

Employee Employment Procedure Rules

1 Recruitment and appointment

1.1 Declarations

(a) The Council will draw up a statement requiring any candidate for appointment as an employee to state in writing whether he/she is the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or employee of the Council; or of the partner of such persons.

(b) No candidate so related to a Councillor or an employee will be appointed without the authority of the relevant Senior Manager or an employee nominated by him/her.

1.2 Seeking support for appointment

(a) 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.

(b) No Councillor will seek support for any person for any appointment with the Council.

1.3 Recruitment of Head of Paid Service and Senior Managers

Where the Council proposes to appoint a Senior Manager and it is not proposed that the appointment be made exclusively from among their existing employees, the Council will:

1.3.1 draw up a statement specifying:

- (a) the duties of the employee concerned; and
- (b) any qualifications or qualities to be sought in the person to be appointed;

1.3.2 make arrangements for the post to be advertised in such way as is likely to bring it to the attention of persons who are qualified to apply for it; and

1.3.3 make arrangements for a copy of the statement mentioned in paragraph 1.3.1 to be sent to any person on request.

1.4 Appointment of Head of Paid Service, Section 151 Officer, Monitoring Officer and Strategic Directors

1.4.1 The Council will appoint the Head of Paid Service, Section 151 Officer, Monitoring Officer and Strategic Director following the recommendation of a Special Appointment Committee of the Council.

1.4.2 The Council may only approve the appointment of the Head of Paid Service, Section 151 Officer, Monitoring Officer and Strategic Directors where no well-founded objection has been made by any Cabinet Member.

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1.5 Appointment of Directors and Service Directors

- 1.5.1 A Special Appointment Committee of the Council will appoint Directors and Service Directors
- 1.5.2 An offer of employment as a Director or Service Director shall only be made where no well-founded objection has been made by any Cabinet Member.

1.6 Special Appointment Committees

- 1.6.1 A Special Appointment Committee will be established to appoint the Head of Paid Service, Section 151 Officer, Monitoring Officer and Strategic Directors on a politically balanced basis and will usually comprise the Leader and Deputy Leader of the Council, any appropriate Cabinet Member, the Cabinet Member with lead responsibility for Human Resources and their opposition counterparts or their substitutes. The recommendation of the Special Appointments Committee must be confirmed by Full Council.
- 1.6.2 The Special Appointment Committee for any other Director or Service Director will be established on a politically balanced basis and will usually comprise the appropriate Cabinet Member, Opposition counterpart, Lead Councillor and Opposition Lead Councillor of the appropriate Scrutiny Panel or their substitutes.
- 1.6.3 Any Special Appointment Committee will be representative in terms of race, gender and disability wherever possible and have completed unconscious biased training.
- 1.6.4 Any Special Appointment Committee will follow the procedure required by the Local Authorities (Standing Orders) (England) Regulations 2001 (“the Regulations”) as amended by The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.
- 1.6.5 The Director of Governance will be the Proper Officer for the purposes of the Regulations. If that post is vacant then the Head of Paid Service will be the Proper Officer.
- 1.6.6 Any Special Committee established for the purposes of disciplinary action of the Head of Paid Service, the Monitoring Officer or the Section 151 Officer will follow the procedure required by the Local Authorities (Standing Orders) (England) Regulations 2001 (“the Regulations”) as amended by The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

1.7 Other appointments

- 1.7.1 Employees **below** Service Director.

Appointment of employees below Service Director (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.

- 1.7.2 Assistants to political groups. Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

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Post	Appointment	Conditions
Head of Paid Service	Special Appointment Committee	Requires approval of Full Council
Monitoring Officer	Special Appointment Committee	Requires approval of Full Council
Section 151 Officer	Special Appointment Committee	Requires approval of Full Council
Strategic Directors	Special Appointment Committee	Requires approval of Full Council
Directors	Special Appointment Committee	Report to Cabinet Resources for information
Service Directors	Special Appointment Committee	Report to Cabinet Resources for information
Posts below Service Director	In accordance with the Council's Human Resources Policies and Procedures	In accordance with the Council's Human Resources Policies and Procedures
Political Assistants	Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group	

2. DISCIPLINARY ACTION

2.1 Disciplinary action against the Head of Paid Service, Monitoring Officer and 151 Officer

2.1.2 Special Committees will be established and their proceedings will be regulated as set out in paragraphs 1.6.1 to 1.6.4 of these Rules.

2.1.3 The Head of Paid Service, Monitoring Officer and Section 151 Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and will terminate no later than the expiry of two months beginning on the day on which the suspension takes effect unless notice is given to extend the period of suspension.

2.2. Disciplinary action against other employees

2.2.1 Councillors will not be involved in disciplinary action against any employee below Service Director except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time.

