputy chief officers. That committee or sub-committee must include at least one member of the Cabinet.

(b) An offer of employment as a chief officer or deputy chief officer shall not be made if an objection is received from a member of the Cabinet which is well founded in the opinion of the Chief Executive or the Monitoring Officer.

(c) A deputy chief officer means a person who, as respects all or most of the duties of his/her post, is required to report directly or is directly accountable to a chief officer.

(Note: Authority has been delegated to the Chief Executive to: (1) appoint to Assistant Director posts where there is no competitive process; and (2) in consultation with Group Leaders, to make temporary appointments to Chief Officer and Assistant Director roles)

5. Other appointments

(a) **Officers below deputy chief officer.** Appointment of officers below deputy chief officer (other than assistants to political groups) is the responsibility of the head of paid service or his/her nominee, and may not be made by councillors.

(b) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group if such an appointment is made.

6. Disciplinary action

- (i) Disciplinary procedures should be handled as quickly as possible, subject to the need to investigate thoroughly. Informal conciliation is preferred to formal procedures if it can bring about a mutually agreed solution.
- (ii) Where an allegation is made against the Monitoring Officer or the Chief Finance Officer, the Head of Paid Service, or in the case of the Head of Paid Service, the Chair of the Governance Committee, will decide whether to:
 - a) take no action; or
 - b) agree an informal course of action; or
 - c) take formal action with the consent of the employee; or
 - d) refer the matter to the Investigating and Disciplinary Committee (IDC)

the Governance Committee will, as a term of reference of the Governance Committee, act as the IDC. The IDC must be politically balanced and must include at least one member of Cabinet.

If the statutory officer does not agree any proposed informal course of action and/or if it is decided to refer the matter to the IDC, the Head of Paid Service, or the Chair of the Governance Committee, as appropriate, will decide whether to suspend and will have authority to suspend if it is considered appropriate. This may be necessary, for example, if an allegation is such that if proven it would amount to gross misconduct or if the Statutory Officer's continuing presence at work might compromise the investigation or impair the efficient exercise of the Council's functions. If it is decided that the Statutory Officer should be suspended, the Statutory Officer will be informed in writing of this and of the reason for the suspension without delay and shall have the right to present information before such a decision is made.

- (iii) Where an allegation is made, the Head of Human Resources and Organisation Development will write to the Statutory Officer to invite the Statutory Officer to an IDC investigative meeting within 10 working days of the meeting. The invitation should set out the allegation(s)/issues, and provide any evidence to be considered. The invitation will also invite the Statutory Officer to submit a written response to the IDC not less than 5 working days before the meeting.
- (iv) Following the investigative meeting, the IDC will determine the course of action to be either:
 - a) no further action required; or

- b) informal, un-recorded warning given; or
 - c) an Independent Investigator to be appointed to investigate the allegations and report to the IDC with their findings and recommendations.
- (v) The Chair of the IDC will confirm the outcome of the investigative meeting in writing to the Statutory Officer without delay.
- (vi) If the IDC decides to appoint an Independent Investigator, a list of suitably qualified individuals is provided by the JNC Joint Secretaries and the Statutory Officer may choose from the list provided. If genuine conflicts of interest are raised these will be considered by the IDC but if the Statutory Officer does not agree within 14 days, the IDC should be free to appoint their choice from the list.
- (vii) The Independent Investigator will conduct an investigation and produce a written report to the IDC:
- a. Stating in his/her opinion whether (and if so, the extent to which) the evidence he/she has obtained supports the allegation of misconduct or other issue under investigation; and
 - b. Recommending any disciplinary action or range of actions (if any) which appear to him/her to be appropriate for the authority to take against the Statutory Officer.
- (viii) Where the Statutory Officer is suspended, the suspension should be reviewed by the Chair of the IDC after two months, and only continued following consultation with the Independent Investigator. The Chair of the IDC should confirm the outcome of the review in writing to the Statutory Officer without delay and after taking into account any representations made by the Statutory Officer.
- (ix) If the Independent Investigator considers that there is a case to answer, the Head of Human Resources and Organisation Development will arrange a hearing in accordance with the Code of Practice on Disciplinary and Grievance Procedures and invite the Statutory Officer to attend, giving at least 10 working days' notice including any associated paperwork from the Independent Investigator. The Statutory Officer has a right to be accompanied in the normal way. Any written response to the documents provided by the Independent Investigator should be received from the Statutory Officer at least 5 working days' in advance of the hearing.
- (x) At the hearing, the Independent Investigator should present their findings, including calling any witnesses they may wish to. After this presentation, the Statutory Officer may ask questions. The Statutory Officer will then have the opportunity to present their case and call any witnesses.
- (xi) The IDC will then consider which of the following outcomes is appropriate:
- a) no further action; or

- b) refer back to the Independent Investigator for further investigation and report; or
- c) disciplinary action short of dismissal or other appropriate procedure; or
- d) recommend dismissal.

If the IDC decide on disciplinary action short of dismissal then the Statutory Officer will have the right of appeal. Appeals should be heard by an Appeals Committee, drawn from Full Council, and which will be a politically balanced committee of normally 5 members who were not part of the IDC. The appeal must be submitted in writing within 10 working days' of the hearing. Full details setting out the grounds of appeal must be provided.

- (xii) Where the IDC propose dismissal, the IDC will inform the Proper Officer that it is proposing to the Council that the Statutory Officer be dismissed. In the case of any proposal to dismiss the Head of Paid Service, the Proper Officer will be the Monitoring Officer and in all other cases, the Proper Officer will be the Head of Paid Service. The Proper Officer should then notify all members of the Council of:

- a. The fact that the IDC is proposing to the Council that it dismisses the Statutory Officer.
- b. Any other particulars relevant to the dismissal.
- c. The period by which any objection to the dismissal is to be made by the Leader to the Proper Officer.

