

# **PART 4G OFFICER EMPLOYMENT PROCEDURE RULES**

This Part deals with the appointment of staff.

The statutory sources for these Rules are as follows:

Local Government Act 1972, s. 112

Local Government and Housing Act 1989, ss. 7, 8 and 9(5)

Local Authorities (Standing Orders) Regulations 1993 [SI 1993 No 202]

The Local Authorities (Standing Orders) (England) Regulations 2001 [SI 2001 No 3384]

The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 [SI 2015 No 881]

Paragraph 7 and the Appendix were inserted following consideration by Constitutional Committee on 14 January 2003. Subsequent amendments were made in 2014.

Paragraph 5G and the relevant prescribed Standing Order were inserted following approval by Council on 30 June 2004.

Paragraph 5E and paragraph 5F were amended and the relevant prescribed Standing Order was inserted following approval by Council on 3 June 2015.

## **1. Purpose**

The purpose of this Part is to draw attention to the various provisions of this Constitution and other provisions that relate to officer employment.

## **2. Personnel Policies, Procedures and Practices**

All information relating to officer employment procedures is published on the HR intranet. It can be accessed from the Council's website [www.newcastle.gov.uk](http://www.newcastle.gov.uk)

## **3. Committee and Officer Delegations**

Constitutional Committee is responsible for employment matters (Part 3.5 of this Constitution).

The relationship between committee and officer delegations are explained in the paragraphs 22 and 23 and Annex 2 of the "Protocol on the Exercise of Officer Delegations" in Part 3.13 of this Constitution.

## **4. Standing Orders**

Standing Orders (Council Procedure Rules) (Part 4A of this Constitution) make provision:-

- Canvassing of and Recommendations by Members (Standing Order 42)
- Relatives of Members or Officers (Standing Order 43)

## **5. Prescribed Standing Orders**

There are prescribed standing orders in relation to:

- Appointments of Chief Officers
- Disciplinary Action in respect of Statutory Officers

- Staffing
- Political Assistants

These are set out in the Annexes to this Part. These form part of the Council's standing orders.

The broad effect of these is:-

**A. Recruitment of head of paid service and chief officers**

Where the Council proposes to appoint a chief officer 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
- (c) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

**B. Appointment of head of paid service**

This process will be subject to the prescribed standing orders.

- (a) The full council will approve the appointment of the 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 member of the Cabinet.
- (b) The full Council may only make or approve the appointment of the head of paid service where no well-founded objection has been made by any member of the Cabinet.

**C. Appointment of chief officers and deputy chief officers**

This process will be subject to the prescribed standing orders.

- (a) A committee or sub-committee of the Council will generally appoint chief officers and those deputy chief officers who are assistant directors. That committee or sub-committee must include at least one member of the Cabinet.
- (b) An offer of employment as a chief officer or deputy chief officer shall only be made where no well-founded objection from any member of the Cabinet has been received.

NOTE: The appointment of the Director of Public Health shall be made jointly with the Secretary of State and the Council must have regard to any guidance given by the Secretary of State in relation to its Director of Public Health, including guidance as to appointment, terms and conditions and management.

**D. Other appointments**

- (a) **Deputy chief officers who are not assistant directors.** Appointment of deputy chief officers who are not assistant directors shall be made by the head of paid service or his/her nominee.
- (b) **Officers below deputy chief officer.** Appointment of officers below deputy chief officer (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.

**E. Disciplinary action**

Councillors will not be involved in the disciplinary action against any officer below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, although the Council's disciplinary and related procedures, as adopted from time to time, may allow a right of appeal to members in respect of disciplinary action.

NOTE: In respect of the Director of Public Health, the Council will comply with any direction given to the Council by the Secretary of State to review, investigate, consider steps and report given under section 73(4) of the National Health Service Act 2006.

**F. Dismissal**

The process will be subject to the prescribed standing orders.

- (a) **Dismissal.** The full council will approve the dismissal of the head of paid service, monitoring officer or chief finance officer. Before taking the final decision, the Council must invite at least two Independent Persons to be considered for appointment to a committee ("the Panel") to advise it on matters relating to the dismissal.
- (b) **Independent Person.** An Independent Person is a person appointed as part of the standards regime under the Localism Act 2011. Invitations to be members of the Panel must be issued in the prescribed order.
- (c) The Panel must be appointed at least 20 working days before the meeting when the full council will consider whether or not to approve a proposal to dismiss the head of paid service, monitoring officer or chief finance officer.
- (d) Before voting whether or not to approve such a dismissal, the full council must take into account (i) any advice, views or recommendations of the Panel, (ii) the conclusions of any investigation and (iii) any representations from the relevant officer.
- (e) Councillors will not be involved in the dismissal of any officer below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, although the Council's disciplinary and related procedures, as adopted from time to time, may allow a right of appeal to members in respect of dismissals.

NOTE: The Council shall consult the Secretary of State before terminating the appointment of the Director of Public Health.

