

APPOINTMENT, DISCIPLINE & DISMISSAL OF CHIEF OFFICERS POLICY

1 Introduction

Principles

- 1.1 This policy recognises and embodies the Council's legislative responsibilities when appointing and disciplining senior officers on JNC terms and conditions.
- 1.2 The policy implements the requirements of the Local Authorities (Standing Orders) (England) Regulations 2001 and the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.
- 1.3 The Panels referenced in this policy are convened in accordance with the Council's constitution and Standing Orders.

Scope

- 1.4 The policy applies to all chief officer posts covered by JNC Conditions of Service employed by the Council.
- 1.5 This policy will also apply to those posts collectively known as "relevant officers", this includes the Head of Paid Service, Monitoring Officer and Chief Finance Officer, irrespective of whether the post is covered by JNC conditions of service.
- 1.6 Employees are as defined in section 230 of the Employment Rights Act 1996 or any substituting or amending legislation.
- 1.7 Where it is proposed to establish a new chief officer post, as part of the Chief Officer Decision process, the Executive Director must have a discussion with the Chief Executive and Director HR & OD before commencing any recruitment to the role.

2 Appointment Panels and arrangements

- 2.1 A Committee of the Council, the Chief Officer Employment Panel, will be convened to deal with the recruitment of the Chief Executive / Executive Director posts / Statutory Officers. This function is exercised under 3A of the Council's constitution. The procedure meets the requirements of the Local Authorities (Standing Order) (England) Regulations 2001.
- 2.2 The Chief Officer Employment Panel will appoint staff at Executive Director level and recommend the appointment of the Head of Paid Service, Monitoring Officer and Section 151 Officer.

Effective From	Replaces	Originator	Page of Total Pages
1 December 2022	1 April 2020	Strategic People Services – HR&OD	Page 1 of 8

Arrangements for recruitment

- 2.3 The details of the recruitment and selection process will be determined by the Chief Executive or the relevant Chief Officer in conjunction with the Director of Human Resources & OD. If the appointment is for the Chief Executive, the Director of Human Resources & OD will liaise with the Leader of the Council.
- 2.4 At the outset, the relevant Chief Officer will discuss and agree the recruitment plan with their Strategic People Business Partner. The Director of Human Resources & OD will be responsible for ensuring that the process agreed is implemented in accordance with the principles of the Recruitment Policy and that every appointment is made on merit.
- 2.5 The use of Executive Search Agencies will be in accordance with the Council's procurement policies.

Composition of Panel

- 2.5 The Chief Officer Employment Panel will comprise:

For post of Chief Executive

- Leader of the Council
- Deputy Leader,
- Another Cabinet Member
- 1 opposition Member

For posts of CLT Chief Officers/Statutory Officers

- Leader of the Council
- Deputy Leader
- Portfolio Lead Member(s)
- 1 opposition Member
- Chief Executive

The Director of HR&OD will attend above panels in an advisory capacity.

- 2.6 If deemed necessary (and with agreement of Leader or Deputy Leader), deputies can be nominated in the absence of the above. Nominated deputies, should in the first instance, be sought from other Cabinet Members.
- 2.7 The Leader of the largest Minority Party will be asked to nominate the Opposition Member.
- 2.8 For posts of Director and Assistant Director and other posts on Chief Officer terms and conditions, appointments will be made by the Chief Executive, on the recommendation of an Officer led Panel comprising:
- Chief Executive
 - Executive Director / Director

The Director of HR&OD or nominated representative will attend in advisory capacity.

- 2.9 Each Panel, will identify a Chair. Where Elected Members are involved, the Chair would normally be either the Leader, Deputy Leader or Portfolio Lead Member.
- 2.10 The Panel will have the discretion to call upon specialist advice if considered necessary.
- 2.11 The composition of the panel must be such to maintain both public and staff confidence in its integrity. Panel Members and advisers to the panel must therefore declare any interests, friendships and associations which could conflict with or be perceived to conflict with their responsibilities on the panel.

The Recruitment Process

- 2.12 The Director of Human Resources & OD, in conjunction with the appropriate Chief Officer or Elected Member (as appropriate) will review and/or draft the job description and employee specification.
- 2.13 The Director of Human Resources & OD will ensure the appropriate selection process is applied in line with Council procedures and advise who would attend at each stage of the selection process.
- 2.14 All Chief Officer positions are politically restricted posts and 5.3 of the Recruitment Policy applies.
- 2.15 After the closing date a meeting will be held to agree the long list of candidates.
- 2.16 Following the selection of the longlisted candidates, a decision will be taken on the most appropriate form of selection process to enable a decision on a final shortlist to be made. This would normally be some form of assessment centre and a longlist interview.
- 2.17 Following this a decision will be taken to agree the final shortlist of candidates to be invited for interview by the Panel.
- 2.18 Prior to any final interviews taking place, the Chief Executive may meet informally with all shortlisted candidates.
- 2.19 The final interviews will take place with the Panel identified in 2.5 or 2.8 above. A pre-meeting is advised to enable the panel to agree and allocate the questions.
- 2.20 When all candidates have been interviewed the panel should compare their individual assessments. No panel member may take part in the decision making who has not been present throughout the whole interview process.