- (xiii) At the end of this period, the Proper Officer will inform the IDC either:
 - a. That the Leader has notified him/her that neither he/she nor any member of the Cabinet has any objection to the dismissal.
 - b. That no objections have been received from the Leader, or
 - c. That an objection or objections have been received and provide details of the objections.

- (xiv) The IDC will consider any objections and satisfy itself as to whether any of the objections are both material and well founded. If there are any material and/or well founded objections to the proposal to dismiss the IDC will consider the impact of any objections on the decision and commission further investigation by the Independent Investigator and report if required. If there is no material and/or well founded objections to the proposal to dismiss, the IDC will inform the Statutory Officer of this decision. Thereafter, the IDC will put the proposal to recommend dismissal to an Independent Panel (IP) that should be convened, giving at least 5 working days' notice to all concerned. The IP members must be appointed to the IP at least 20 working days before the Full Council meeting at which it considers whether to approve a proposal to dismiss.

- (xv) The IP should comprise two or more relevant Independent Persons who accept the invitation in the following priority order:

- a) an Independent Person who has been appointed by the council and who is a local government elector in the authorities area;
- b) any other Independent Person who has been appointed by the council; and
- c) an Independent Person who has been appointed by another council or councils.

The IP members will be appropriately supported on matters of process and compliance with employment law..

- (xvi) The role of the IP is to offer any advice, views or recommendations it may have to the Council on the proposal for dismissal. The IP will receive the IDC proposal and reasons in support of the proposal, the report of the Independent Investigator and representations (oral and/or written) from the Statutory Officer and their representative. Any written response to the proposal to dismiss, including the Independent Investigator's report should be received by the IP from the Statutory Officer at least 5 working days' before the IP meeting. The IDC should be represented by its Chair or other nominated person at the IP meeting. The Independent Investigator may also be invited to attend the IP meeting to provide clarification if required. Members of the IP may ask questions of either party who have been given reasonable opportunity to be present or represented. While representations may be made, the IP will not conduct a rehearing of the evidence.
- (xvii) The IP should then formulate any advice, views or recommendations it wishes to present to the Council. If the IP is recommending any course of action other than that the Council should approve the dismissal, then it should give clear reasons for its point of view.
- (xviii) Where dismissal is recommended, Full Council must consider the proposal and reach a decision before notice of dismissal is issued. The Statutory Officer will be provided with all relevant papers or documents in advance of the meeting and will be allowed to attend (and be accompanied by their representative) and put forward his/her case before a decision is reached. Written representations may also be given by the Statutory Officer in advance of the meeting. The Independent Investigator may also be invited to attend.
- (xix) Full Council will consider which of the following outcomes is appropriate:
 - a) Approve dismissal; or
 - b) Reject the proposal to dismiss; or
 - c) Substitute a lesser sanction; or
 - d) Refer the matter back to the IDC to determine such appropriate lesser sanction
- (xx) No notice of dismissal shall be given until the decision has been approved by Full Council.

- (xxi) Where the IDC has made a proposal to dismiss, the hearing by Full Council will also fulfil the appeal function.
- (xxii) Any discussion at the Full Council or the Governance Committee under these rules regarding an individual officer would be conducted under the exempt part of the meeting.
- (xxiii) Where an allegation is made against the Head of Paid Service, Monitoring Officer or Chief Finance Officer (Statutory Officers) relating to conduct or capability or some other substantial issue that requires investigation, the matter will be considered by the Governance Committee.
- (xxiv) The Governance Committee will consider and action suspension, where appropriate. Any suspension must not last longer than two months, unless an extension is recommended by a suitably qualified and independent Investigator.
- (xxv) For the purposes of the 2015 regulations, the Governance Committee will operate as the Panel (including two or more independent non-voting persons who have accepted the invitation).
- (xxvi) The Panel will include two or more independent non-voting persons who accept the invitation in the following priority order:
- (a) a relevant independent person who has been appointed by the council and who is a local government elector;
 - (b) any other independent person who has been appointed by the council; and
 - (c) an independent person who has been appointed by another council or councils.
- (xxvii) At the relevant time, the Committee will consider whether potential disciplinary/dismissal issues require investigation and whether the relevant officer should be suspended. In this regard the authority must ensure that the Panel is in place at least 20 working days before the meeting at which it considers whether to approve a proposal to dismiss.
- (xxviii) The Governance Committee will inform the relevant officers of the allegations, and allow him/her to respond in writing and in person. The Governance Committee will then decide whether no further action is required or that the matter requires an investigation by a suitably qualified and independent person and the Committee will use its best endeavours to agree this person with the officer.
- (xxix) The Panel will review the results of the investigation to consider what action if any is appropriate, after hearing the views of the relevant officer, and report its recommendations. The independent persons must express

their views but do not have a vote on whether the case should progress to full Council to consider dismissal.

- (xxx) Where dismissal is recommended, the Panel will provide advice, views or recommendations to Full Council for the authority to vote on whether it approves the proposal to dismiss. The relevant officer will be provided with all relevant papers or documents in advance of the meeting and allowed to make their representations. Written representations may also be given by the relevant officer in advance of the meeting.
- (xxxi) No notice of dismissal shall be given until the matter has been referred to the full Council for approval.
- (xxxii) In relation to an appeal, as the authority has approved the dismissal, there is no one in the authority who has the power to overturn the dismissal decision. In this respect and as set out above, the relevant officer will have the opportunity to make representations to the Panel before any dismissal recommendation is made and thereafter at full Council.
- (xxxiii) Any discussion at the Full Council or the Governance Committee under these rules regarding an individual officer would be conducted under the exempt part of the meeting