

Officer employment procedure rules

Appointment of Officers

1. The council may appoint such officers as it thinks necessary for the proper discharge of such of its (or another authority's) functions as falls to it or is agreed to be discharged by it¹.
2. Every appointment of a person to a paid office or employment by the council must be made on merit².
3. The employment, appointment, designation, or engagement of all staff will follow the law and any policies and procedures of the council.
4. There are regulations establishing various mandatory standing orders (procedure rules) giving effect to obligations or restrictions on delegation of authority to bring these principles into effect. These rules are set out below³.

Statutory Chief Officers, Chief Officers, Deputy Chief Officers, and Other Officers

5. Local government employment rules differentiate between categories of officers, including⁴:
 - Chief Executive (Head of Paid Service)
 - Statutory Chief Officers (Chief Finance Officer / Section 151 Officer & Monitoring Officer)
 - Non-Statutory Chief Officers (Deputy Chief Executives)
 - Deputy Chief Officers (Heads of Service)
 - Proper officers
6. The statutory officers in a district council are:
 - Chief Executive (Head of Paid Service)
 - Monitoring Officer
 - Chief Finance Officer
7. The statutory officers have significant additional statutory employment protection due to the nature of their roles, including the involvement of an independent third-party in any proposed disciplinary investigation⁵.
8. Deputy chief officers are people who report directly or are directly accountable to one or more of the statutory or non-statutory chief officers, i.e., the deputy chief executives in South Oxfordshire and Vale of White Horse District Councils.

¹ Local Government Act 1972, s112

² Local Government and Housing Act 1989 s7

³ Local Authorities (Standing Orders) Regulations 1993 and Local Authorities (Standing Orders) (England Regulations 2001

⁴ Local Government and Housing Act 1989 s2

⁵ Local Authorities (Standing Orders) Regulations 2001 as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015

Proper Officers

9. Proper officers are officers appointed by the council to discharge particular statutory functions but are not necessarily chief officer posts in their own right (see Part 3 (F)).

Who Makes the Decision?

10. Where, as here, executive arrangements are in place, the appointment of staff, including their dismissal and the terms and conditions upon which they are appointed, is a function exercised on behalf of Council, or by Council. This means that these decisions are either taken by Council itself, a committee, or a named officer, although there are a number of exceptions to this, as outlined below⁶.

Role of Council Members

11. The appointment or dismissal of the chief executive (Head of Paid Service) may only be made by a meeting of Council, which may either be direct or as confirmation of a recommendation from a committee or sub-committee of the Council.
12. Council has delegated this authority to the Joint Staff Committee in respect of statutory officers and deputy chief executives (see Part 3 C – Committee terms of reference), which is reflective of the wider best practice.
13. As required by legislation, delegated authority is granted to the chief executive for the appointment, dismissal, determining any capability issue and taking any disciplinary action taken in respect of all other staff positions below deputy chief executive, although in practice. Here the chief executive authorises other appropriate officers to carry out this function as it is an essential component of a line managers role and this is the model supported by Unison as part of our collective agreement.
14. Unlike the chief executive, there is no statutory requirement for Council to approve the appointment of statutory posts, but this is common practice in respect of the monitoring officer and chief finance officer posts across many authorities, including South Oxfordshire and Vale of White Horse, and is a requirement in this constitution (see Part 3 C).
15. Dismissal of the monitoring officer or chief finance officer may only be made by a meeting of Council, which may either be direct or as a confirmation of a recommendation from a committee or sub-committee of Council (see section 10 below).

Involvement of the Leader and Cabinet

16. The Leader and Cabinet are involved in decisions to appoint or dismiss statutory officers and deputy chief executives in two distinct ways:
 - (a) where a committee or a sub-committee of Council is discharging, on behalf of the authority, the function of appointment or dismissal, at least one member of the Cabinet must be a member of that committee or sub-committee.

⁶ Local Authorities (Functions and Responsibilities) (England) Regulations 2000
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- (b) before an offer of appointment or notice of dismissal is issued, Cabinet members must be informed of the prospective decision and the Leader may make representations concerning their 'material and well founded' objection to the decision maker.

17. Appointment or dismissal is a different matter from the award or removal of a delegation to undertake statutory functions. All statutory officers can, at their sole discretion, grant or revoke authorisations in respect of their statutory responsibilities at any time.