- 2.21 An absolute majority should be sought for an appointment to be made. If necessary, the Chair has the casting vote. When a joint panel decision has been agreed, the rationale for the decision must be recorded on the relevant recruitment documents.

Post interview

- 2.22 Each member of the Cabinet must be notified of the panel's decision before an appointment decision to a CLT or Statutory Officer role can take effect.
- 2.23 The Chief Executive or Director of Human Resources & OD will inform each member of the Cabinet of the proposed appointment and provide all particulars to enable Cabinet Members to object. The notification will also set out a timescale in which any objection should be made. Any objection should be made via the Director of Human Resources & OD and must be well founded or material. It is for the Chief Officer Employment Panel to decide if objections by Cabinet are material or well founded.
- 2.24 The offer of appointment can only be made once the timetable for objection has passed, and no objection has been lodged or the Chief Officer Employment Panel has determined that any objection lodged is not material or is not well founded.
- 2.25 All decisions of pay and reward for chief officers must comply with the current Pay Policy Statement.
- 2.26 All offers of appointment will be on merit and subject to the usual pre-employment checks as set out in the Recruitment Policy.

3 Discipline and/or Dismissal

- 3.1 The Council expects the highest standards of conduct from staff and in particular its senior management. Standards of behaviour are set out in the Council's Code of Conduct and employees must ensure that they fulfil their responsibilities.
- 3.2 The aim of this procedure is to set out the process by which matters of misconduct and under performance are managed.
- 3.3 Disciplinary action in relation to an employee of the local authority means any action occasioned by alleged misconduct and/or under performance which, if proven, would be recorded on the employee's file, and includes any proposal for dismissal for any reason other than redundancy, permanent ill-health but does not include failure to renew a contract of employment for a fixed term unless the authority has undertaken to renew such a contract.
- 3.4 Employees have the right to be treated fairly and with respect. This procedure will be applied in accordance with the principles of natural justice and in accordance with any rights under national terms and conditions of service.

Authority to take Action

- 3.5 The authority to take action will vary dependent on the post in question and the action proposed.
- 3.6 The procedures set out for protected officers and Chief officers will be applied within the framework of the Council's Constitution and Standing Orders, with Member Panels being convened as required at the behest of the Leader of the Council or the Chief Executive. The Flowchart at Appendix 2 shows the stages involved.

Relevant Officers

- 3.7 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 require specific arrangements for the Head of Paid Service, Chief Finance Officer (Section 151 post) and the Monitoring Officer. For details see Appendix 1.
- 3.8 These arrangements will apply to the post of Chief Executive, Executive Director of Finance & Resources and Assistant Director of Governance. In the event that any of these posts are deleted or re-titled, the arrangements will continue to apply to the posts of the Head of Paid Service, the Section 151 officer and the Monitoring Officer as defined (see the Local Authorities (Standing Orders) (England) Regulations 2001 Schedule 3, Regulation 6).
- 3.9 The Council adopts the disciplinary procedure set out in the JNC for Local Authorities Chief Executive Conditions of Service Handbook which will be applied to the Chief Executive.
- 3.10 The Council adopts the disciplinary procedure set out in the JNC for Chief Officers of Local Authorities for the Section 151 post and the Monitoring Officer, taking into account the Standing Order Regulations at 3.7.
- 3.11 Where a Member Panel is convened to consider any disciplinary action in relation to a Relevant Officer, the Panel will be established in accordance with Schedule 3 of the Local Authorities (Standing Orders) (England) (Amendment) (Regulations 2015 (see Appendix 1).

Chief Officers

- 3.12 Matters of misconduct and under performance by Chief Officers, other than those identified as relevant officers, will be addressed in accordance with the disciplinary procedure set out in the JNC for Chief Officers of Local Authorities conditions of service.

Executive Notification/Objections

- 3.13 The Executive notification and objection procedure as defined in the Local Authority (Standing Orders) (England) Regulations 2001 Schedule 1, Part II, (6) as amended by the Local Authority (Standing Orders) (England)

(Amendment) Regulations 2015 will apply to all decisions for the dismissal of chief officers.

Severance/Settlement Payments

- 3.14 A Chief Officer who ceases employment on grounds of redundancy, or on grounds of efficiency of the service, may be entitled to a severance payment. Such payments will be as made in accordance with the Council's Severance Policy and also the Redundancy and Redeployment Policy.
- 3.15 All decisions regarding severance / settlement payments must comply with the current Pay Policy Statement.

