

PART 4

Rules of Procedure

Part 4F – Employment Rules

Note: these Rules reflect the requirements of The Local Authorities (Standing Orders) (England) Regulations 2001 and 2015

RULE 1. DEFINITIONS

1.1 In these Employment Rules -

“2011 Act”	means the Localism Act 2011
"Appointer"	means, in relation to the appointment of an Employee, Council or, where a Committee, sub-committee or Employee is discharging the function of appointment on behalf of Council, that committee, sub-committee or Employee.
“Authority”	means the legal body Cheltenham Borough Council
“Cabinet Member”	means the Leader or a Cabinet Member designated by the Leader in accordance with Part 3 of the Constitution
“Chief Finance Officer”	means the employee appointed for the purposes of section 151 Local Government Act 1972 to administer the financial affairs of the Authority
“Committee”	means Appointments and Remuneration Committee or Disciplinary Committee as the context demands, a sub-committee of those Committees with appointment/dismissal/disciplinary powers or a committee established by Council for appointment/dismissal/discipline of employees
“Council”	means the elected Members of the Authority acting collectively
“Disciplinary Action”	means any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the Authority, be recorded on an Employee’s personal file, and includes any proposal for

dismissal of an Employee for any reason other than redundancy, permanent ill-health or infirmity of mind or body

"Dismissor"	means, in relation to the dismissal of an Employee, Council or, where a Committee, sub-committee or another Employee is discharging the function of dismissal on behalf of Council, that Committee, sub-committee or Employee.
"Employee"	means any employee of the Authority
"Head of Paid Service"	means the employee appointed for the purposes of section 4(1) of the Local Government and Housing Act 1989
"Independent Person"	means a person appointed under section 28(7) of the 2011 Act
"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
"Meeting"	means a meeting of Council, a committee or Cabinet
"Monitoring Officer"	means the employee appointed for the purposes of section 5(1) of the Local Government and Housing Act 1989
"Officer"	means an Employee, a member of staff or someone seconded to the Authority
"Related Organisation"	means an organisation providing technical, administrative or professional services to the Authority
"Relevant Meeting"	means a meeting of Council to consider whether or not to dismiss the Head of Paid Service, Chief Finance Officer or Monitoring Officer

RULE 2. RECRUITMENT AND APPOINTMENT

Declarations

- 2.1 The Authority will, when undertaking recruitment and as a minimum requirement, require any candidate for employment by the Authority to state in writing whether they are related to an existing Councillor or Officer of the Authority or a member of staff of a Related Organisation.

- 2.2 No candidate so related to a Councillor or an Officer will be appointed without the authority of the Head of Paid Service or an officer authorised by him/her.

Seeking support for appointment

- 2.3 The Authority will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Authority. The content of this paragraph will be included in any recruitment information.
- 2.4 No Councillor will seek support of any person for any appointment of that person by the Authority.

RULE 3. RECRUITMENT OF HEAD OF PAID SERVICE, MONITORING OFFICER, CHIEF FINANCE OFFICER, DEPUTY CHIEF EXECUTIVE AND DIRECTORS

3.1 Where the Authority proposes to appoint the Head of Paid Service, Monitoring Officer, Chief Finance Officer, Executive Directors or Directors, and it is not proposed that the appointment be made exclusively from among their existing officers, the Authority will:

- (a) draw up a statement specifying:
 - (i) the duties of the post 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.

RULE 4. APPOINTMENT/DISMISSAL OF HEAD OF PAID SERVICE

4.1 Subject to Rules 6 and 8 below, Council must, if it is not itself making the decision, approve the appointment or dismissal of the Head of Paid Service, following the recommendation of such action by a Committee (which must include at least one Cabinet Member), before an offer of appointment or notice of dismissal is given to that person.

RULE 5. APPOINTMENT/DISMISSAL OF MONITORING OFFICER, CHIEF FINANCE OFFICER, EXECUTIVE DIRECTORS AND DIRECTORS

5.1 Subject to Rule 6 below, the Chief Finance Officer and the Monitoring Officer will be appointed by a Committee which must include at least one Cabinet Member.

- 5.2 The designation of Employees or Officers as Chief Finance Officer or Monitoring Officer will be made by Council.
- 5.3 Subject to Rule 8 below, the dismissal of the Chief Finance Officer or Monitoring Officer must be approved by Council, following the recommendation of such action by a Committee (which must include at least one Cabinet Member), before a notice of dismissal is given to that person.
- 5.4 Subject to Rule 6 below, the Executive Directors and Directors will be appointed or dismissed by a Committee which must include at least one Cabinet Member.

