

Officer Employment Procedure Rules

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Officer Employment Procedure Rules

Rule No. 1 - Recruitment And Appointment

- 1.1 When a vacancy occurs in any existing Director/First Tier post the Council shall obtain the views of the Cabinet and, in the case of a post which the Council are not required by statute to fill, decide whether the post is necessary, what shall be the terms and conditions of the post. No steps shall be taken to fill the post until these decisions have been taken.
- 1.2 (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 officer of the Council; or of the partner of such persons.
 - (ii) An applicant failing to declare any known relationship shall be disqualified from the process and if appointed shall make him/herself liable for dismissal.
 - (iii) 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 him/her.
- (b) Seeking support for appointment
- (i) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for appointment with the Council. The content of this paragraph will be included in any recruitment information.
 - (ii) No Councillor will seek support for any person for any appointment with the Council.
 - (iii) A Member shall not favour an applicant other than to the extent, if requested, of providing a written reference as to the applicant's competence or character.

Rule No. 2 - Recruitment Of Head Of Paid Service And Directors

- 2.1 Where the Council proposes to appoint a chief officer and it is not proposed that the appointment will be made exclusively from among their existing officers, the Council will:
- (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 to be appointed;
 - (b) make arrangements for the post to be advertised in such a way as it 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.

Rule No. 3 - Appointment Of Head Of Paid Service

- 3.1 The full Council will approve the appointment of the head of paid service following the recommendation of such an appointment by an appointments sub-committee of the Council. That appointments sub-committee must include at least one member of the Cabinet.

Rule No. 4 - Appointment Of Directors And Heads Of Service

- 4.1 (a) An appointments sub-committee of the Council will appoint Directors and Heads of Service. That sub-committee must include at least one member of the Cabinet.
- (b) An offer of employment as the Head of Paid Service, a Director or Head of Service shall only be made where no well-founded objection from any member of the cabinet has been received in accordance with paragraph 5(2) of Part II of Schedule 1 of the Local Authorities (Standing Orders) (England) Regulations 2001.

Rule No. 5 - Other Appointments

- 5.1 (a) **Officers below Heads of Service**
Appointment of officers below Heads of Services (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.
- (b) **Assistants to political groups**
Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.
- (c) **Establishment**
The Council shall, after consultation with the Cabinet, determine the establishment of every department of the Council. No new post shall be created, nor any person be employed in addition to a department's establishment, except with the agreement of the Cabinet or for a temporary period (no longer than 12 months) by agreement of the Head of Paid Service in consultation with the Leader of the Council.
- (d) **Vacancies**
- i All vacancies (not being filled by promotion or transfer) shall be publicly advertised, except where the Head of the Paid Service otherwise determines, and shall abide by the Council's Equal Opportunities Policy.
 - ii All vacancies to be filled in a post of Senior Officer, which is not to be filled by promotion or transfer, shall be advertised in one or more Newspapers or Journals circulating primarily among persons who may be expected to possess the necessary qualifications of the post.
 - iii Whenever a vacancy in any post shall occur the Director, in consultation with the Cabinet Portfolio holder, having responsibility for the department in which such vacancy shall occur, may if he/she thinks fit, temporarily appoint a person from his/her existing establishment to carry out the duties of the post until a successor is appointed; the Head of the Paid Service shall be authorised to determine the remuneration or honorarium to be paid to such person for the period.

Rule No. 6 - Disciplinary Action – Statutory Officers

Investigating and Disciplinary Committee (IDC)

- 6.1 This Committee considers allegations of conduct or capability in relation to the Chief Executive, Section 151 Officer (Executive Director - Transformation) and the Monitoring Officer (Executive Director - People) and to consider if suspension is appropriate in cases of alleged gross misconduct. The IDC may also be required to meet at short notice to consider allegations. The chair of this committee has the delegated power to suspend the Chief Executive/Statutory Officers in an emergency. The IDC also has an important role to consider the report of an independent investigator.
- 6.2 This committee will consist of an equal number of elected members from SMDC and HPBC. This is due to the Chief Executive and the officers with statutory roles being contractually employed by both councils. The IDC must be politically balanced reflecting the respective political representation and shall consist of not more than five members from each council. As the authorities operate a leader/cabinet structure there must be at least one member from each authority's executive.
- 6.3 It will be the IDC's responsibility to hear disciplinary cases.

