

Part I - Officer Employment Procedures / Arrangements

This section incorporates the Mandatory Standing Order requirements in the Local Authorities (Standing Orders) (England) Regulations 1993 and 2001

1 APPOINTMENT OF OFFICERS:

1.1 The function of appointment, dismissal and taking disciplinary action against, an officer of the council must be discharged, on behalf of the council, by Chief Executive Officer (the head of paid service) or their nominee.

1.2 This does not however apply to the following posts:

- (a) The Chief Executive (Head of paid service)*
- (b) Executive Director – Resources and Corporate Services (Section 151 officer)*
- (c) Service Director – Governance, Democratic and legal Services (monitoring officer)*
- (d) Executive Director of Children and Family Services*
- (e) Executive Director of Adult Services*
- (f) Executive Director of Public Health**
- (g) Executive Director – Strategy, Workforce and Localities
- (h) Executive Director – Community Services
- (i) Executive Director – Climate and Place

And additionally;

- (j) any officer who reports or is directly accountable to the officers listed in (a) to (i) above

Note

*indicates posts that carry posts statutory responsibilities and authority. Statutory designations and these posts have been agreed by the Council to cover these statutory requirements are set out below. The posts of Head of Paid Service, Chief Finance Officer (also known as Section 151 Officer) and Monitoring Officer have a range of key constitutional responsibilities as set out in relevant legislation.

** This post carries statutory responsibility and authority. Any appointment or dismissal process is undertaken jointly with the Secretary of State for Health in accordance with National Health Service Act 2006.

3 The Chief Executive has authority to approve changes to the terms and conditions of all post specified in (b)-(j) in 1.2 above on the recommendation of the Appointments Panel or the Appointments Committee or on his / her own initiative and having obtained the agreement of the Leader of the Council . All decisions taken

by the Chief Executive on such matters will be the subject of a formal Officer Decision which will be published on the Council's website as soon as it is confirmed

1.4 The Chief Executive has authority after having sought the agreement of the Leader, and after appropriate consultations, to agree:

- (i) acting up arrangements into the positions specified in (b)-(j) in 1.2 above to cover periods of temporary absence either planned or unplanned
- (ii) (ii) emergency cover arrangements for the post specified in (b)-(j) in 1.2 above where these positions become vacant between Full Council meetings. Any such agreement will be subject to review and confirmation at the next available Full Council meeting

1.5 The Council's Pay Policy Statement, senior management structure and pay details and a description of the roles of the statutory officers of the Council is available to view on the Council's website via the following link:

<http://www.somerset.gov.uk/organisation/senior-salaries-and-pay-policy>

2 Recruitment

All appointments will be made on merit and in accordance with HR procedure for recruitment which includes :

1. a requirement that any candidate for an appointment as an officer must state in writing whether they have any relationship with any councillor or officer of the Council
2. No candidate so related to a councillor or a senior officer will be appointed without the authority of the relevant Executive Director or an officer nominated by the Executive Director
3. 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.
4. No councillor will seek support for any person for any appointment with the Council.

2.1 Appointment of Officers to post specified in Para 1.2

Appointments to these posts will involve elected Members.

Where a vacancy occurs in these appointments, the recruitment process requires the appointment of an Appointments Panel and then an Appointments Committee.

2.2 Appointments Panel

2.2.1 The Panel comprises 3 members, the Leader of the Council, the Leader of the largest Opposition Group, and the Deputy Leader of the Council (or their nominated representatives) with any relevant Lead Members as consultees

2.2.2 The Panel reviews the terms and conditions of employment relating to the post and where appropriate makes recommendations to the Chief Executive for any changes; decides the appointments process or other course of action; and appoints the Appointments Committee to undertake the appointments process. This review includes reviewing the job and person specifications, the means of advertisement and short-listing arrangements. The Panel will then appoint an Appointments Committee. The Panel can convene virtually or meet as required.

