

# OFFICER EMPLOYMENT PROCEDURE RULES

## 1.0 INTRODUCTION

### 1.1 Definitions

In these Rules:

- 1.1.1 'The 2001 Regulations' means the Local Authorities (Standing Orders) (England) Regulations 2001; 'The 2015 Regulations' means the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.
- 1.1.2 'Appointor' means, in relation to the appointment of a person as an Officer of the Authority, the Authorities or, where a Joint Committee, Committee, Sub-Committee or Officer is discharging the function of appointment on behalf of the Authorities, that Joint Committee, Committee, Sub-Committee or Officer, as the case may be;
- 1.1.3 'Disciplinary Action' in relation to an Officer of the Council means any action occasioned by alleged misconduct which, if proven, would, according to the Council's usual practice, be recorded on the member of staff's personal file. This 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, 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;
- 1.1.4 'Dismissor' means, in relation to the dismissal of an Officer of the Authority, the Authorities or, where a Joint Committee, Committee, Sub-Committee or another Officer is discharging the function of dismissal on behalf of the Authorities, that Joint Committee, Committee, Sub-Committee or other Officer, as the case may be;
- 1.1.5 The 'Joint Management Team' means the group of Officers consisting of the Joint Chief Executive, the Joint Strategic Directors and the Joint Executive Heads of Service.
- 1.1.6 'Head of Paid Service' means the Officer designated under *Section 4(1) of the Local Government and Housing Act 1989* – the Council's Joint Chief Executive has been designated the Head of Paid Service;
- 1.1.7 'Chief Finance Officer' means the Officer having responsibility, for the purposes of *Section 151 of the Local Government Act 1972*, for the administration of the Council's financial affairs – the Council's Joint Executive Head of Finance has been designated the Chief Finance Officer;
- 1.1.8 'Monitoring Officer' means the Officer designated under *Section 5(1) of the Local Government and Housing Act 1989* – the Council's Joint Executive Head of Legal and Democratic Services has been designated the Monitoring Officer;
- 1.1.9 'Statutory Chief Officer' means, in accordance with *section 2(6) Local Government and Housing Act 1989*, the officer responsible for the purposes of *s151 of the Local Government Act 1972* for the administration of the authority's financial affairs - the Council's Chief Finance Officer is a Statutory Chief Officer.
- 1.1.10 'Non-statutory Chief Officer' means, in accordance with *section 2(7) Local Government and Housing Act 1989* a person for whom the Head of Paid Service is directly responsible, a person who as respects all or most of the duties of their post is required to report directly or is directly accountable to the Head of Paid Service, or a person who as respects all or most of the duties of their post is required to report directly or is directly accountable to the local authority themselves, (except a person

whose duties are solely secretarial or clerical or are otherwise in the nature of support services) – the Council’s Joint Strategic Directors are designated Non-statutory Chief Officers;

1.1.11 ‘Deputy Chief Officer’ means, in accordance with section 2(8) Local Government and Housing Act 1989 a person who, with respect to all or most of the duties of their post, is required to report directly or is directly accountable to one or more of the Statutory or Non-Statutory Chief Officers – the Council’s Joint Executive Heads of Service, other than the Joint Executive Head of Finance are designated Deputy Chief Officers;

1.1.12 ‘Joint Senior Staff Committee’ means a Committee set up in accordance with s102 Local Government Act 1972 between Guildford Borough Council and Waverley Borough Council. The Terms of reference of the Joint Senior Staff Committee can be found in Part 3 of the Council’s constitution.

## 1.2 Scope of these Procedure Rules

These procedure rules govern the specific arrangements for the recruitment, appointment and disciplinary action (including dismissal) of the Joint Head of Paid Service, the Joint Chief Finance Officer, the Joint Monitoring Officer the Joint Strategic Directors and the Joint Executive Heads of Service.

The function of recruitment, appointment, disciplinary action and dismissal in respect of all other staff must be discharged, on behalf of the Council, by the Head of Paid Service or an Officer nominated by them (in accordance with *paragraph 2 Part II schedule 1 of the 2001 Regulations*).

Such functions will be carried out in accordance with the Council’s Human Resource policies, as adopted from time to time.

## 1.3 Posts

For ease of reference, the posts which fall under the relevant definitions in these Officer Employment Procedure Rules, at the time of writing, are as follows:

Definition	Relevant Post
Head of Paid Service	Joint Chief Executive
Statutory Chief Officer	Joint Executive Head of Finance
Monitoring Officer	Joint Executive Head of Legal and Democratic Services
Non-Statutory Chief Officers	Joint Strategic Directors
Deputy Chief Officers	Joint Executive Heads of Service, other than the Joint Executive Head of Finance.

