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## 5J Officer Employment Procedure Rules

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### I.0 Introduction

### I.1 Definitions

In these Procedure Rules:

- I.1.1 “The 2001 Regulations” means the Local Authorities (Standing Orders)(England) Regulations 2001 and “The 2015 Regulations” means the Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015.
- I.1.2 “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.
- I.1.3 “Disciplinary Action” in relation to an Officer of the Council means any action occasioned by alleged misconduct which, if proven, would, according to the Council’s usual practice, be recorded on the Officer’s personal file. This includes any proposal for dismissal of an Officer for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the Authority has undertaken to renew such a contract.
- I.1.4 “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.
- I.1.5 “Head of Paid Service” means the Officer designated under section 4(1) of the Local Government and Housing Act 1989.
- I.1.6 “Chief Finance Officer” means the Officer having responsibility for the purposes of section 151 of the Local Government Act 1972, for the administration of the Council’s financial affairs.
- I.1.7 “Monitoring Officer” means the Officer designated under section 5(1) of the Local Government and Housing Act 1989.
- I.1.8 An “Officer” may include an individual employed by the Council or employed by another employer with the purpose of providing a service to the Council. Such employer may be another Local Authority or Publica Group Ltd, for example.

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- 1.1.9 “Statutory Chief Officer” means, for the purposes of these provisions, the Chief Financial Officer or the Monitoring Officer.
- 1.1.10 “Non Statutory Chief Officer” means a person for whom the Head of Paid Service is directly responsible or a person who, with respect to all or most of the duties of their post, is required to report directly or is directly accountable to either the Head of Paid Service or to the Council itself or any Committee or Sub Committee, except a person whose duties are solely administrative or clerical or are otherwise in the nature of support services.
- 1.1.11 “Deputy Chief Officer” means a person who, with respect to all or most of the duties of his or her post, is required to report directly or is indirectly accountable to one or more of the Statutory or Non-Statutory Chief Officers, except a person whose duties are solely administrative or clerical or are otherwise in the nature of support services.
- 1.1.12 “Performance and Appointments Committee” means a Committee established by Council in accordance with the Local Government Act 1972. For the purposes of these Procedure Rules, at least one Member of the Executive must be a Member of this Committee.

### 1.2 General

Other than as set out elsewhere in these Officer Employment Procedure Rules, the function of recruitment, appointment, disciplinary action and dismissal in respect of all Officers other than the Head of Paid Service, the Chief Financial Officer, and the Monitoring Officer, will be discharged, on behalf of the Council, by either the Head of Paid Service, or an Officer nominated by the Head of Paid Service. Such functions will be carried out in accordance with either the Council’s or Publica Group’s Staffing Policies, as adopted from time to time, depending on which authority is the employing body.

### 1.3 Posts

For ease of reference, the posts which fall under the relevant definitions, in these Officer Employment Procedure Rules, at the time of writing, are as follows:

Definition	Relevant Post
Head of Paid Service	Chief Executive
Statutory Chief Officers	Chief Financial Officer Monitoring Officer
Non Statutory Chief Officers	None
Deputy Chief Officers	None

In accordance with the regulations, those posts, other than clerical or administrative posts, that are direct reports of the Head of Paid Service are known as Non Statutory Chief Officers and those posts that are direct reports of Chief Officers (Statutory or otherwise) are known as Deputy Chief Officers.

Officers of the Council, may or may not be employed by the Council. Where they are employed by another employer such as Publica Group, these Officer Employment Procedure Rules are supplemented by the Publica Group suite of human resources and employment policies.

## **2.0 Recruitment**

### **2.1 Declarations**

A candidate for any employment with the Council, or an Officer involved in a transfer, promotion or disciplinary matter, shall disclose whether they are related to, or cohabit with, any Member or Officer who may have an influence on the decision. Failure to make such a disclosure may result in any appointment being rescinded and, in the case of an Officer, disciplinary action.

### **2.2 Support for Appointment**

Canvassing of any Member of the Council, or any person appointed to discharge any function in relation to a Committee or Officer of the Council, shall disqualify the candidate concerned in such canvassing for that appointment.

A Member of the Council shall not solicit for any person any appointment at the Council and shall not provide any written testimonial of a candidate's ability, experience or character for submission to the Authority.

### **2.3 Confidentiality**

The Council, the Executive, a Committee, a Sub-Committee or a Panel should, unless there are exceptional circumstances which dictate otherwise, resolve to exclude the press and public under *section 100A of the 1972 Act* where matters relating to the appointment, promotion, dismissal or discipline, severance, salary or conditions of an individual Officer are to be discussed.

