

**Wiltshire Council
Constitution
Part 14
Officer Employment
Procedure Rules**

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PART 14

OFFICER EMPLOYMENT PROCEDURE RULES

Appointment of staff

1. In this part:
 - 1.1 "the 1989 Act" means the Local Government and Housing Act 1989;
 - 1.2 "the 2000 Act" means the Local Government Act 2000;
 - 1.3 "the 2011 Act" means the Localism Act 2011"
 - 1.4 "Chief Finance Officer", "disciplinary action" "Head of the Council's Paid Service" and "Monitoring Officer" have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;
 - 1.5 "Executive" and "leader" have the same meaning as in Part 1A of the 2000 Act;
 - 1.6 "Member of staff" means a person appointed to or holding a paid office or employment under the council; and
 - 1.7 "Director of Legal and Governance" means an officer appointed by the council for the purposes of the provisions in this part or his nominee.
"independent person" means a person appointed under section 28(7) of the 2011 Act;
 - 1.8 "local government elector" means a person registered as a local government elector in the register of electors in the council's area in accordance with the Representation of the People Acts;
 - 1.9 "The Panel" means a committee or sub-committee as formed under Part 3, 2.4.16 and appointed under section 102(4) of the Local Government Act 1972 for the purposes of advising the council on matters relating to the dismissal of relevant officers of the council.
 - 1.10 "relevant independent person" means any independent person who has been appointed by the council or, where there are fewer than two such persons, such independent persons as have been appointed by another council or councils as the council considers appropriate.
 - 1.11 "relevant meeting" means a meeting of the full council to consider whether or not to approve a proposal to dismiss a relevant officer; and
 - 1.12 "relevant officer" means the chief finance officer, head of the council's paid service or monitoring officer, as the case may be.
2. Subject to paragraphs 3 and 7, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the council must be discharged, on behalf of the council, by the head of paid service or by an officer nominated by him.
3. Paragraph 2 shall not apply to the appointment or dismissal of, or disciplinary action against:
 - (a) the head of the council's paid service;
 - (b) statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);

- (c) non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
- (d) deputy chief officer within the meaning of section 2(8) of the 1989 Act; or
- (e) person appointed in pursuance of section nine of the 1989 Act (assistants for political groups).

- 4.1 Where a committee, sub-committee or officer is discharging, on behalf of the council, the function of the appointment or dismissal of the head of paid service, the council must approve that appointment before an offer of appointment is made to him or, as the case may be, must approve that dismissal before notice of dismissal is given to him.
- 4.2 Where a committee or a sub-committee of the council is discharging, on behalf of the council, the function of the appointment or dismissal of any officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3, at least one member of the executive must be a member of that committee or sub-committee.
- 5.1 In this paragraph, "appointer" means, in relation to the appointment of a person as an officer of the council, the council or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the council, that committee, sub-committee or officer, as the case may be.
- 5.2 An offer of an appointment as an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be made by the appointer until:
- (a) the appointer has notified the director of legal and governance of the name of the person to whom the appointer wishes to make the offer and any other particulars which the appointer considers are relevant to the appointment;
 - (b) the director of legal and governance has notified every member of the executive of the council of:
 - (i) the name of the person to whom the appointer wishes to make the offer;
 - (ii) any other particulars relevant to the appointment which the appointer has notified to the director of legal and governance; and
 - (iii) the period within which any objection to the making of the offer is to be made by the leader on behalf of the executive to the director of legal and governance; and
 - (c) either:
 - (i) the leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointer that neither he nor any other member of the executive has any objection to the making of the offer;
 - (ii) the director of legal and governance has notified the appointer that no objection was received by him within that period from the leader; or

- (iii) the appointer is satisfied that any objection received from the leader within that period is not material or is not well-founded.

6.1 In this paragraph, "dismitter" means, in relation to the dismissal of an officer of the council, the council or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the council, that committee, sub-committee or other officer, as the case may be.

