

**PART 4
RULES OF PROCEDURE**

8. EMPLOYMENT PROCEDURE RULES

These Procedure Rules are Standing Orders made under the Local Authorities (Standing Orders) (England) Regulations 2001, Local Authorities (Standing Orders) Regulations 1993 & Local Authority (Standing Orders) (England) (Amendment) Regulations 2015 & Local Government and Housing Act 1989.

Role of Chief Executive

1. The functions of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the Officer designated under section 4(1) of the 1989 Act (designation and reports of Chief Executive) as the Head of the Authority's Paid Service or by an Officer nominated by him/her (and not by Members of the Council, except in accordance with Rule 8).

The Chief Executive has nominated all Directors, Assistant Directors and Heads of Service as Officers who can carry out on his/her behalf the functions of appointment and dismissal of, and taking disciplinary action against, a Member of staff, under Rule 1.

2. Rule 1 shall not apply to the appointment or dismissal of, or disciplinary action against those officers designated as Chief Officers: which shall include -
 - (a) the Officer designated as the Head of Paid Service;
 - (b) a statutory Chief Officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
 - (c) a non-statutory Chief Officer within the meaning of section 2(7) of the 1989 Act;
 - (d) a person appointed in pursuance of section 9 of the 1989 Act (assistants for Political Groups); or
 - (e) a person appointed in pursuance of regulations under paragraph 6 of Schedule 1 to the Local Government Act 2000 (Mayor's Assistant).

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3. Recruitment and Appointment of all Officers

(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 the Mayor, or Officer of the Council or of the partner of such persons.
- (ii) No candidate so related to a Councillor or the Mayor or an Officer, or of a partner of such persons, shall be appointed without the authority of the relevant Chief Officer of the Council.

(b) Seeking Support for Appointment

- (i) Subject to paragraph (iii) below, the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor or the Mayor for any appointment with the Council. The content of this paragraph (or words to similar effect) will be contained in any recruitment information.
- (ii) Subject to paragraph (iii) below, no Councillor nor the Mayor will seek to support any person for appointment with the Council.
- (iii) Nothing in this Rule will prevent a Councillor or the Mayor from giving a written reference for a candidate for submission in connection with an application for appointment.

4A. Recruitment of Chief Officers

- 4A.1 Where the Council proposes to appoint a Chief Officer (as defined by Rule 2 above), and it is not proposed that the appointment will be made exclusively from among their existing Officers, the Council will:

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- (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 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 (a)(i) to be sent to any person on request.
- 4A.2 Where a post has been advertised as provided in Procedure Rule 4.1(b), the Authority shall-
- (a) interview all qualified applicants for the post, or
 - (b) select a short list of such qualified applicants and interview those included on the short list.
- 4A.3 Where no qualified person has applied, the authority shall make further arrangements for advertisement in accordance with Rule 4.1(b).
- 4A.4 Every appointment of a Chief Officer (as defined by Rule 2) shall be made by the Authority and the Chief Officer Appointments Committee (COAC), where at least one member of the appointed panel will be a member of the Executive, shall discharge that function.
- 4B. Recruitment of all Other Officers**
- 4B1 Where the Council proposes to recruit an officer other than as defined in Rule 2 above then the Council shall only recruit in accordance with its policies relating to Recruitment that it may have in place at any one time.

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5A. Appointment and Dismissal of Chief Officers and Deputy Chief Officers

5A.1 In this Rule, "appointor" means, in relation to the appointment of a person as an Officer of the authority, the authority or, where a Committee, Sub-Committee or Officer is discharging the function of appointment on behalf of the authority, that Committee, Sub-Committee or Officer, as the case may be.

5A.2 An offer of an appointment as :-

- (a) the Officer designated as the Head of Paid Service;
- (b) a statutory Chief Officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
- (c) a non-statutory Chief Officer within the meaning of section 2(7) of the 1989 Act;
- (d) a Deputy Chief Officer within the meaning of section 2(8) of the 1989 Act;

must not be made by the appointor until -

- (a) the appointor has notified the Proper Officer 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 the authority 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 Proper Officer; and
 - (iii) the period within which any objection to the making of the offer is to be made by the Elected Mayor on behalf of the Executive to the Proper Officer; and

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- (c) either -
 - (i) the Elected Mayor has, within the period specified in the notice under Sub-paragraph (b)(iii), notified the appointor that neither he/she nor any other Member of the Executive has any objection to the making of the offer;
 - (ii) the Proper Officer has notified the appointor that no objection was received by him/her within that period from the Elected Mayor; or
 - (iii) the appointor is satisfied that any objection received from the Elected Mayor within that period is not material or is not well-founded.

5A.3 In this Rule, "dismissor" means, in relation to the dismissal of an Officer of the authority, the authority or, where a Committee, Sub-Committee or another Officer is discharging the function of dismissal on behalf of the authority, that Committee, Sub-Committee or other Officer, as the case may be.