## **G. Political Assistants**

- (a) The Council will not make any appointment to a political assistant post until it has allocated a political assistant post to each of the political groups which qualify for one.
- (b) The Council will not allocate a political assistant post to a political group which does not qualify for one.
- (c) No political group shall be allocated more than one political assistant.

NOTE: A political group is one defined in regulations 8-12 of the Local Government (Committees and Political Groups) Regulations 1990, as amended.

Section 9 Local Government and Housing Act 1989 defines the circumstances in which a political group qualifies for a political assistant post.

## **6. Service Manager Strategic Property**

The Council has decided that the person appointed by the Council to the position of Service Manager Strategic Property shall as a minimum be a member of the Royal Institution of Chartered Surveyors (General Practice Division).

## **7. Involvement of Elected Members in Staff Appointments**

There is a wide statutory definition of “chief officers” and “deputy chief officers”. Constitutional Delegated Sub-committee on 17 January 2014 therefore resolved that members would only be involved in the appointment of –

- the Chief Executive,
- Directors, and
- Senior posts operating at assistant director level.

Details of the current posts are set out in the Appendix.

Details about the Council's pay arrangements including governance arrangements are outlined in our Pay Policy Statement, which is updated on an annual basis and agreed by Constitutional Committee.

## Appendix to Part 4G

Posts for which Members may be involved in recruitment and selection (chief officers shown in bold type)

<b>Chief Executive</b>	
<p><b>Resources Directorate</b>  <b>Director of Resources</b>  Assistant Director Financial Services  Assistant Director Human Resources  <b>Assistant Director Legal Services</b></p>	<p><b>Investment and Development Directorate</b>  <b>Director of Investment and Development</b>  Assistant Director Capital Investment  Assistant Director Development</p>
<p><b>Wellbeing, Care and Learning Directorate</b>  <b>Director of Wellbeing, Care and Learning</b>  Assistant Director Commissioning and Procurement  Assistant Director Education  Assistant Director Adult Social Care  Assistant Director Children’s Social Care  <b>Director of Public Health</b></p>	<p><b>Assistant Chief Executive Directorate</b>  Assistant Chief Executive  Assistant Director Public Safety and Regulation  Assistant Director Policy, Communication and Performance</p>
<p><b>Communities Directorate</b>  <b>Director of Communities</b>  Assistant Director Customers, Culture and Skills  Assistant Director Building and Commercial Enterprise  Assistant Director Tyne and Wear Archives and Museums</p>	

Note: It is still necessary to follow the procedure contained in Part 4G of the Charter in relation to the appointment of Chief Officers and Deputy Chief Officers, i.e. an offer of employment as a Chief Officer or Deputy Chief Officer shall only be made where no well-founded objection from any Member of the Cabinet has been received.

### Prescribed Standing Orders – Appointment of Chief Officers

1. Where the Council propose to appoint a chief officer, and it is not proposed that the appointment be made exclusively from among their existing officers, the Council shall –
  - (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
  - (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request
2. (1) Where a post has been advertised as provided in paragraph 1(b), the Council shall
  - (a) interview all qualified applicants for the post, or
  - (b) select a short list of such qualified applicants and interview those included on the short list.

(2) Where no qualified person has applied, the Council shall make further arrangements for advertisement in accordance with paragraph (1) (b)
3. Every appointment of a chief officer shall be made by the Council.
4. (a) The steps taken under paragraphs (1) or (2) above may be taken by the Constitutional Committee, an Ad Hoc Sub-Committee of the Constitutional Committee or a Chief Officer (under his/her Delegated Powers);
  - (b) A chief officer may be appointed by the Constitutional Committee or an Ad Hoc Sub-Committee of the Constitutional Committee.
  - (c) Any jointly funded non-statutory Chief Officers and any other such post as may be specified by Constitutional Committee may be appointed by the Chief Executive (or other Chief Officer agreed by Constitutional Committee) in consultation with representatives nominated by the relevant funding partners (at least one of whom shall be a City Council member).
5. Where the duties of a chief officer include the discharge of functions of two or more local authorities in pursuance of Section 101(5) of the Local Government Act 1972 –
  - (a) the steps taken under paragraphs (1) or (2) above may be taken by a joint committee of those authorities, a sub-committee of that committee or a chief officer of any of the authorities concerned; and
  - (b) any such chief officer may be appointed by such a joint committee or a sub-committee or a committee or sub-committee of any of those authorities.
6. The expression “chief officer” is defined in Regulation 1(2) of the Local Authorities (Standing Orders) Regulations 1993 but shall not include an appointment made pursuant to section 9 of the Local Government and Housing Act 1989 (political assistants). In the context of this Council, “chief officers” currently comprise the Chief

- Executive (as Head of Paid Service), the Director of Wellbeing, Care and Learning, the Director of Communities, the Director of Resources (as Section 151 Officer), the Director of Investment and Development, the Assistant Chief Executive, the Assistant Director Legal Services (as Monitoring Officer) and the Director of Public Health.
7. The person appointed by the Council to the position of Service Manager Strategic Property shall as a minimum be a member of the Royal Institution of Chartered Surveyors (General Practice Division)