### **2.4 Recruitment of Head of Paid Service and Statutory Chief Officers**

Where the Council proposes to appoint a Head of Paid Service or Statutory Chief Officer, the Head of Paid Service or their delegate will draw up a statement specifying the duties of the Officer concerned and any qualifications or qualities to be sought in the person to be appointed. The post will be advertised and a copy of the statement sent to any person on request.

Where a post has been advertised, the Performance and Appointments Committee will either interview all qualified applicants for the post or select a short list of such qualified applicants and interview those included on the short list. If no qualified person has applied, the Council will make further arrangements for advertising the post again.

In respect of the interviews for the posts of Statutory Chief Officers, other than the Head of Paid Service, the Performance and Appointments Committee will be advised by the Head of Paid Service.

## **3.0 Appointment**

### 3.1 Power to Appoint

The Performance & Appointments Committee will be responsible for the function of the appointment of the Head of Paid Service and Statutory Chief Officers. The power to approve the appointment of the Head of Paid Service or Statutory Chief Officers shall be exercised by Council.

The Head of Paid Service, or their nominated representative, shall be responsible for the function of the appointment of non-Statutory Chief Officers and Deputy Chief Officers. The Head of Paid Service's nominated representative may include an Officer of the Council of the appropriate seniority or an external independent expert or recruitment consultant.

### 3.2 Consultation Procedure for Appointment

In respect the appointment of Statutory and non-Statutory Chief Officers and Deputy Chief Officers, an offer of appointment to any of those officer posts must not be made by the Appointor until this statutory consultation process has been complied with.

The Appointor must notify the Monitoring 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, including reasons for the choice of the preferred candidate. The Monitoring Officer must notify every Member of the Executive of the Council of the name of the person to whom the Appointor wishes to make the offer, and the reasons why they are the Appointor's preferred candidate, together with any other particulars relevant to the appointment. Members of the Executive will have a specified period of time in which to make any objection to the making of the offer to the Leader, for the Leader to notify the Monitoring Officer of such objections. The appointment may not be made until either the Leader has notified the Monitoring Officer that no such objections have been received from Executive Members in the period specified, or the Appointor is satisfied that any objections that were received were either not material or not well founded.

### 3.3 Appointment of Senior Officers

Post	Appointment	Conditions
Head of Paid Service	Performance and Appointments Committee	Requires consultation with Executive Members and requires Council approval
Chief Financial Officer	Performance and Appointments Committee	Requires consultation with Executive Members and requires Council approval
Monitoring Officer	Performance and Appointments Committee	Requires consultation with Executive Members and requires Council approval
Non-Statutory Chief Officers	Head of Paid Service, or Officer nominated by Head of Paid Service	Requires consultation with the Executive

Deputy Chief Officers	Head of Paid Service, or Officer nominated by Head of Paid Service	Requires consultation with the Executive
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#### 4.0 Disciplinary Action

##### 4.1 Investigation of alleged misconduct

This paragraph applies to the Disciplinary Action in respect of the Head of Paid Service, Statutory Chief Officers, Non-Statutory Chief Officers and Deputy Chief Officers, subject to the express provisions in paragraph 4.2 below relating to the Head of Paid Service and Statutory Chief Officers.

The Council’s Performance and Appointments Committee will investigate and consider any alleged misconduct in respect of the Head of Paid Service, Chief Financial Officer or Monitoring Officer, and decide, following receipt of the report of the Independent Panel, upon any disciplinary action to be taken, as necessary, in accordance with any Council staffing policies which have been adopted by the Council from time to time.

The Head of Paid Service or his nominated representative, will investigate any alleged misconduct in respect of non-Statutory Chief Officers and Deputy Chief Officers, as necessary, in accordance with any Council or Publica Group staffing policies, as applicable, which have been adopted from time to time. The Head of Paid Service’s nominated representative may include an Officer of the Council of the appropriate level of seniority, who may or may not be an employee of the Council, or an external independent expert. The nominated representative may, pending the outcome of any investigation, suspend the non-Statutory Chief Officer or Deputy Chief Officer, for no longer than is necessary to investigate the allegations; such suspension will be on full pay other than in exceptional circumstances.

##### 4.2 Head of Paid Service and Statutory Chief Officers

The Council’s Head of Paid Service and Statutory Chief Officers cannot be dismissed by the Authority, unless this procedure has been complied with.

Where an allegation of misconduct in respect of the Head of Paid Service or a Statutory Chief Officer requires an investigation, an Independent Panel will be formed for this purpose. Pending the report of such an Independent Panel the Statutory Officer may be suspended by the Performance and Appointments Committee whilst the alleged misconduct is investigated. Any such suspension will be for a maximum period of 2 calendar months and will be on full pay.

