

# APPENDIX 7

## (ANNEX 2)

### **APPOINTMENT AND DISMISSAL OF SENIOR OFFICERS)** **THE LOCAL AUTHORITY (STANDING ORDERS)** **(ENGLAND) (AMENDMENT) REGULATIONS 2015**

#### **Appointment and Dismissal of Chief Officers and Senior Managers**

**1. In this Part:**

‘the 1989 Act’	means the Local Government and Housing Act 1989
‘the 2000 Act’	means the Local Government Act 2000
‘disciplinary action’	has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001
‘Executive’ and ‘Executive Leader’	have the same meaning as in Part II of the 2000 Act
‘member of staff’	means a person appointed to or holding a paid office or employment under the Authority
‘Proper Officer’	means an officer appointed by the Authority for the purposes of the 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 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

**4.1** A person appointed in pursuance of Section 9 of the 1989 Act (assistants for political groups). Where a committee, sub-committee or officer is discharging, on behalf of the Authority, the function of the appointment or dismissal of an officer designated as the Head of the Authority's Paid Service or the dismissal of the Authority's Monitoring

Officer or Chief Finance Officer, the Authority must approve that appointment before an offer of appointment is made to that person.

- 4.2 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 authority's Monitoring Officer, the Authority must approve that dismissal before notice is given to that person.
- 4.3 Where a committee or 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.
- 5.2 An offer of an appointment as an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3.
- (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/her 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
- 6.1 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 officer is discharging the function of appointment on behalf of the Authority, that committee, sub-committee or officer, as the case may be
- 6.2 Notice of the dismissal of an officer referred to in sub-paragraph (a), (b), (c) or 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 to whom 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/her 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 paragraphs 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
8. Investigation of alleged misconduct by the Head of the Council's Paid Service, the Monitoring Officer or the Chief Finance Officer
- 8.1 In the following paragraphs:
- (a) 'the 2011 Act' means the Localism Act 2011
  - (b) 'Head of the Authority's Paid Service', 'Chief Finance Officer', 'Monitoring Officer' and 'disciplinary action' 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 Head of the Authority's Paid Service, Chief Finance Officer or Monitoring Officer, as the case may be
- 8.2 A relevant officer may not be dismissed by an Authority unless the procedure set out in the following paragraphs is complied with
- 8.3 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
- 8.4 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
- 8.5 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
- 8.6 An Authority is not required to appoint more than two relevant Independent Persons in accordance with paragraph 5 but may do so.
- 8.7 The Authority must appoint any panel at least 20 working days before the relevant meeting.
- 8.8 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
- 8.9 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.