RULE 6. CABINET CONSULTATION ON APPOINTMENTS AND DISMISSALS

- 6.1 An offer of appointment or notice of dismissal under Rules 4 and 5 shall not be made by the Appointer or given by the Dismissor until:
- (a) the proposed appointment or dismissal has been approved by Council or Committee under Rules 4 and 5: and
 - (b) the Appointer or the Dismissor has notified the Proper Officer of the name of the person to whom the Appointer wishes to make the offer or of the person to whom the Dismissor wishes to dismiss together with any other particulars which the Appointer or the Dismissor considers are relevant to the proposed course of action: and
 - (c) the Proper Officer has notified every Cabinet Member of
 - the name of the person to whom the Appointer wishes to make the offer or the Dismissor wishes to dismiss
 - any other particulars relevant to the proposed appointment or dismissal which the Appointer or the Dismissor have notified to the Proper Officer: and
 - the period within which any objection to the making of the offer or the giving of notice of dismissal is to be made by the Leader on behalf of the Cabinet to the Proper Officer: and
 - (d) either -
 - (i) the Leader has, within the period specified in (c), notified the Appointer or the Dismissor that neither he/she nor any other of the Cabinet Member has any objection to the making of the offer or the giving of the notice of dismissal; or
 - (ii) the Proper Officer has notified the Appointer or the Dismissor that no objection was received by him within the period specified in (c) from the Leader; or

- (iii) the Appointer or the Dismissor is satisfied that any objection received from the Leader within the specified period is not material or is not well-founded.

RULE 7. APPOINTMENT/DISMISSAL OF OTHER EMPLOYEES

- 7.1 Appointment and dismissal of Employees other than the Head of Paid Service, Monitoring Officer, Chief Finance Officer, Deputy Chief Executive and Directors and assistants to political groups is the responsibility of the Head of Paid Service or his/her nominee and may not be undertaken by Councillors.
- 7.2 Appointment or dismissal of an assistant to a Political Group shall be made in accordance with the wishes of that Political Group.

RULE 8. SUSPENSION, DISCIPLINARY ACTION, DISMISSAL – HEAD OF PAID SERVICE, CHIEF FINANCE OFFICER AND MONITORING OFFICER

Suspension

- 8.1 Those Employees in the posts of Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended by Committee whilst an investigation takes place into alleged misconduct. That suspension will be on full pay.

Disciplinary Action

- 8.2 Subject to Rule 8.3 below, any Disciplinary Action taken in respect of the Head of Paid Service, Chief Finance Officer or Monitoring Officer shall be in accordance with the Authority's disciplinary, capability and related procedures. Where appropriate and in a case of urgency the Chair of the Disciplinary Committee can suspend, for a period of up to 2 months, the Head of Paid Service, Monitoring Officer or the Chief Finance Officer. This power must only be exercised following consultation with Human Resources.

Dismissal

- 8.3 Disciplinary Action leading to potential dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer shall be undertaken in accordance with the following procedure:
 - (a) The Authority must appoint at least two relevant Independent Persons to the Committee which is dealing with the Disciplinary Action.
 - (b) In Rule 8(a) above, '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.

- (c) Subject to Rule 8(d) below, relevant Independent Persons shall be appointed to the Committee in accordance with the following priority order:
 - i. A relevant Independent Person who has been appointed by the Authority and who is a local government elector;
 - ii. Any other relevant Independent Person who has been appointed by the Authority;
 - iii. A relevant Independent Person who has been appointed by another authority or authorities.
- (d) The Authority is not required to appoint more than two relevant Independent Persons in accordance with paragraph 8(c) above but may do so.
- (e) The relevant Independent Persons must be appointed to the Committee at least 20 working days before the Relevant Meeting.
- (f) Before the taking of a vote at the Relevant Meeting on whether or not to approve such a dismissal, Council must take into account, in particular –
 - i. Any advice, views or recommendations of the Committee;
 - ii. The conclusions of any investigation into the proposed dismissal; and
 - iii. Any representations from the relevant Employee.

RULE 9. DISCIPLINARY ACTION – OTHER EMPLOYEES

- 9.1 Councillors will not be involved in Disciplinary Action against any employee other than the Head of Paid Service, Monitoring Officer, Chief Finance Officer, Deputy Chief Executive and Directors except where such involvement is necessary for any investigation or inquiry into alleged misconduct through the Authority's disciplinary, capability and related procedures, as adopted from time to time, and such procedures may allow a right of appeal to Councillors in respect of Disciplinary Action.

RULE 10. DEBATING EMPLOYMENT ISSUES

- 10.1 Where any question arises at a Meeting concerning the appointment, promotion, dismissal, salary, conditions of service or conduct of any Employee (as opposed to Employees in general), the Meeting shall resolve to exclude the press and public under the Access to Information Rules unless, for reasons that shall be stated in the resolution, it resolves otherwise.

RULE 11. REMUNERATION OF INDEPENDENT PERSON

- 11.1 Any remuneration, allowances or fees paid by the Authority to an Independent Person appointed to the Committee for the purposes of Rule 8 above must not exceed the level of remuneration, allowances or fees payable to that Independent Person in respect of their role as Independent Person under the 2011 Act.