Role of Chief Executive (Head of Paid Service)

18. The chief executive undertakes three distinct roles in this process:

- (a) decision maker on posts other than statutory officers and deputy chief executives (and the responsible officer concerning the grant and supervision of exemptions from political restriction).
- (b) principal advisor on staffing matters to the council and/or the appropriate committee or sub-committee (except where there would be a conflict of interest in respect of their own pay and conditions of service).
- (c) at their discretion, responsible for issuing a formal 'section 4' report, informing the council of proposals concerning:
 - (i) the manner in which the discharge by the authority of its different functions is co-ordinated and delivered
 - (ii) the number and grades of staff required by the authority for the discharge of its functions
 - (iii) the organisation of the authority's staff; and
 - (iv) appointment and proper management of the authority's staff, which includes setting of their day to day priorities, their targets, their organisation, and the method of delivery of the outcomes set for the chief executive by Council.

19. Subject to paragraphs 6 and 13, the functions of appointment and dismissal of, and taking disciplinary action against, an officer of the council below deputy chief executive must be discharged, on behalf of the authority, by the chief executive, or by an officer authorised by him/her and not by members of the council.

20. The chief executive may authorise at his/her discretion deputy chief executives and heads of service to carry out the functions of appointment and dismissal of and taking disciplinary action against officers within their line management.

21. Paragraph 18 shall not apply to the appointment or dismissal of, or disciplinary action against the:

- (a) Chief Executive (Head of Paid Service)
- (b) Deputy chief executives
- (c) Monitoring officer
- (d) Chief finance officer
- (e) Consideration of grievance and disciplinary appeals relating to statutory officers and deputy chief executives in cases of dismissals that arise out of disciplinary

or capability proceedings.

Recruitment and Appointment of Officers

Declarations

22. The council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are related to an existing member or officer of the council, or of the partner of such persons.
23. No candidate so related shall be appointed without the authority of the chief executive.
24. Seeking support for appointment
 - (a) Subject to paragraph (c) below, the council will disqualify any applicant who directly or indirectly seeks the support of any member for any appointment with the council.
 - (b) Subject to paragraph (c) below, no member will seek to support any person for appointment with the council.
 - (c) Nothing in this rule will prevent a member from giving a personal written reference for a candidate for submission in connection with an application for appointment, but that must not relate to their performance or activity as an officer, as that can only be provided or offered by their line manager.

Requirements for Recruitment of Statutory Officers, Deputy Chief Executives and Heads of Service

25. Where the council proposes to appoint a statutory officer, a deputy chief executive or a head of service, 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 post
 - (ii) any qualifications or qualities required
 - (b) Arrange 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
 - (c) Arrange for a copy of the statement mentioned in paragraph 8.1(a) to be sent to any person on request.
26. Where a post has been advertised as provided in paragraph 8.1(b), the council, via the appropriate senior officer(s), 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.
27. Where no suitably qualified person has applied, the post may be re-advertised in accordance with paragraph 8.1(b).

28. When a statutory officer (other than the Head of Paid Service), a deputy chief executive ceases to hold that post or is likely to be absent for any length of time and has not appointed a deputy acceptable to the chief executive, the chief executive, after consultation with the Leaders, may appoint someone to act temporarily in that capacity and determine the salary to be paid having regard to the wider pay policy of the councils.
29. Similarly, the chief executive may, after consultation with the Leaders, appoint an interim senior manager to undertake a specific role that does not currently exist in the establishment and determine the rate of remuneration for that role, having regard to the wider pay policy of the councils.

Appointment or Dismissal of Statutory Officers

30. No offer of an appointment or notice of dismissal may be made to a statutory officer or a deputy chief executive until:
 - (a) Council, the Joint Staff Committee (or other responsible body or officer) has notified the monitoring officer of the name of the person to be offered the appointment or given notice of dismissal and any other particulars the committee considers relevant
 - (b) that information has been sent by the monitoring officer to the Leader and all members of the Cabinet with a date and time by which any objection to the making of the offer or issuing of the notice can be made by the Leader
 - (c) the monitoring officer has confirmed that the date and time for objection by the Leader has elapsed and either:
 - (d) in the case of a statutory officer, Council has confirmed the appointment or dismissal after consideration of any such objection and resolving that it is not material or not well-founded or
 - (e) in all other cases, no such objection has been made or the Joint Staff Committee has considered any such objection and has resolved that the objection is not material or not well-founded.

Dismissal of a Statutory Officer⁷

31. No dismissal may be taken in respect of a statutory officer unless the procedure set out below is complied with.
32. The investigation and disciplinary sub-committee will be responsible for proposals to dismiss the chief executive, monitoring officer and chief finance officer. Any dismissal of one of the statutory officers must be approved by Council, following a decision of the investigation and disciplinary sub-committee and consideration by the independent persons panel and must be based only on matters that are of direct relevance to the issue under consideration.
33. Any disciplinary action short of dismissal, which includes a decision to suspend, against the chief executive, deputy chief executives, monitoring officer or chief finance officer will be the responsibility of the investigation and disciplinary sub-committee, who will duly consider the advice and report of the relevant officer, usually the senior HR officer of the council.