In consulting an Independent Panel to deal with such allegations of misconduct, the Performance and Appointments Committee will invite Independent Persons who have been appointed by the Council for the purposes of the Member’s Conduct Regime under section 28(7) of the Localism Act 2011 to form an Independent Panel. An Independent Panel will be formed if two or more Independent Persons accept the invitation. If it has not been possible to appoint such a Panel following invitations to the Council’s appointed Independent

Persons, then further invitations may be made to Independent Persons appointed by another Council.

The role of the Independent Panel is to investigate the alleged misconduct and prepare a report setting out the conclusions of their investigation, and any other advice, views or recommendations as to any proposed disciplinary or other action, including dismissal. In carrying out their investigation the Independent Panel may inspect any documents relating to the conduct of the relevant Officer which are in the possession of the Council, or which the Council has the power to authorise them to inspect and require any Officer or Member of the Council to answer questions concerning the conduct of the relevant Officer.

If the recommendation of the independent Panel is disciplinary action other than dismissal, the Panel will report back to the Performance and Appointments Committee who will consider the report and may impose disciplinary action other than dismissal.

Where the Independent Panel recommends dismissal, or the Performance and Appointments Committee recommend dismissal, the matter must be dealt with by a meeting of the Council. At least 20 working days after the Independent Panel has been appointed a meeting of the Council will be held to receive the report of the Independent Panel and any recommendations of the Performance and Appointments Committee. The Council must, before taking a vote on whether or not to approve the proposed dismissal, take into account any advice, views or recommendations of the Independent Panel, the conclusions of any investigation into the alleged misconduct and any representations from the relevant Officer or their representative.

A Head of Paid Service or Statutory Chief Officer attending a Council meeting where proposed disciplinary action against them is being considered, is entitled to make both verbal and written representations to Council, as is their representative, who may be a colleague, a Union representative, a Companion or a Lawyer.

#### 4.3 Disciplinary Action of Senior Officers

Post	Investigation	Notes	Appeal
Head of Paid Service	Independent Panel who reports to Performance and Appointments Committee who may impose disciplinary action other than dismissal	Decision to dismiss must be taken by Council	None
Statutory Chief Officers	Independent Panel who reports to Performance and Appointments Committee who may impose disciplinary action other than dismissal	Decision to dismiss must be taken by Council	None

Non Statutory Chief Officers	Head of Paid Service or their representative	Decision to dismiss may only be taken following consultation with the Executive	Head of Paid Service or his representative
Deputy Chief Officers	Head of Paid Service or their representative	Decision to dismiss may only be taken following consultation with the Executive	Head of Paid Service or his representative

## 5.0 Dismissal

### 5.1 Power to Dismiss

The Council will be responsible for the function of dismissal of the Head of Paid Service and the Statutory Chief Officers as above.

Subject to the consultation process below, the Head of Paid Service or their nominated representative, shall decide upon any disciplinary action following a disciplinary hearing and shall be responsible for the function of dismissal of non-Statutory Chief Officers and Deputy Chief Officers. The Head of Paid Service's nominated representative may not be the same individual responsible for the investigation into the alleged misconduct and must be wholly independent from that individual.

### 5.2 Consultation Procedure for Dismissal

The statutory consultation procedure applies to the dismissal of a non-Statutory Chief Officer and Deputy Chief Officer.

Notice of the dismissal of non-Statutory Chief Officers and Deputy Chief Officers must not be given by the Dismissor until the Dismissor has notified the Monitoring Officer of the name of the person whom the Dismissor wishes to dismiss and any other particulars which the Dismissor considers are relevant to the dismissal, including a summary of the evidence heard at the disciplinary hearing and the reasons for the proposed decision. The Monitoring Officer will notify every Member of the Executive of the Council of the name of the person whom the Dismissor wishes to dismiss and the reasons, any other particulars relevant to the dismissal, and the period within which they may object to the dismissal, with such objections being made to the Leader, who shall make them to the Monitoring Officer. Such notice of dismissal may not be served until either the Leader has specified in that period that no such objections have been raised by Executive Members, or the Monitoring Officer has advised the Dismissor that no such objections have been received in the time period, or the Dismissor is satisfied that any objections received from the Leader within that period are not material or not well founded.

### 5.3 Appeals

Non-Statutory Chief Officers and Deputy Chief Officers who feel that the outcome of disciplinary action against them is wrong or unjust may appeal in accordance with any

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relevant Staffing Policies to the Head of Paid Service or his nominated representative. The Head of Paid Service's nominated representative may include a Council Officer of the appropriate level of seniority or an external expert, but shall not be the same individual responsible for the disciplinary action or the dismissal, not the same individual responsible for the investigation of alleged misconduct and must be wholly independent from those individuals.

The Head of Paid Service and Statutory Chief Officers shall have no right of appeal against disciplinary action.