## 2.0 RECRUITMENT

### 2.1 Declarations

A candidate for any employment with the Council, or a staff member involved in a transfer or promotion, to such a post, shall disclose to the Head of Paid Service, whether they are related to, or cohabit with, any Councillor or other Officer or any other person who may have an influence on the decision to appoint.

Any candidate who fails to disclose such a relationship may be disqualified for appointment and any offer of appointment being rescinded and, if appointed, may be liable to dismissal without notice.

Every Councillor and Senior Officer (being an Officer comprising part of the Joint Management Team) of the Council shall disclose to the Head of Paid Service any

relationship known to exist between them and any person whom they know to be a candidate for an appointment to the Council.

The Head of Paid Service will report to the Monitoring Officer on any such required disclosures made to them.

## **2.2 Support for Appointment**

The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor or Senior Officer (being an Officer comprising part of the Joint Management Team) for any appointment with the Council.

No Councillor nor Senior Officer (comprising part of the Joint Management Team) shall seek support for any person for any appointment with the Council and shall not provide any written testimonial of a candidate's ability, experience or character for submission to the Council.

## **2.3 Confidentiality**

The Council, the Executive, a Joint Committee, a Committee, a Sub-Committee or a Panel should, unless there are exceptional circumstances which dictate otherwise, resolve to exclude the press and public under Section 100A of the Local Government Act 1972 where matters relating to the appointment, promotion, dismissal or discipline, severance, salary or conditions of an individual member of staff or individual post are to be discussed.

## **2.4 Process and Procedure**

2.4.1 Where the Council proposes to appoint an Officer within the Joint Management Team, being either the Head of Paid Service, the Statutory Chief Officer, the Monitoring Officer, a Non-Statutory Chief Officer or Deputy Chief Officer, and it is not proposed that the appointment will be made exclusively from among their existing Officers, the Head of Paid Service or their delegate will:

- (a) draw up a statement specifying:
  - (i) the duties of the Officer concerned; and
  - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) advertise the post in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) send a copy of the statement mentioned in paragraph (a) above to any person on request.
- (d) Where a post has been advertised as provided in (b) above, the Council will:
  - (i) interview all qualified applicants for the post; or
  - (ii) select a short list of such qualified applicants and interview those included on the short list; or
  - (iii) if no qualified person has applied, the Council will make further arrangements for advertisement in accordance with paragraph (b) above.

## **3.0 APPOINTMENT**

### **3.1 Appointment of Joint Chief Executive and designation of Head of Paid Service**

The Joint Senior Staff Committee will be responsible for the recruitment process and selection of the Head of Paid Service and for making a recommendation to the Council of both Waverley Borough Council and Guildford Borough Council for the appointment of their preferred candidate.

Each Council will be responsible for appointing the Joint Chief Executive and the designation of the Head of Paid Service to the role, and must do so before an offer of such an appointment is made.

The Councils may only make such an appointment following the consultation requirements set out at paragraph 3.5 below.

### **3.2 Appointment of Joint Strategic Directors**

The Joint Senior Staff Committee will also be responsible for the recruitment and selection process of the Joint Strategic Directors and for appointing their preferred candidates.

The Joint Senior Staff Committee may only make such appointments following the consultation requirements set out at paragraph 3.5 below.

### **3.3 Designation of the Joint Monitoring Officer and Joint Chief Financial Officer**

The Joint Senior Staff Committee will also be responsible for the recruitment and selection process of the Joint Monitoring Officer and Joint Chief Financial Officer. The Joint Senior Staff Committee are responsible for making a recommendation to the Council of both Waverley Borough Council and Guildford Borough Council for the designation of the role to their preferred candidate.

Each Council will be responsible for designating an Officer as the Joint Monitoring Officer and as the Joint Chief Finance Officer, and must do so before an offer of any such designation is made.

An offer of employment as Joint Monitoring Officer or Joint Chief Finance Officer may only be made following the consultation requirements set out at paragraph 3.5 below.

### **3.4 Appointment of Joint Executive Heads of Service**

The Head of Paid Service, or their nominated representative, shall be responsible for the function of the appointment of Deputy Chief Officers. The Head of Paid Service's nominated representative may include an Officer of the Council of the appropriate level of seniority, or an external expert, provided that such representative shall have, in the opinion of the Head of Paid Service, the appropriate level of independence, knowledge, expertise and competence.