**Prescribed Standing Orders – Disciplinary Action – Head of Paid Service, Chief Finance Officer and Monitoring Officer**

1. In the following paragraphs-
  - (a) “the 2011 Act” means the Localism Act 2011;
  - (b) “chief finance officer”, “disciplinary action”, “head of the authority’s paid service” and “monitoring officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;
  - (c) “independent person” means a person appointed under section 28(7) of the 2011 Act;
  - (d) “local government elector” means a person registered as a local government elector in the register of electors in the authority’s area in accordance with the Representation of the People Acts;
  - (e) “the Panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;
  - (f) “relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and
  - (g) “relevant officer” means the chief finance officer, head of the authority’s paid service or monitoring officer, as the case may be.
2. A relevant officer may not be dismissed by an authority unless the procedure set out in the following paragraphs is complied with.
3. The authority must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.
4. In paragraph 3 “relevant independent person” means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.
5. Subject to paragraph 6, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 3 in accordance with the following priority order-
  - (a) 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;
  - (c) a relevant independent person who has been appointed by another authority or authorities.
6. An authority is not required to appoint more than two relevant independent persons in accordance with paragraph 5 but may do so.
7. The authority must appoint any Panel at least 20 working days before the relevant meeting.
8. Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular-
- (a) any advice, views or recommendations of the Panel;
  - (b) the conclusions of any investigation into the proposed dismissal; and
  - (c) any representations from the relevant officer.
9. Any remuneration, allowances or fees paid by the authority 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.
- N.B. In the current context of the City Council:
- "the head of the authority's paid service" is the Chief Executive;
- "the chief finance officer" is the Director of Resources; and
- "the monitoring officer" is the Assistant Director Legal Services

<b>Prescribed Standing Orders – Staffing Under Executive Arrangements</b>
<p>1. In this Part -</p> <p>"the 1989 Act" means the Local Government and Housing Act 1989;</p> <p>"the 2000 Act" means the Local Government Act 2000;</p> <p>"disciplinary action" has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;</p> <p>"executive" and "executive leader" have the same meaning as in Part II of the 2000 Act;</p> <p>"member of staff" means a person appointed to or holding a paid office or employment under the authority; and</p> <p>"proper officer" means an officer appointed by the authority for the purposes of the</p>

- provisions in this Part.
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 authority must be discharged, on behalf of the authority, by the officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service) as the head of the authority's 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 officer designated as the head of the authority's paid service;
    - (b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
    - (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
    - (d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act; or
    - (e) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).
  4. (1) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment of an officer designated as the head of the authority's paid service, the authority must approve that appointment before an offer of appointment is made to that person.
    - (1A) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the dismissal of an officer designated as the head of the authority's paid service, as the authority's chief finance officer, or as the authority's monitoring officer, the authority must approve that dismissal before notice is given to that person.
    - (2) Where a committee or a sub-committee of the authority is discharging, on behalf of the authority, 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, "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, as the case may be.
    - (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 appointor until -
      - (a) the appointor has notified the proper 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;
      - (b) the proper officer has notified every member of the executive of the authority of -
        - (i) the name of the person to whom the appointor wishes to make the offer;
        - (ii) any other particulars relevant to the appointment which the appointor

- has notified to the proper officer; and
- (iii) the period within which any objection to the making of the offer is to be made by the executive leader on behalf of the executive to the proper officer; and
- (c) either -
- (i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither he nor any other member of the executive has any objection to the making of the offer;
  - (ii) the proper officer has notified the appointor that no objection was received by him within that period from the executive leader; or
  - (iii) the appointor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.
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- (1) In this paragraph, “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, as the case may be.
  - (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 dismissor until -
    - (a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
    - (b) the proper officer has notified every member of the executive of the authority of -
      - (i) the name of the person who the dismissor wishes to dismiss;
      - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
      - (iii) the period within which any objection to the dismissal is to be made by the executive leader on behalf of the executive to the proper officer; and
    - (c) either -
      - (i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither he nor any other member of the executive has any objection to the dismissal;
      - (ii) the proper officer has notified the dismissor that no objection was received by him within that period from the executive leader; or
      - (iii) the dismissor is satisfied that any objection received from the executive 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 authority 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 authority; or

- (b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

#### **Prescribed Standing Orders – Political Assistants**

No appointment shall be made to a post established by the authority pursuant to section 9 of the Local Government and Housing Act 1989 (Assistants for Political Groups) (referred to in this standing order as a “political assistant post”) until the council has allocated a political assistant post to each of the political groups which qualify for one under that section.

No political assistant post shall be allocated by the council to a political group which does not qualify for one under section 9 of the Local Government and Housing Act 1989.

No political group shall be allocated more than one political assistant.