6.2 Notice of the dismissal of an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be given by the dismitter until:

- (a) the dismitter has notified the Director of Legal and Governance of the name of the person who the dismitter wishes to dismiss and any other particulars which the dismitter considers are relevant to the dismissal;
- (b) the Director of Legal and Governance has notified every member of the executive of the council of -
 - (i) the name of the person who the dismitter wishes to dismiss;
 - (ii) any other particulars relevant to the dismissal which the dismitter has notified to the director of legal and governance ; and
 - (iii) the period within which any objection to the dismissal is to be made by the leader on behalf of the executive to the director of legal and governance; and
- (c) either:
 - (i) the leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismitter that neither he nor any other member of the executive has any objection to the dismissal;
 - (ii) the director of legal and governance has notified the dismitter that no objection was received by him within that period from the leader; or
 - (iii) the dismitter is satisfied that any objection received from the leader within that period is not material or is not well-founded.

7. Nothing in paragraph 2 shall prevent a person from serving as a member of any committee or sub-committee established by the council 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 council; or
- (b) a member of staff of the council against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

8. Where disciplinary proceedings are commenced in respect of an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3, an informal resolution should be sought. This will be sought on behalf of the Council by:

- (a) the Monitoring Officer and the Chief Finance Officer in consultation with the Independent Person where disciplinary proceedings are commenced in relation to the Head of Paid Service;
- (b) the Head of Paid Service and the Monitoring Officer in consultation with the Independent Person where disciplinary proceedings are commenced in relation to the Chief Finance Officer;
- (c) the Head of Paid Service and the Chief Finance Officer in consultation with the Independent Person where disciplinary proceedings are commenced in relation to the Monitoring Officer.

If an informal resolution is not possible, the complaint will be referred to the Senior Officer's Employment Sub-Committee.

9. The Senior Officer's Employment Sub-Committee may suspend a relevant officer whilst an investigation takes place into alleged misconduct. Before deciding to suspend the sub-committee shall invite the relevant officer to make representations unless it is impracticable to do so. That suspension will be on full pay and last no longer than two months. The sub-committee shall continue to review any continuing suspension every two months. In carrying out such review the sub-committee shall consider any representations made by the relevant officer.
10. Where the Senior Officers Employment Sub-Committee is discharging, on behalf of the council the function of the dismissal of a relevant officer, the full council must approve that dismissal before notice is given to the relevant officer.
11. The power of suspension may also be exercised by the Monitoring Officer and the Chief Finance Officer in consultation with the Independent Person in respect of suspension of the Head of Paid Service, the Head of Paid Service and the Monitoring Officer in consultation with the Independent Person in respect of suspension of the Chief Finance Officer and the Head of Paid Service and the Chief Finance Officer in consultation with the Independent Person in respect of suspension of the Monitoring Officer. Such power should only exercised where it is not practicable for the Senior Officer's Employment Sub-Committee to convene and the urgency of the situation requires immediate suspension.
12. A relevant officer may not be dismissed by the council except in accordance with the requirements of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015:
 - (a) At least 20 working days before the relevant meeting a Panel has been established for the purpose of advising on matters relating to the dismissal and at least two relevant independent persons have been invited to be appointed to the Panel; and
 - (b) Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the council must take into account, in particular
 - i) any advice, views or recommendations of the Panel;

- ii) the conclusions of any investigation carried out under the [Joint Negotiating Committee's Model Disciplinary Procedure and Guidance adopted by the Council](#) into the proposed dismissal; and
- iii) any representations from the relevant officer.

13. 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 independent person under the 2011 Act.
14. Where the council proposes to appoint an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph three 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:
 - (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 is likely to bring it to the attention of persons who are qualified to apply for it and make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

Declarations

15. 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.
16. 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.

Seeking support for appointment

17. Subject to paragraph 19, 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.
18. Subject to paragraph 19, no councillor will seek support for any person for any appointment with the council.
19. Nothing in paragraphs 17 and 18 above will preclude a councillor from giving a written reference for a candidate for submission with an application for appointment.