Appeals Committee (AC)

- 6.4 This committee will also consist of an equal number of elected members from SMDC and HPBC. The AC must be politically balanced reflecting the respective political representation and shall consist of not more than five members from each council.
- 6.5 The purpose of the AC is to hear appeals against action taken short of dismissal and to take a decision either to confirm the action taken, or to impose no sanction or a lesser sanction.
- 6.6 It should be noted that both Councils' currently have separately established Appeal Panels in place in accordance with both constitutions to consider appeals.

Independent Panel (IP)

- 6.7 It should be noted the IP is only required if there is a proposal to dismiss the Chief Executive or statutory officers which would require decision by full Council. The IP will be made up of two independent persons (appointed by the Council for the purpose of the council members' conduct regime under Section 28 (7) of the Localism Act 2011) from each Council.
- 6.8 Appointments to the panel are required to be in accordance with the following priority order:
- 1) An independent person who has been appointed by the council and who is a local government elector in the authority area;
 - 2) Any other independent person who has been appointed by the Council and;
 - 3) An independent person who has been appointed by another council or councils.
- 6.9 The purpose of the IP is to consider any oral representation of the Chief Executive and invite the IDC to respond of the points made by the Chief Executive. The IP may ask questions of both the IDC and the Chief Executive. The (IP) is required to review

the decision of the IDC and prepare a report to Council containing clear rationale if the IP disagrees with the recommendation to Council to dismiss.

Independent Investigator

- 6.10 Should there be a requirement for any disciplinary process to carry out an investigation of allegations in order to establish the facts of the case and to collate evidence for the use in a disciplinary hearing it will normally be necessary to engage an independent investigator to carry out the investigation. In order to ensure this part of the process is carried out quickly the joint secretaries at the LGA have appointed competent and experienced independent investigators to perform this role. A list of these is held with the LGA.
- 6.11 The role of the independent investigator will be to determine the process they will follow. This will depend on the nature of the allegation and availability of information. However, the JNC preferred process is based on evidence collection and investigation (i.e. evidence gathering and hearing submissions) which will lead to the formation of a report for consideration by the IDC at the disciplinary hearing.

Disciplinary Procedure and Guidance

- 6.12 The disciplinary procedure is summarised at Appendix A.

