

Part 3H

Officer Employment Standing Orders

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1. Recruitment and appointment

1.1 Declarations

- a) 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.
- b) No candidate so related to a councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by them.

1.2 Seeking support for appointment

- a) Subject to paragraph (c), 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) Subject to paragraph (c), no councillor will seek support for any person for any appointment with the Council.
- c) Nothing in paragraphs (a) and (b) above will preclude a councillor from giving a written reference for a candidate for submission with an application for appointment.

2. Recruitment of the Chief Executive

Where the Council proposes to appoint the Chief Executive 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 the duties of the officer concerned and any qualifications or qualities to be sought.
- (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) to be sent to any person on request.

This section and paragraphs 3(a), 3(b) and 5(c) shall also apply to the position of the Head of Paid Service if at any time the position of the Head of Paid Service is not held by the Chief Executive.

3. Appointment of the Chief Executive

- (a) The Council will approve the appointment of the Chief Executive and 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 Cabinet member.
- (b) The Council may only make or approve the appointment where no well-founded objection has been made by any Cabinet member.

4. Other appointments

Appointment of officers other than the Chief Executive (or the Head of Paid Service if a different person) and assistants to political groups is the responsibility of the Head of Paid Service or their nominee and may not be made by councillors.

5. Disciplinary action

- (a) Except for the statutory exceptions set out below, disciplinary action in relation to officers is governed by the council's agreed procedure.
- (b) The Head of Paid Service, the Monitoring Officer and the Chief Financial Officer may be suspended while an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than three months. Any further disciplinary action must be taken in accordance with the procedure set out in Appendix 1.
- (c) Councillors will not be involved in disciplinary action against any officer other than the Chief Executive, the Monitoring Officer and the Chief Financial Officer, as detailed in Appendix 1, 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 may allow a right of appeal to councillors in respect of disciplinary action.

Procedure for disciplinary action against the Head of Paid Service, the Chief Financial Officer and the Monitoring Officer

1. This procedure applies to the appointment and operation of a panel to advise Full Council in relation to the dismissal of the Head of Paid Service, the Monitoring Officer or the Chief Financial Officer ('relevant officers') and has been incorporated into these rules as required by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.
2. The council must invite independent persons appointed under Section 28(7) of the Localism Act 2011 ("the 2011 Act") to be considered for appointment to the panel, with a view to appointing at least two independent persons to the panel.
3. In paragraph 2, "independent person" means any independent person who has been appointed by the council or, where there are fewer than two independent persons, such independent persons as have been appointed by another authority or authorities as the council considers appropriate.
4. Subject to paragraph 5, the council must appoint to the panel independent persons who have accepted an invitation issued under paragraph 2, in the following order of priority:
 - (a) An independent person who has been appointed by the council and who is a local government elector in the council's area.
 - (b) Any other independent person who has been appointed by the council.
 - (c) An independent person who has been appointed by another authority or authorities.
5. The council may appoint more than two independent persons.
6. The council must appoint the panel at least 20 working days before the full Council meets to consider whether or not to approve a proposal to dismiss a relevant officer.
7. The panel shall be Audit and Ethics Committee.
8. Following its investigation, the panel will advise a meeting of Full Council on whether to dismiss. In making its decision, the Council must consider:
 - (a) the advice, views and recommendations of the panel
 - (b) the conclusions of any investigation into the proposed dismissal
 - (c) any representations from the relevant officer
9. Any remuneration, allowances or fees paid by the council 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 an independent person under the 2011 Act.

Grievance Procedure where the Head of Paid Service is involved

1. Introduction

1.1 These procedures cover the following circumstances:

- where an employee raises a grievance against the Head of Paid Service
- where the Head of Paid Service raises a grievance – by definition this will be against an individual elected councillor(s) or the employing council generally.