2.2.3 If a Panel decides that no changes to terms and conditions are necessary when it reviews a vacant post then the Panel has authority to progress the recruitment without the need to seek further approvals. If a Panel wishes to make changes to the terms and conditions of a vacant post (other than the post of Chief Executive) then these are subject to the approval of the Chief Executive having obtained the agreement of the Leader of the Council. This includes where a Panel wishes to advertise a salary for a post (other than the post of Chief Executive) above the 'spot' at the bottom of the range. This must be the subject of a Panel recommendation to the Chief Executive for decision. If the Panel's recommendations for changes to terms and conditions relate to the post of Chief Executive then Full Council must agree these changes. In all cases the Panel will appoint the Appointments Committee.

2.3 Appointments Committee

The Committee comprises a maximum of 5 Members including:

- (a) The Leader of the Council (or their nominated representative)
- (b) The Leader of the largest Opposition Group (or their nominated representative)
- (c) Up to 3 other Members of the Council selected in accordance with the rules of political proportionality and including the relevant Lead Member.

Notes:

- (a) It is a statutory requirement that at least 1 member of an Appointments Committee must be a Member of the Executive.
- (b) The Committee appoints its own Chair.
- (c) All Members of the Committee must have up-to-date knowledge of and have received training in the areas of Recruitment and Equalities.

(d) The selection process must be conducted in accordance with the Council's agreed Code of Practice

2.4 The Committee will:

- (a) Interview all short-listed candidates and either
- (b) Appoint a suitable candidate to the post; or

©In the case of the Chief Executive make a recommendation to the Full Council who must approve the proposed appointment before an offer of appointment is made; or
(d) Follow any other course of action decided upon by the Appointments Panel.

2.5 An offer of employment to these posts shall only be made where no justifiable objection has been made by the Lead Member/Executive.

2.6 If the Committee during the course of an appointment process wishes to vary the terms and conditions or the salary already agreed for a specific post, then such a proposal is subject to the approval of the Chief Executive having obtained the agreement of the Leader of the Council. The exception to this is where the Committee's recommendations relate to the appointment of the Chief Executive where only Full Council may amend the terms and conditions to be applied to the post.

2.7 Voting on appointment

Where two or more candidates are interviewed for an appointment to a senior post, and there is not a majority of votes cast in favour of one candidate the candidate receiving the least number of votes will be disregarded and a fresh vote taken, and so on until one candidate receives a majority of the votes.

2.8 Other Officers

Appointment of all other Officers is the responsibility of the Chief Executive as the Head of the Paid Service, or the relevant Officer specified in 1.2 or such officer authorised by one of them. Members cannot be formally involved in these appointments but leading members may be involved on an informal basis. Guidance on this involvement is available from the Service Director-Workforce

3 DISCIPLINARY ACTION (INCLUDING DISMISSAL) IN RELATION TO OFFICERS

3.1 DEFINITION: 'Disciplinary action' means any action confirmed in relation to alleged misconduct and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body.

It only includes failure to renew a contract of employment for a fixed term where the Council has undertaken to renew such a contract.

3.2 GENERAL: The rules set out below are subject to:

- (a) Conditions of service approved by national negotiating bodies recognised by the County Council;
- (b) Special conditions of service prescribed by the Articles of Government and Voluntary Aided schools in relation to non-teaching staff in such establishments;
- (c) Where any disciplinary action is taken, regard having been had to the Council's Disciplinary and Appeals Procedure.

3.3 Disciplinary action in relations to post specified in 1.2

3.3.1 Any proposal for a dismissal of the Chief Executive, the Section 151 Officer or the Monitoring Officer will be determined by the Council on the recommendation of the Independent Persons' (IPs) Panel comprising a minimum of 3 IPs selected to participate by the Chief Executive in accordance with the Local Authority (Standing Orders) (England) (Amendment) Regulations 2015. The IPs will be selected from a joint Somerset Councils' Panel of IPs. The Panel will be appointed by the Chief Executive (or the Head of HR where the Chief Executive is the subject of the proposed dismissal). The Panel shall be appointed a minimum of 20 days before the Council is due to meet to consider the dismissal.

3.3.2 A proposal for a dismissal of an officer specified in 1.2(d)-(j) will be determined by the Council on the recommendation of a special Panel of 6 Members appointed by the Leader of the Council (or their nominated representative) and comprising:-

- (a) The Leader of the Council (or their nominated representative)
- (b) The Leader of the largest opposition group (or their nominated representative)
- (c) 4 other Members of the Council selected by the Leader of the Council in consultation with the other Group Leaders and in accordance with the rules of political proportionality.

