

Part 4H: Officer Employment Procedure Rules

Table of Contents

- 1. Recruitment and appointment2
- 2. Recruitment of Chief Executive and Chief Officers2
- 3. Appointments and Dismissals2
- 4. Director of Public Health.....5
- 5. Other Officers6
- 6. Disciplinary Action7
- 7. Appeals7
- 8. Appointment of Political Assistants.....8

Officer Employment Procedure Rules

1. Recruitment and appointment

- 1.1 The Council has drawn up procedures which include a requirement that any candidate for an appointment as an officer must state in writing whether they have **any** relationship with any councillor or officer of the Council;
- 1.2 No candidate so related to a Councillor or a senior officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by the Chief Officer.
- 1.3 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.
- 1.4 No Councillor will seek support for any person for any appointment with the Council.

2. Recruitment of Chief Executive and Chief Officers

Where the Council proposes to appoint a Chief Executive or 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 including the following:
 - (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 procedures mentioned in paragraph (1) to be sent to any person on request.

3. Appointments and Dismissals

- 3.1 In this paragraph –

“the Committee” means the Chief Officer Appointments Committee.

“Statutory Officers” means the Head of Paid Service, the Chief Finance Officer, the Monitoring Officer and the Data Protection Officer.

“the proper officer” means the Head of Legal and Democratic Services

“relevant independent persons” means any independent person who has been appointed by the authority under s28(7) of the Localism Act 2011 or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.

- 3.2 The appointment and dismissal of the Chief Executive, Chief Officers and any assistant for political groups (appointed in pursuance of Section 9 of the Local Government Housing Act 1989) is the responsibility of the Committee, subject to paragraph e) which sets out the procedure to be followed for the dismissal of a Statutory Officer as defined in this Paragraph.
- 3.3 At least one member of the Executive must be a member of the Committee.
- 3.4 Where the Committee is proposing to appoint the Chief Executive, the County Council must approve that appointment before the offer of appointment is made.
- 3.5 The Committee shall not make an offer of appointment in relation to any of the Statutory Officers (apart from an assistant for political groups) until;
 - (a) The Committee has notified the proper officer of the name of the person to whom the Committee wishes to make the offer and any other particulars which the Committee considers are relevant to the appointment;
 - (b) The proper officer has notified every member of the Executive of the authority of:
 - (i) The name of the person to whom the Committee wishes to make the offer;
 - (ii) Any other particulars relevant to the appointment which the Committee 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 to the proper officer; and
 - (c) Either:

- (i) The Executive Leader has, within the period specified, notified the Committee that neither they nor any other member of the Executive has any objection to the making of the offer;
- (ii) The proper officer has notified the Committee that no objection was received by them within that period from the Executive Leader; or
- (iii) The Committee is satisfied that any objection received from the Executive Leader within that period is not material or is not well-founded.

3.6 A Statutory Officer may not be dismissed unless the following procedure is complied with;

- (a) The Council must invite relevant independent persons to be considered for appointment to the Committee, with a view to appointing at least two such persons to the Committee.
- (a) The Council must appoint to the Committee such relevant independent persons who have accepted an invitation issued in accordance with the following priority order
 - (i) A relevant independent person who has been appointed by the Council and who is a local government elector
 - (ii) Any other relevant independent person who has been appointed by the Council
 - (iii) A relevant independent person who has been appointed by another authority or authorities.
- (b) The Council is not required to appoint more than two relevant independent persons but may do so.
- (c) The Committee must convene at least 20 working days before a meeting of the Full Council to consider whether or not to approve a proposal to dismiss a statutory officer.
- (d) Before the taking of a vote at a meeting of the Full Council on whether or not to approve such a dismissal, the Council must take into account, in particular –
 - (i) Any advice, views or recommendations of the Committee;
 - (ii) The conclusions of any investigation into the proposed dismissal; and
 - (iii) Any representations from the Statutory Officer