An offer of employment as a Joint Executive Head of Service may only be made following the consultation requirements set out in paragraph 3.5 below.

### **3.5 Consultation Requirements for Appointments**

In respect of the appointment of the Joint Head of Paid Service, the Joint Monitoring Officer, the Joint Chief Financial Officer, the Joint Strategic Directors and the Joint Executive Heads of Service, the offer of appointment cannot be made until this section has been complied with.

An offer of appointment to any of those Officers, as above, must not be made by the Appointor until:

- (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, including evidence and reasons for the choice of preferred candidate;
- (b) The Proper Officer has notified every Executive Member of each Council of:
  - (i) the name of the person to whom the Appointor wishes to make the offer, and the reasons why they are the Appointor's preferred candidate, including evidence;

- (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 Leader of either Council on behalf of their respective Executive to the Proper Officer; and
- (c) either:
  - (i) the Leader of either Council has, within the period specified in the notice under sub-paragraph (b)(iii), notified the Proper Officer that neither they nor any other Member of their Executive has any objection to the making of the offer; or
  - (ii) the Proper Officer has notified the Appointor that no objection was received by them within that period from the Leader of either Council; or
  - (iii) the Appointor is satisfied that any objection received from the Leader of either Council within that period is not material or is not well-founded.

### 3.6 Appointment of Senior Officers

Post	Appointment	Conditions
Head of Paid Service	Joint Senior Staff Committee	Requires consultation with each of the Executives and resolution of each full Councils
Statutory Chief Officer (S151)	Joint Senior Staff Committee	Requires consultation with each of the Executives and resolution of each full Councils
Monitoring Officer	Joint Senior Staff Committee	Requires consultation with each of the Executives and approval of each full Councils
Non-Statutory Chief Officers	Joint Senior Staff Committee	Requires consultation with each of the Executives
Deputy Chief Officers	Head of Paid Service or nominee	Requires consultation with each of the Executives

## 4.0 DISCIPLINARY ACTION

### 4.1 Disciplinary Action in respect of the Joint Head of Paid Service, Joint Chief Financial Officer and Joint Monitoring Officer

4.1.1 The Joint Senior Staff Committee shall consider any alleged misconduct in respect of the Joint Head of Paid Service, Joint Chief Finance Officer, and Joint Monitoring Officer. The Joint Senior Staff Committee will appoint an external, suitably qualified, experienced and competent, investigator to act as the Investigating Officer to conduct an investigation into the alleged misconduct and report back to the Committee with their Investigator's Report.

4.1.2 In carrying out the investigation the Investigating Officer may:

- (a) Inspect any documents relating to the conduct of the relevant Officer which are in the possession of the Council, or which the Council has the power to authorise them to inspect; and
- (b) Require any Officer or Elected Member to answer questions concerning the conduct of the relevant Officer.

4.1.3 Pending the report of the Investigator the Joint Head of Paid Service, the Joint Monitoring Officer or the Joint Chief Finance Officer may be suspended by the Joint Senior Staff Committee whilst the alleged misconduct by the Officer is investigated. Any such suspension will be for a maximum period of three calendar months, or for

such period as may be necessary to investigate and report on the allegations, and will be on full pay, other than in exceptional circumstances.

- 4.1.4 Following receipt of the report of the Investigating Officer, the Joint Senior Staff Committee will determine any disciplinary action, other than dismissal, to be taken, as necessary, in accordance with any Human Resources Policies which have been adopted by the Council from time to time. The Joint Senior Staff Committee has the authority to impose any disciplinary action, other than dismissal.
- 4.1.5 The Council's Joint Head of Paid Service, Joint Monitoring Officer and Joint Chief Finance Officer cannot be dismissed without a resolution to that effect by each Council, as the full Council of each authority is responsible for the function of dismissal of such an Officer.
- 4.1.6 Should the Joint Senior Staff Committee consider that the relevant disciplinary action to be taken, having considered the Investigator's Report, is dismissal of the Officer, an Independent Panel must be appointed by the authority, or an Officer to whom the task is delegated. Such an Independent Panel will be formed in accordance with the 2015 Regulations, and shall be a committee appointed by the authority under section 102(4) Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of such officers.
- 4.1.7 The authority, or an Officer to whom the task is delegated, will invite Independent Persons who have been appointed for the purposes of the Members' Conduct Regime under section 28(7) of the Localism Act 2011 to form an Independent Panel. An Independent Panel will be formed if two or more Independent Persons accept the invitation.
- 4.1.8 The role of the Independent Panel is to prepare a report for each Council setting out their advice, views and recommendations as to the proposed dismissal.
- 4.1.9 Where dismissal is being considered, a meeting of each full Council must be convened within 20 working days of the Independent Panel being appointed, to consider and determine the matter.
- 4.1.10 A Joint Head of Paid Service, Joint Chief Finance Officer or Joint Monitoring Officer attending a Council meeting where proposed dismissal against them is being considered, is entitled to make both oral and written representations to Council, as is their representative, who may be a colleague, a Union representative, a companion, or a legal representative.
- 4.1.11 Before taking a vote at such a Council meeting on whether or not to approve such a proposed dismissal, the Council must take into account:
  - (a) Any advice, views or recommendations of the Independent Panel;
  - (b) The conclusions of any investigation into the alleged misconduct;
  - (c) Any representations from the relevant Officer or their representative.