2. Procedure for dealing with a grievance raised by an employee against the Head of Paid Service

- 2.1 An employee raising a grievance against the Head of Paid Service should do so using the grievance procedure provided for in their contract of employment. However, while operating within the context of the employee's grievance procedure, it is only the mandatory stages of a grievance procedure (i.e. the formal stages, as referred to in paragraph 2.2) that can resolve the grievance when the person complained of is the Head of Paid Service.
- 2.2 Under the ACAS code the internal procedure to be followed by an aggrieved employee should comprise at least two formal stages. After the initial filtering and any attempt at informal resolution, if the matter remains unresolved, then a panel of elected councillors (the Grievance Committee) will hear the grievance on behalf of the employer (Formal Stage 1). It is here that the power exists to resolve a grievance against the Head of Paid Service. The panel can either uphold or dismiss the grievance. If the outcome of the Stage 1 investigation is that the grievance is not upheld, then the complainant has the right to appeal (Formal Stage 2) to a panel of elected councillors (the Appeals Committee).
- 2.3 Employers and employees should raise and deal with issues promptly and should not unreasonably delay meetings, decisions or confirmation of those decisions.
- 2.4 There is a statutory right for the aggrieved employee to be accompanied by a fellow worker, a trade union representative, or an official employed by a trade union at any meeting that deals with the grievance.

Initial filtering of grievances

- 2.5 Where an employee raises a grievance against the Head of Paid Service it would be appropriate for an initial filtering to take place, as procedures need to be in place which can filter out and deal with 'allegations' against the Head of Paid Service which are clearly unfounded or trivial or can best be dealt with under some other procedure. For example, allegations and complaints that are directed at the Head of Paid Service, but are actually complaints about a

particular service, should be dealt with through the Council's general complaints procedure. If the matter is a serious complaint against the Head of Paid Service's personal behaviour such as sexual or racial harassment, the matter would potentially be one that would be appropriate for an investigation under the disciplinary procedure.

- 2.6 To enable this process to happen the Council should nominate an officer who would be the recipient of any grievance raised against the Head of Paid Service (referred to below as the Receiving Officer). This would most appropriately be the council's Monitoring Officer. If the Monitoring Officer is the person bringing the grievance against the Head of Paid Service or is otherwise involved in the grievance, then another appropriate chief officer and/or a Monitoring Officer from a neighbouring authority should be commissioned to act as the Receiving Officer.
- 2.7 A meeting should be held between the Receiving Officer and the complainant without unreasonable delay after a grievance is received. The employee should be allowed to explain the grievance and how it could be resolved. Consideration should be given to adjourning the meeting for any investigation that may be necessary.
- 2.8 The Receiving Officer is responsible for the filtering process, the outcome of which could include the following:
 - (i) The Receiving Officer decides that the grievance is actually about a council service, rather than a complaint against the Head of Paid Service personally. In this case the Receiving Officer would refer the matter back to the aggrieved employee, or their line manager, and indicate that the matter is one that they could raise under the appropriate complaints process for the council.
 - (ii) The Receiving Officer decides that there are other formal appeal procedures that apply rather than the grievance procedure e.g. in cases of redundancy.
 - (iii) The Receiving Officer decides that the grievance should not be directed at the Head of Paid Service as it does not relate to a specific action of the Head of Paid Service or a specific omission of the Head of Paid Service and so should be directed to an intermediate manager.
 - (iv) The Receiving Officer decides that the grievance is either patently frivolous or clearly unfounded. Individual grievances can be deeply held so a decision that it is frivolous or unfounded and will not be taken any further should not be taken lightly. To some extent this judgement may be informed by whether the individual employee has a history of submitting frivolous or unfounded grievances. The Receiving Officer will also consider whether the submission of patently frivolous or clearly unfounded grievances should be referred for investigation under the council's disciplinary procedures. Where that is not the case then the Receiving Officer may want to err on the side of caution, particularly if the substance

of the grievance is something that could be pursued to an Employment Tribunal. This would probably require the Receiving Officer to check whether other procedures were more apt, but that does not necessarily compromise the Receiving Officer from dealing with the case as suggested below.

Resolving grievances informally

- 2.9 Where the Receiving Officer is satisfied that the grievance is neither procedurally flawed nor patently frivolous or clearly unfounded (such as a complaint about the organisation, process, provision of facilities, inadequate IT equipment, failure of consultation between departments etc) then there may be some value in an attempt being made to resolve the matter informally. This might be through internally facilitated informal joint discussions or informal joint discussions facilitated externally by an external mediator.