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3. Dismissal of Head of Paid Service, Strategic Directors, Directors and Service Directors

- 3.1 The Council will only dismiss the Head of Paid Service, Monitoring Officer and Section 151 Officer following the recommendation of an Independent Panel. The Council may only approve the dismissal of the Head of Paid Service, Monitoring Officer and Section 151 Officer where no well-founded objection has been made by any Cabinet Member.
- 3.2 Dismissal of all other Strategic Directors, Directors and Service Directors will follow the Council's Disciplinary Policy and Procedure
- 3.3 The Council must appoint an Independent Panel (the Panel) under Section 102(4) of the Local Government Act 1972 to advise the Council on matters relating to the dismissal of the Head of Paid Service, Monitoring Officer and Section 151 Officer.
- 3.4 The Panel must comprise of at least two Independent Persons appointed under section 28(7) of the Localism Act 2011.
- 3.5 Full Council must not approve any recommendation of dismissal of the Head of Paid Service, Monitoring Officer or Section 151 Officer without considering:
 - (a) any advice, views or recommendations of the Panel
 - (b) the conclusions of any investigations into the proposed dismissal and
 - (c) any representations from the relevant officer.
- 3.6 Full Council must approve any recommendation of dismissal of the Head of Paid Service, Monitoring Officer and Section 151 Officer before notice of dismissal is given.
- 3.7 The Director of Governance, will be the Proper Officer for the purposes of the Regulations. If that Proper Officer is the subject of the proceedings then the Head of Paid Service will be the Proper Officer.

4. Dismissal of other employees

- 4.1 Councillors will not be involved in the dismissal of any employee except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related procedures
- 4.2 Paragraph 4.1 of these Rules will not apply to assistants to political groups.

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Post	Investigation	Conditions	Appeal
Head of Paid Service	<p>Following an investigation, findings are presented to Special Committee who have the power to impose sanctions other than dismissal.</p> <p>In the case of potential dismissal, Independent Panel advises Full Council</p>	Decisions to dismiss must be taken by Full Council	
Monitoring Officer	<p>Following an investigation, findings are presented to Special Committee who have the power to impose sanctions other than dismissal.</p> <p>In the case of potential dismissal, Independent Panel advises Full Council</p>	Decisions to dismiss must be taken by Full Council	
Section 151 Officer	<p>Following an investigation, findings are presented to Special Committee who have the power to impose sanctions other than dismissal.</p> <p>In the case of potential dismissal, Independent Panel advises Full Council</p>	Decisions to dismiss must be taken by Full Council	
Strategic Directors, Directors, Service Directors, posts below Director level	In accordance with the Council's Disciplinary Policy and Procedure	In accordance with the Council's Disciplinary Policy and Procedure	In accordance with the Council's Disciplinary Policy and Procedure

Disciplinary Procedure for Head of Paid Service, Monitoring Officer and Section 151 Officer

1 General

- 1.1 The disciplinary procedure set out below is for use in cases relating to the Head of Paid Service, Monitoring Officer and Section 151 Officer (“the employee”)
- 1.2 Any decisions in such matters must be in accordance with the law, in particular the provisions of the Local Authorities (Standing Orders) (England) Regulations 2001, as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (“the Regulations”). The Regulations state that the Head of Paid Service, Monitoring Officer and Section 151 Officer may not be dismissed by an authority unless the procedure set out in the following paragraphs has been complied with.
- 1.3 Disciplinary procedures should be handled as quickly as possible, subject to the need to investigate the case thoroughly and to give the employee a reasonable opportunity to reply fully to the allegations.
- 1.4 The employee has the right to be represented at all stages throughout the Disciplinary Procedures by a union representative or work colleague.

2. Investigation

- 2.1 Where a question of discipline is raised in connection with the Head of Paid Service or Section 151 Officer, the Monitoring Officer will be the Proper Officer and refer the matter to the Special Committee (“the Committee”). The Committee will consider the allegations and will meet with the employee to discuss them.
- 2.2 Where a question of discipline is raised in connection with the Monitoring Officer, the Head of Paid Service will be the Proper Officer and refer the matter to the Special Committee (“the Committee”). The Committee will consider the allegations and will meet with the employee to discuss them.
- 2.3 The Committee will then decide to either:
 - appoint an Independent Investigator (“the Independent Investigator”) to investigate the allegations and report to the Committee with their findings and recommendations. The Committee will also consider whether suspension is necessary for a maximum period of two months or
 - take no further action.
- 2.4 If the Committee decides to appoint an Independent Investigator a list of suitably qualified individuals is provided by the JNC Joint Secretaries and the Officer may choose from three names provided. If genuine conflicts of interest are raised, these will be considered by the Committee but if the employee

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does not agree within 14 days the Council should be free to appoint their choice from the list.

- 2.5 The employee will be given full details of the allegations against them prior to the appointment of the Independent Investigator and shall be informed of their appointment as soon as is reasonably practicable thereafter.
- 2.6 The Independent Investigator will conduct a thorough review of the allegations and the evidence and will provide a report within 20 working days of the commencement of the investigation.

3. Suspension

- 3.1 Suspension may be appropriate where the employees continued presence at work might compromise the investigation or impair the efficient exercise of the Council's functions. The Chair of the Committee may suspend the employee on full pay pending further investigation when allegations of misconduct are raised.
- 3.2 Suspension will be confirmed in writing to the employee stating the reasons for any such suspension. The suspension may be for a maximum period of two months only from the date the suspension takes effect. The Chair of the Committee may direct that the suspension is terminated or extended beyond the two-month period.
- 3.3 The employee shall be informed of the reason for suspension, or continued suspension and shall have the right to present information before such a decision is taken.