5A.4 Notice of the dismissal of

- (a) the Officer designated as the Head of Paid Service;
- (b) a statutory Chief Officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
- (c) a non-statutory Chief Officer within the meaning of section 2(7) of the 1989 Act;
- (d) a Deputy Chief Officer within the meaning of section 2(8) of the 1989 Act;

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;

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- (b) the Chief Executive has notified every Member of the Executive of the authority 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 Proper Officer; and
 - (iii) the period within which any objection to the dismissal is to be made by the Elected Mayor on behalf of the Executive to the Proper Officer; and
- (c) either -
 - (i) the Elected Mayor has, within the period specified in the notice under Sub-paragraph (b)(iii), notified the dismissor that neither he/she 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/her within that period from the Elected Mayor; or
 - (iii) the dismissor is satisfied that any objection received from the Elected Mayor within that period is not material or is not well-founded.

5B Appointment and dismissal of Officers other than Chief Officers and Deputy Chief Officers

- 5B.1 Where the Council proposes to appoint or dismiss an officer other than as defined in Rule 5A above then the Council shall only appoint or dismiss in accordance with its policies relating to Appointment and Dismissal that it may have in place at any one time.

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6. Additional Rule in Relation to Appointment of Chief Executive

Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment of an officer designated as the Chief Executive (head of the authority's paid service), the authority must approve that appointment before an offer of appointment is made to that person.

7. Discipline of the Chief Executive, Monitoring Officer and Chief Finance Officer

7.1 Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the dismissal of an officer designated as the head of the authority's paid service, as the authority's chief finance officer, or as the authority's monitoring officer, the authority must approve that dismissal before notice of dismissal is given to that person.

- 7.2
- (a) 'the 2011 Act' means the Localism Act 2011
 - (b) 'Chief finance officer', 'disciplinary action', 'head of the authority's paid service' and 'monitoring officer' have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001
 - (c) 'independent person' means a person appointed under s28(7) of the 2011 Act;
 - (d) '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 Peoples Acts;
 - (e) 'the Panel' means a committee appointed by the authority under s102(4) of the Local government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;
 - (f) 'relevant officer' means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer;
and
 - (g) 'relevant officer' means the chief finance officer, head of the authority's paid service or monitoring officer, as the case may be.

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

7.4 The authority must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.

- 7.5 In paragraph 7.4 'relevant independent person' means any independent person who has been appointed by the authority 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.
- 7.6 Subject to paragraph 7.7, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 7.4 in accordance with the following priority order-
- (a) a relevant independent person who has been appointed by the authority and who is a local government elector;
 - (b) any other relevant independent person who has been appointed by the authority;
 - (c) a relevant independent person who has been appointed by another authority or authorities;
- 7.7 An authority is not required to appoint more than two relevant independent persons in accordance with paragraph 7.6 but may do so.
- 7.8 The authority must appoint any Panel at least 20 working days before the relevant meeting.
- 7.9 Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular-
- (a) any advice, views or recommendations of the Panel;
 - (b) the conclusions of any investigation into the proposed dismissal; and
 - (c) any representation from the relevant officer.
- 7.10 Any remuneration, allowances, or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the 2011 Act.

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8. Additional Rules in Relation to Appointment of Political Assistants

- (a) no appointment of a Political Assistant to a Political Group shall be made until such posts have been allocated to all Political Groups which qualify,
- (b) no Political Assistant will be allocated to a Political Group which does not qualify for one,
- (c) nor shall more than one Political Assistant be allocated to a Political Group,
- (d) notwithstanding Rule 8(a)-(c) a Political Assistant to the Mayor may be appointed at any time. The Mayor must notify the Council in writing of the name, and terms and conditions of any Political Assistant so appointed.
- (e) the prohibition on the involvement of Members of the Council in the appointment of Officers does not apply to the appointment of Political Assistants.

9. Appeal Committees

Nothing in Rule 1 shall prevent a person from serving as a Member of any Committee or Sub-Committee established by the authority to consider an appeal by -

- (a) another person against any decision relating to the appointment of that other 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.

10. Definitions

In these Rules:

"the 1989 Act" means the Local Government and Housing Act;

"the 2000 Act" means the Local Government Act 2000;

"disciplinary action" has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;

"Elected Mayor" and "Executive" have the same meaning as in Part II of the 2000 Act;

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"Member of staff" means a person appointed to or holding a paid office or employment under the authority; and

"Proper Officer" means an Officer appointed by the authority for the purposes of the provisions in this Part (the Officer appointed is the Chief Executive).

Statutory and Guidance References

Local Government Act 1972 s112 and Schedule 12

Local Government and Housing Act 1989 s.7

1963 Model Standing Orders - Proceedings and Business of Local Authorities

Local Authority (Standing Orders) (England) (Amendment) Regulations 2015

Local Authority (Standing Orders) (England) Regulations 2001

Local Authority (Standing Orders) Regulations 1993