3. Resolving grievances formally

Formal Stage 1

The grievance investigation

- 3.1 Where informal attempts at resolution are considered inappropriate or have been tried and failed, then the Receiving Officer should manage the Stage 1 investigation. In most cases it will be appropriate for an independent investigator to be commissioned to carry out the investigation.
- 3.2 If the outcome of the investigation is in favour of the complainant, a solution should be proposed, taking into account the remedy requested by the complainant and the Receiving Officer's assessment of what would be appropriate in all the circumstances. If the Head of Paid Service is unwilling to accept these proposals, the matter will be referred to the Grievance Committee for it to resolve.
- 3.3 It is necessary for the Council annually to establish a Grievance Committee of three to five members with political proportionality, who are not members of Appeals Committee.

Grievance Committee hearing

- 3.4 Grievance Committee will hear the case and reach its conclusion.

The Committee upholds the grievance

- 3.5 Where the Committee **upholds** the grievance this may include a decision or recommendation on how the issue can best be resolved to the satisfaction of the aggrieved employee.

- 3.6 Where the Committee **upholds** the grievance and also decides that it is a matter of a serious nature then it may decide to refer the matter for separate disciplinary action too.

The Committee dismisses the grievance – the right to appeal

Formal Stage 2

- 3.7 If the Committee finds against the complainant then that person has a right of appeal to a member of Appeals Committee, and the Head of Paid Service should be immediately informed that this has happened. Appeals Committee will then be responsible for considering the appeal with appropriate technical and procedural advice from the Receiving Officer.
- 3.8 Where Appeals Committee **upholds** the appeal, this may include a decision or recommendation on how the issue can best be resolved to the satisfaction of the aggrieved employee.
- 3.9 Where Appeals Committee **upholds** the appeal and also decides that it is a matter of a serious nature, then it may decide to refer the matter for separate disciplinary action too.
- 3.10 Where Appeals Committee **dismisses** the appeal, then the matter would be regarded as having been concluded.

4. Procedure for dealing with grievances raised by the Head of Paid Service

- 4.1 Where the Head of Paid Service raises a grievance, then similar principles need to apply, namely:
- Informal attempts at resolution should be regarded as preferable to immediate recourse to formal procedures.
 - There should be two stages available to the aggrieved employee, in this case the Head of Paid Service.
- 4.2 A Head of Paid Service cannot take out a grievance against another member of staff, as any cause for such concern would constitute grounds for disciplinary action and the Head of Paid Service could initiate such action against any other employee. A Head of Paid Service grievance has to be against one or more member(s) and the council's Monitoring Officer should act as Receiving Officer.
- 4.3 Where the Head of Paid Service raises a grievance, then this should be referred to the Receiving Officer in the first instance who should establish, through discussions with the appropriate parties, whether there is any prospect of resolving the matter informally. This might be through internally facilitated informal joint discussions or informal joint discussions facilitated externally by an external mediator.

- 4.4 In the event that informal resolution is neither appropriate nor successful, the Receiving Officer should refer the matter to the council's Grievance Committee. If Grievance Committee considers it appropriate, having come to its conclusions, it might refer a matter about the conduct or behaviour of an elected member to Audit and Ethics Committee or other appropriate arrangements.
- 4.5 An appeal by the Head of Paid Service against the outcome of Grievance Committee's deliberations should be to Full Council.
- 5. Grievances raised by the Head of Paid Service during disciplinary proceedings**
- 5.1 Where a Head of Paid Service is the subject of a disciplinary/capability investigation and raises a grievance relating to the case, Audit and Ethics Committee will decide how to deal with the grievance. This will depend on the facts of the case, the stage of the disciplinary procedure reached and the nature of the grievance raised. In some cases it may be appropriate to hear the grievance before continuing with the disciplinary/capability investigation. In other cases it will be appropriate to deal with the issues raised in the grievance as part of the wider disciplinary/capability investigation.