The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015

SCHEDULE Regulation 2

SCHEDULE 3 Regulation 6

Provisions to be incorporated in standing orders in respect of disciplinary action

1. In the following paragraphs –
 - (a) “the 2011 Act” means the Localism Act 2011¹;
 - (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 2001²;
 - (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 1972³ for the purposes of advising the authority on matters relation to the dismissal of relevant officers to 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 office may not be dismissed by the 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 person 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 –

¹ 2011 c.20

² S.I. 2001/3384.

³ 1972 c.70

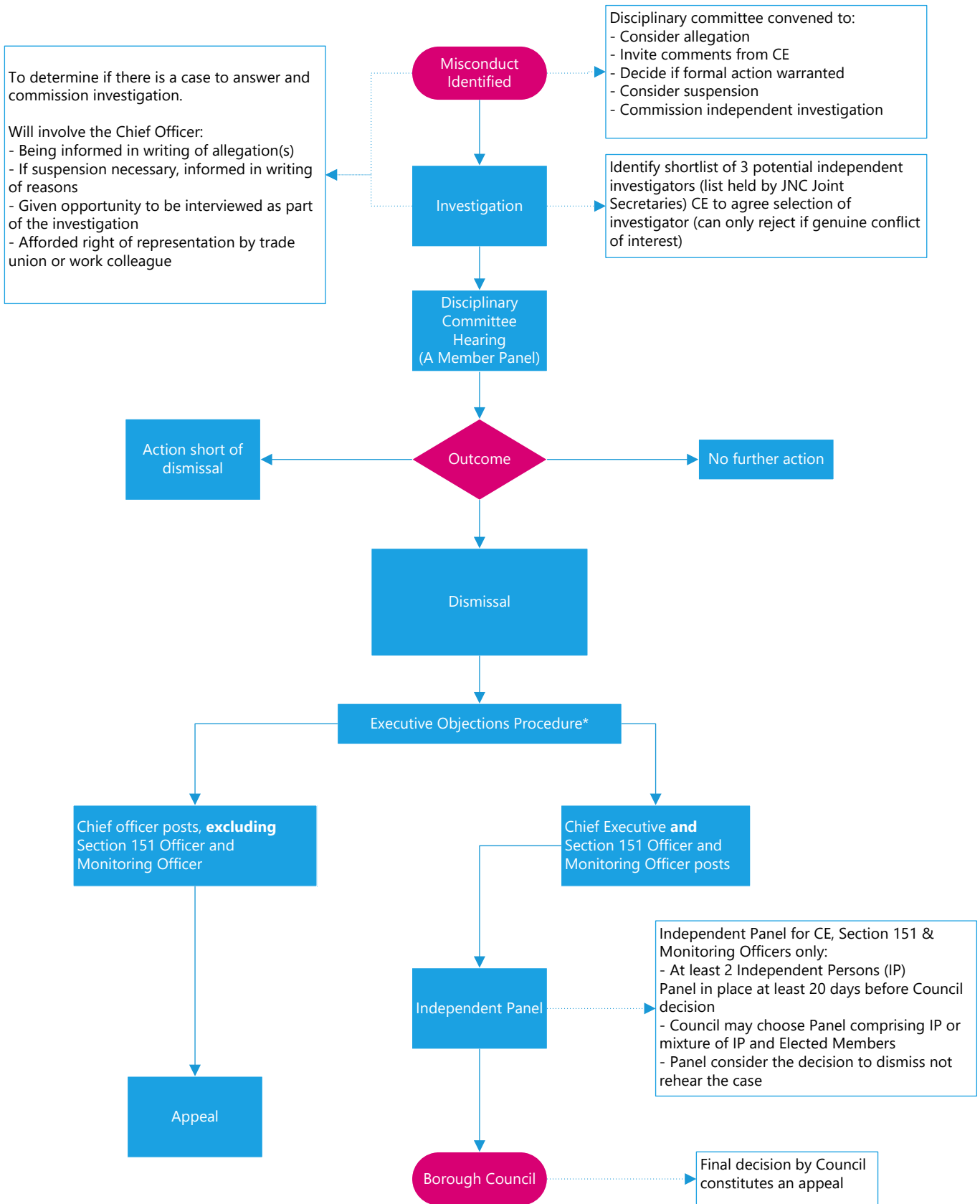
- (a) a relevant independent person who has been appointed by the authority and who is a local government elector;
 - (b) any other relevant independent person who has been appointed by the authority;
 - (c) a relevant independent person who has been appointed by another authority or authorities.
6. An authority is not required to appoint more than two relevant independent persons in accordance with paragraph 5 by 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."

Flowchart – Discipline and Dismissal

Appendix 2

For Chief Officer positions **including** Section 151 Officer and Monitoring Officer

For Chief Executive



* NB The Localism Act 2011 requires that any severance payments exceeding £100k must be notified to full Council. Seek advice from Director of HR&OD