- (e) Any remuneration, allowances or fees paid by the Council to an independent person appointed to the Committee must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as an independent person under the Localism Act 2011.
- 3.7 Notice of the dismissal of an officer named in (a) above must not be given by the Committee until –
- (a) The Committee has notified the proper officer of the name of the person who the Committee wishes to dismiss and any other particulars which the Committee considers are relevant to the dismissal;
 - (b) The proper officer has notified every member of the Executive of the Authority of:
 - (i) The name of the person who the Committee wishes to dismiss;
 - (ii) Any other particulars relevant to the dismissal which the Committee 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 to the proper officer; and
 - (c) Either –
 - (i) The Executive Leader has, within the period specified, notified the Committee that neither they nor any other member of the Executive has any objection to the dismissal;
 - (ii) The proper officer has notified the Committee that no objection was received by them within that period from the Executive Leader; or
 - (iii) The Committee is satisfied that any objection received from the Executive Leader within that period is not material or is not well-founded.
- 3.8 Where a member of the Executive attends the Committee set up to deal with a particular appointment or dismissal then such attendance shall constitute notice of and compliance with the requirements of 3.5 and 3.6 above.

4. Director of Public Health

- 4.1 The appointment of the Director of Public Health who is appointed in pursuance of Section 73A(7) of the National Health Service Act 2006 (inserted by section 30 of the Health and Social Care Act 2012) is the responsibility of

the Chief Officer Appointments Committee acting as the Advisory Appointments Committee, subject to the approval of the appointment by the Secretary of State for Health.

- 4.2 The Committee will be chaired by the cabinet member of the Health and Wellbeing Board and also include the following:
- (a) An external professional assessor appointed after consultation with the Faculty of Public Health and agreed by Public Health England;
 - (b) The chief executive of the Council or their nominated deputy;
 - (c) Senior NHS representation;
 - (d) The Public Health England Regional Director, or another senior professionally qualified member of Public Health England acting on their behalf;
 - (e) And in the case of appointments to posts which have either teaching or research commitments, or both, the committee should also include a professional member nominated after consultation with the relevant university.
- 4.3 Under the current Faculty of Public Health guidance, the overall balance on the Committee is required to have a local and a professional majority.
- 4.4 The Council is required to seek advice and recommendations from Public Health England on the membership of the Committee, including the assessor. It is for the council to decide whether both a medical assessor and non-medical assessor are required.
- 4.5 Assessors must be geographically distant and will normally be from outside the area of the Public Health England Unit where the post is being advertised to maximise objective assessment.
- 4.6 The Council will advise the Secretary of State for Health of their preferred candidate and confirmation of their professional competence, compliance with statutory regulation and necessary registration to undertake the role.
- 4.7 The Advisory Appointments Committee may terminate the appointment of the Director of Public Health following prior consultation with the Secretary of State for Health.

5. Other Officers

- 5.1 Appointment and dismissal of officers below Chief Officer is the responsibility of the Chief Executive or their nominee, and may not be undertaken by councillors.
- 5.2 Councillors will not be involved in disciplinary action against any officer below Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct or where the Council's

disciplinary, capability and related procedures, as adopted from time to time, allow a right of appeal to Members.

6. Disciplinary Action

6.1 In this paragraph –

“disciplinary action” includes proposed dismissal for any reason other than redundancy, permanent ill-health or failure to renew a fixed term contract, planned retirement and early retirement and unsatisfactory probationary periods.

6.2 Written Procedures

- (a) Disciplinary action against Chief Officers and against the Data Protection Officer and the Monitoring Officer will be taken in accordance with the County Council’s Chief Officer Procedures, subject to paragraph 1(e).
- (b) Disciplinary action against all other officers will be taken in accordance with the County Council’s Local Disciplinary Policy Procedure and Toolkit.

6.3 Suspension

An officer named in 5.1 above and the Monitoring Officer may be suspended whilst an investigation takes place into alleged misconduct. The suspension will be on full pay.

7. Appeals

None of the above shall prevent a Councillor serving as a member of an appeals committee or body established to consider an appeal by:

- (a) any person against any decision relating to the appointment of that 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 unless the dismissal relates to a capability issue, misconduct, some other substantial reason, some other statutory enactment or planned retirement where the member of staff has less than six months’ notice – in these instances the appeal shall be conducted by a senior officer.

8. Appointment of Political Assistants

For the purposes of Section 9(2)(d) of the Local Government and Housing Act 1989 (the 1989 Act):

- (a) no appointment shall be made to any post allocated to a political group until the Council has allocated a post to each of the groups which qualify for one;
- (b) no political group shall be allocated a post unless it qualifies for one under the 1989 Act; and
- (c) no political group shall be allocated more than one post.