⁷ The disciplinary process for all officers under this procedure will be carried out in accordance with the JNC Chief Executives handbook which can be viewed [here](#)
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34. The investigation and disciplinary sub-committee will appoint an advisory committee called the Independent Persons panel which will be “the panel” for the purposes of the Regulations⁸.
35. The sub-committee must invite two relevant independent persons⁹ to be considered for appointment to the independent persons panel, with a view to appointing a minimum of two such persons to the panel¹⁰, who have accepted an invitation in accordance with the following priority order:
 - a relevant independent person who has been appointed by the council and who is a local government elector
 - any other relevant independent person who has been appointed by the council
 - an independent person who has been appointed by another authority or authorities.
36. The independent persons panel must be appointed at least 20 working days before the relevant meeting of council and council shall not meet to consider whether to approve the proposal of the investigation and disciplinary sub-committee to dismiss the officer until 10 working days has elapsed from the appointment of the independent persons’ panel.
37. The following procedure applies if the investigation and disciplinary sub-committee proposes disciplinary action involving the dismissal of the chief executive, monitoring officer or chief financial officer.
38. The investigation and disciplinary sub-committee will provide the independent persons panel with the information and any other matters provided to members of the Cabinet and any other particulars relevant to the dismissal that the investigation and disciplinary sub-committee considers appropriate or that the Panel may reasonably require.
39. The investigation and disciplinary committee may invite the independent persons panel to attend any disciplinary or capability hearing.
40. The independent persons panel will meet to consider what, if any, advice, views, or recommendations to give to the council.
41. The council may pay remuneration, allowances or fees to an independent person appointed to the panel as it thinks appropriate having due regard to the level of fees payable to that independent person in their role as Independent person under the Localism Act 2011.
42. Before Council takes a vote at a meeting on whether or not to approve dismissal, it must take into account, in particular:
 - (i) any advice, views, or recommendations of the independent persons panel;
 - (ii) the conclusions of any investigation into the proposed dismissal; and

⁸ [Local Authorities \(Standing Orders\) \(England\) Regulations 2001/3384](#)

Schedule 3 - Provisions to be incorporated in standing orders in respect of disciplinary action

⁹ An authority is not required to appoint more than two relevant independent persons but may do so.

¹⁰ Localism Act 2011 s28

- (iii) any representations from the statutory officer.
- 43. Council will abide by the recommendations of the sub-committee unless there are exceptional reasons to justify departing from them at all times being aware of the council's duty to obtain best value.
- 44. If Council approves the recommendation of the sub-committee, then notice of dismissal can be issued. Where Council does not approve the recommendation, it shall indicate how it wishes to proceed.
- 45. A statutory officer may only be dismissed on the vote of two-thirds of **all** the members of Council, i.e. not just those present and voting and members may not be politically whipped or compelled by any Group rules.
- 46. All suspended officers shall be on full pay during the investigation of the alleged misconduct, which must be completed no later than two months after the suspension takes effect. If this is not possible, then the need for continued suspension should be considered after two months.

Appeals

- 47. Any sanction short of dismissal applied against a statutory officer may be appealed to the appeals panel which will be constituted of members of the Joint Staff Committee for that purpose.
- 48. If a decision to dismiss an officer is taken by the council, it will not be possible to provide an internal appeal process against the dismissal. Instead, the officer may appeal to an appeals panel formed from a non-conflicted neighbouring local authority under sharing arrangement in accordance with s.101 Local Government Act 1972.
- 49. Any appeal by a statutory officer or a deputy chief executive must be lodged with the chief executive or in the case of a disciplinary against the chief executive, deputy chief executive for transformation and operations within 10 working days of written confirmation to the officer of the dismissal or disciplinary action and must include a written statement of the grounds on which the appeal is made.
- 50. Appeal hearings shall be considered by the appeals sub-committee in the case of all employees (except statutory officers appealing dismissal) and shall not include members involved in the decision to take disciplinary action.

Dismissal of Deputy Chief Executives

- 51. The process above applies to the dismissal of a deputy chief executive save that the final decision shall be made by the sub-committee for all disciplinary outcomes including dismissal with an appeal to the appeals panel.
- 52. For the avoidance of doubt any action taken is without prejudice to the ability of the chief executive to revoke any authorisations granted.