3.3.3 Any question of dismissal on the grounds of redundancy (including voluntary), permanent ill-health or infirmity of mind or body in relation to a Chief Officer shall be determined by the Special Members' Panel appointed as specified above with the exception detailed in below

3.3.4 The exception is where a proposed financial settlement for an officer leaving the Council exceeds £100,000. In these circumstances only Full Council can agree the financial settlement.

3.3.5 Any question of disciplinary action in relation to a Chief Officer or the Monitoring Officer shall be determined by the Special Members' Panel appointed in accordance with 3.3.4 above.

3.3.5 The Special Members' Panel referred to in 3.3.4 above, when a proposal is made to dismiss one of these statutory post-holders, shall decide whether there is any justification to the proposal and therefore whether it needs to be investigated. If the decision is that an investigation is necessary the Panel will appoint an investigator. If the investigation confirms a potential dismissal, the Panel will refer the matter to the IPs' Panel for consideration and report to Council. If the investigation recommends disciplinary action then the Special Members' Panel shall consider and decide whether disciplinary action is justified and if so agree any action to be taken.

3.3.6 An Officer who is subject to possible dismissal or other disciplinary action has the right to be informed as to the basis of any action which may be taken and to appear before the relevant Panel prior to a decision being made or before a recommendation is made to Council

3.3.7 The Officer concerned also has the right to appear before and address the Council before a dismissal is confirmed. The Panels and the Council will be advised by the Monitoring Officer and the Service Director-Workforce. If either of these officers is the subject of the Panel's report, the Chief Executive will make alternative arrangements for the provision of advice to the Council in place of that Officer.

3.3.8 Council can only give notice of dismissal to an Officer named in this section (other than the Monitoring Officer) where no justifiable objection has been made by any Member of the Executive.

3.3.9 An Officer specified in 1.2 can be suspended for the purpose of investigating potential gross negligence or gross misconduct where such suspension is considered:

- (a) necessary to allow an investigation to take place
- (b) otherwise desirable in the interests of the Council or the employee

3.3.10 Any such suspension shall be on full pay and terminate no later than 2 months beginning on the day on which the suspension takes effect. The power to suspend a SLT Officer rests with the Chief Executive, in consultation with the Leader. If the Chief Executive is the subject of the proposed suspension, then the Leader shall have the power to suspend the Chief Executive following consultation with the other group leaders and on the advice of the Service Director-Workforce.

3.4 OTHER OFFICERS

3.4.1 As authorised by the Chief Executive as Head of the Paid Service, any Officer specified in (a)-(j) or a Senior Officer nominated by them, can suspend any employee suspected of potential gross negligence or gross misconduct where such suspension is considered:

- (a) Necessary to allow an investigation to take place, or
- (b) Otherwise desirable in the interests of the Council or the employee.

3.4.2 When suspended the employee is entitled to full salary or wages, subject to any agreement to the contrary that they may reach with the Council.

3.3.3 As authorised by the Chief Executive, any Officer specified in 1.2 or their nominated Senior Officer, can dismiss an employee:-

- (a) Employed under a fixed-term or temporary contract of employment which is ending;
- (b) Whose post is or is about to become redundant;
- (c) For unsatisfactory performance at the end of an agreed probationary period;
- (d) Medically certified to be incapable of discharging their duties by reason of ill-health;
- (e) Who has reached compulsory retirement age; or
- (f) For some other substantive reason.

3.3.4 An Officer specified in 1.2 or their nominated Senior Officer, can:-

- (a) Dismiss with due notice any employee who has previously been the subject of formal disciplinary action but whose standards of conduct or capability have remained unsatisfactory;
- (b) Dismiss any employee without notice where satisfied on reasonable enquiry that the employee has been guilty of gross misconduct; subject to prior consultation with the Monitoring Officer and the Service Director-Workforce.

Any appeal against dismissal or disciplinary action will follow the Council's Disciplinary and Appeals Procedure.

Any employee selected for compulsory redundancy has a right of appeal to the Redundancy Review Panel.

GRIEVANCES

Any grievance by a member of staff will be dealt with in accordance with the Council's agreed procedures