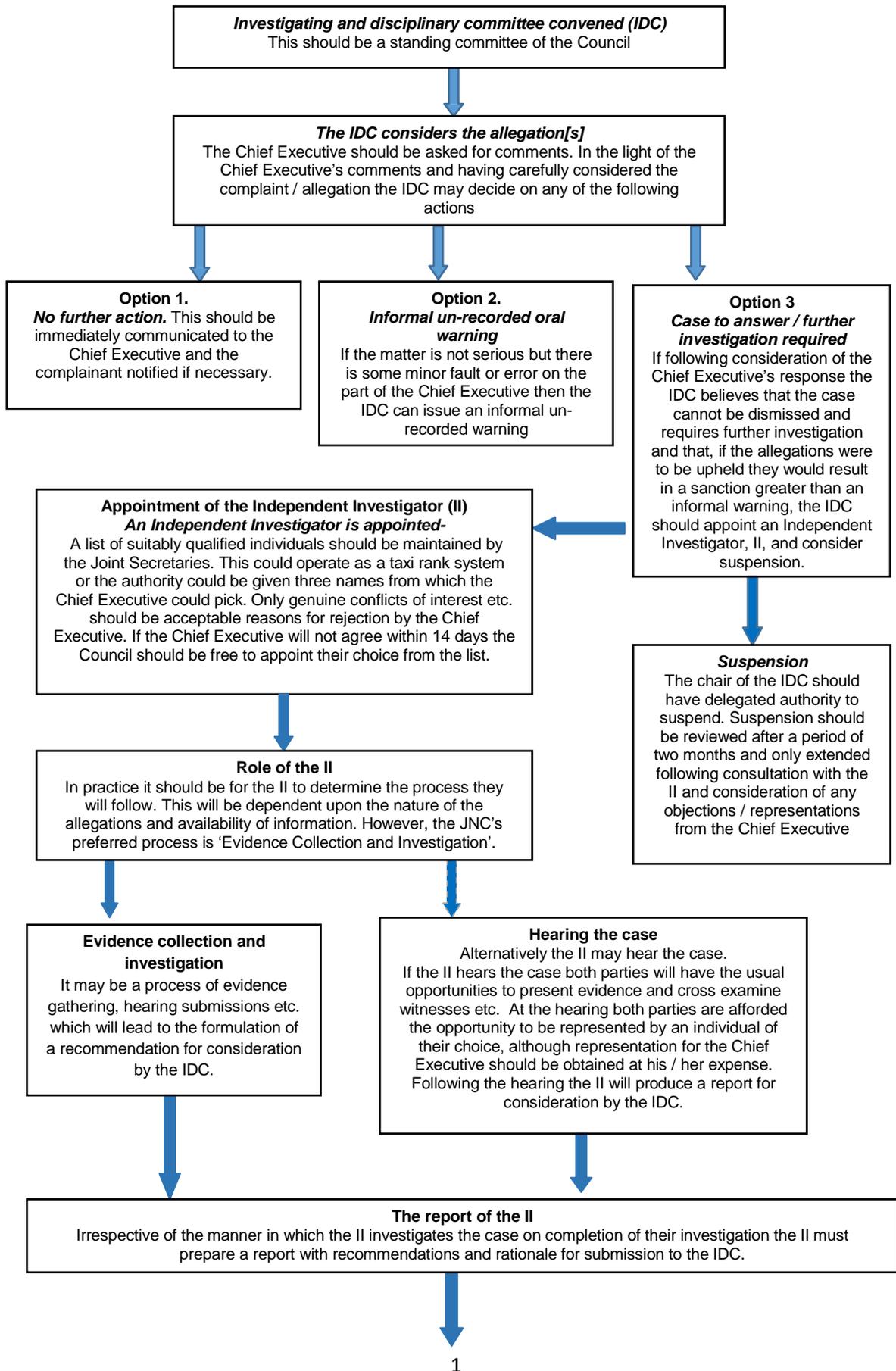
6.13 Suspension

The Head of Paid Service, Monitoring Officer, Chief Finance Officer or any employee may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and normally last no longer than two months.

Rule No. 7 - Dismissal

- 7.1 Dismissal of officers below Head of Paid Service, Chief Finance Officer or Monitoring Officer shall be the responsibility of the Head of Paid Service or his/her nominee. Councillors will not be involved in the dismissal of any officer below Head of Paid Service, Chief Finance Officer or Monitoring 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 may allow a right of appeal to members in respect of such dismissals or in accordance with Rule 7.2 below.
- 7.2 A notice of dismissal of the Head of Paid Service, a Director or Head of Service shall only be given where no well-founded objection from any Member of the Cabinet has been received in accordance with paragraph 6(2) of Part II of Schedule 1 of the Local Authorities (Standing Orders) (England) Regulations 2001.

Disciplinary Procedure – Chief Executive, Section 151 & Monitoring Officer



Consideration and Decision of the IDC

If the II has held a full hearing the IDC will limit their hearing to a consideration of the II's report. They may decide to call witnesses for clarification. The Chief Executive and II should attend this meeting and both parties afforded the opportunity to summarise their case. The hearing should be conducted in accordance with the ACAS code of practice. If the II did not hear the case then the IDC should now afford the Chief Executive the opportunity for a hearing to allow the postholder to challenge the recommendations of the II, call witnesses etc. The same rule regarding costs of representation would apply in this context

Recommendations of the IDC

Following either consideration of the report of the II or a full hearing of the case the IDC will essentially have three options

1. No case to answer
2. Disciplinary action short of dismissal
3. Dismissal

No case to answer

Appropriate communication should be prepared in agreement with the Chief Executive to ensure that as far as possible there is no damage to the postholder's reputation. The IDC should consider reimbursement of any reasonable expenses incurred by the employee.

Action short of dismissal

A decision to take action short of dismissal should be communicated in writing to the Chf Exec with rationale for the decision. The Chf Exec has the right of appeal to the appeals committee against this decision

Recommendation to dismiss

If there is a recommendation to dismiss, the reports of the IDC and the II should then be sent to Independent Panel (IP) for its consideration. The Chief Executive may make written representations to the IP

Composition, role and process of the IP

The IP should be a committee of the Council, appointed under section 102(4) of the Local Government Act 1972, and should comprise only independent persons (at least two) appointed under S28(7) of the Localism Act 2011. Appropriate training should be provided to these Independent members. Both parties should be present or represented* at the meeting. The IP should receive any oral representations from the Chief Executive, in which case it should invite any response on behalf of the IDC to the points made, and may ask questions of either party. The IP should review the decision and prepare a report for Council. This report should contain clear rationale if they disagree with the recommendation to dismiss.

* the IDC should nominate a person to attend on its behalf

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