4. The Hearing

- 4.1 The Committee will hold a Hearing. The employee shall be given at least ten working days' notice of the Hearing at which they will be entitled to be present and represented. They may make written submissions to the Hearing and may call witnesses.
- 4.2 Once the Independent Investigator has presented their findings, the employee may ask questions of the Independent Investigator and any witnesses called by them. The employee will then present his or her case and call any witnesses. The Committee may ask questions throughout the process.
- 4.3 The Committee will then consider whether the allegations are substantiated and, if so, whether any one of the following outcomes is appropriate:
 - a) to take no further action; or
 - b) dismissal; or
 - c) disciplinary action short of dismissal, such action may include:

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- Written warning – including requirements on how to improve performance. This warning will remain on file for a period of 12 months.
 - Final written warning – including requirements on how to improve performance. This warning will remain on file for a period of 2 years.
 - any other reasonable sanction deemed appropriate by the Committee;
- 4.4 If the Committee determines that the outcome referred to in (b) above is appropriate, the procedures referred to in section 5 below must be followed. The Committee may determine the outcomes referred to in (a) and (c) above.
- 4.5 The Proper Officer under the Regulations, will notify every member of the Cabinet of:
- a) the name of the person who the Committee wishes to dismiss;
 - b) any other particulars relevant to the dismissal which has been notified to the proper officer;
 - c) and the period within which any objection to the dismissal is to be made by the Leader of the Council on behalf of the Cabinet to the proper officer;
- 4.6 Notice of the dismissal of the employee must not be given by the Council until either -
- a) the Leader of the Council has, within the period specified in the notice under sub-paragraph (c) of paragraph 4.5, notified the proper officer that neither he nor any other member of the cabinet has any objection to the dismissal;
 - b) the proper officer has notified the Council that no objection was received by him within that period from the Leader; or
 - c) the Council is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

5. The Independent Panel

- 5.1 Where the Hearing recommends dismissal, an Independent Panel (“the Panel”) shall be convened by the Proper Officer no later than 15 working days after the Hearing to review the case and make recommendations to Full Council.
- 5.2 The Proper Officer must invite Relevant Independent Persons to be considered for appointment to the Independent Panel with a view to appointing at least two such persons to the Panel.
- 5.3 “Relevant Independent Person” means any Independent Person who has been appointed under section 28(7) of the Localism Act 2011.
- (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; and

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- (c) a Relevant Independent Person who has been appointed by another authority or authorities.
- 5.4 The Authority is not required to appoint more than two Relevant Independent Persons but may do so.
- 5.5 The Authority must appoint any Panel at least 20 working days before the relevant meeting at which the Full Council will consider whether or not to approve any recommendation for the dismissal of the employee.
- 5.6 The Proper Officer shall give at least five working days' notice of the Panel meeting to the employee, who shall be entitled to attend and make representations. The Independent Investigator shall also attend the meeting but the Panel will not conduct a rehearing of the evidence.
- 5.7 The Proper Officer will report the advice, views and recommendations of the Panel to all Councillors and the employee at least five working days before the date of the relevant meeting of the Full Council that will consider whether or not to approve the dismissal.
- 5.8 Where a recommendation to dismiss the employee has been made as, the consideration of that recommendation by Full Council will fulfil the appeal function. The appeal hearing by the Full Council at the relevant meeting will take the form of a review of the case. The employee will have the opportunity to make further representations to the Full Council at the relevant meeting. The Council, before the taking of a vote on whether or not to approve dismissal, must take into account, in particular:
- (a) Any advice, views or recommendations of the Panel (and should they consider it necessary, the relevant Independent Persons may give their advice, views and recommendations separately);
 - (b) The conclusions of any investigation into the proposed dismissal;
 - (c) The conclusions and recommendations of the Committee following the Hearing; and
 - (d) Any representations from the employee.
- 5.9 After taking into account the above matters at the relevant meeting, the Council may take any one of the following actions:
- (a) to approve the recommendation for dismissal or
 - (b) to reject the recommendation for dismissal but impose sanctions described in paragraph 4.3 (c) above, or
 - (c) to reject the recommendation for dismissal and take no further action

6. Appeal

- 6.1 Appeal against Dismissal – see 5.8 and 5.9 above.

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- 6.2 Where the Committee has taken action short of dismissal as referred to in paragraph 4.3 (c) above, the employee will have a right of appeal to the Appeals Panel. The Appeals Panel shall be politically balanced and comprise three councillors appointed by the Proper Officer who are members or substitute members of the Committee who were not involved in the Hearing. The employee will have the opportunity to make further representations to the Appeals Panel at its meeting.
- 6.3 After considering all relevant matters relating to the appeal, the Appeals Panel may take any one of the following actions:
- (a) to reject the appeal and confirm the Committee's decision, or
 - (b) to allow the appeal, in part, and impose an alternative sanction short of dismissal, or
 - (c) to allow the appeal and take no further action against the employee

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