## **4.2 Disciplinary Action in respect of Joint Strategic Directors**

- 4.2.1 The Joint Senior Staff Committee shall consider any alleged misconduct in respect of the Joint Strategic Directors and will appoint an external, suitably qualified, experienced and competent, investigator to act as the Investigating Officer to conduct an investigation into the alleged misconduct and report back to the Committee with their Investigator's Report.
- 4.2.2 In carrying out the investigation the Investigating Officer may:

- (a) Inspect any documents relating to the conduct of the relevant Officer which are in the possession of the Council, or which the Council has the power to authorise them to inspect; and
- (b) Require any Officer or Elected Member to answer questions concerning the conduct of the relevant Officer.

4.2.3 Pending the report of the Investigator the Joint Strategic Director may be suspended by the Joint Senior Staff Committee whilst the alleged misconduct by the Officer is investigated. Any such suspension will be for a maximum period of three calendar months, or for such period as may be necessary to investigate and report on the allegations, and will be on full pay, other than in exceptional circumstances.

4.2.4 Following receipt of the report of the Investigating Officer, the Joint Senior Staff Committee will determine any disciplinary action, including dismissal, to be taken, as necessary, in accordance with any Human Resources Policies which have been adopted by the Council from time to time. The Joint Senior Staff Committee has the authority to impose any disciplinary action, and shall be responsible for the function of dismissal where appropriate.

### **4.3 Disciplinary Action in respect of Joint Executive Heads of Service**

4.3.1 The Joint Head of Paid Service or their nominated representative, will investigate any alleged misconduct in respect of Deputy Chief Officers, as necessary, in accordance with any Human Resources Policies which have been adopted by the Council from time to time.

4.3.2 The Joint Head of Paid Service's nominated representative may include an Officer of the Council, of the appropriate level of seniority, or an external expert, provided that such representative shall have, in the opinion of the Head of Paid Service, the appropriate level of independence, knowledge, expertise and competence.

4.3.3 Pending the outcome of such investigation the Deputy Chief Officer may be suspended by the Joint Head of Paid Service or their nominated representative. Such suspension will be for no longer than 3 calendar months, or for such period as may be necessary to investigate and report on the allegations, and will be on full pay, other than in exceptional circumstances.

4.3.4 Subject to paragraph 4.4 below, the Joint Head of Paid Service, or a representative nominated by them, shall decide upon any disciplinary action to be taken, following a disciplinary hearing, and shall be responsible for the function of dismissal, where appropriate, of Deputy Chief Officers. Such nominated representative may not be the same individual responsible for the investigation into alleged misconduct and must be wholly independent from that individual.

### **4.4 Disciplinary Action of Senior Officers**

<b>Post</b>	<b>Investigation</b>	<b>Notes</b>	<b>Appeal</b>
Head of Paid Services, Chief Finance Officer and Monitoring Officer	Investigating Officer appointed by the Joint Senior Staff Committee who presents findings to Joint Senior Staff Committee who have the power to impose disciplinary action other than dismissal	Decision to dismiss must be taken by Council, following consideration of the views of the Independent Panel and consultation with the Executives of each Council.	None

Non-Statutory Chief Officers	Investigating Officer appointed by the Joint Senior Staff Committee who presents findings to Joint Senior Staff Committee who have the power to impose disciplinary action including dismissal.	Decision to dismiss is the responsibility of the Joint Senior Staff Committee but may only be taken following consultation with the Executives of each Council.	None
Deputy Chief Officers	Head of Paid Service or their representative	Decision to dismiss may only be taken following consultation with the Executives of each Councils.	Joint Head of Paid Services or their representative provided such individual played no part in the investigation.

#### 4.5 Consultation Requirements for Dismissals

4.5.1 This provision applies to the dismissal of The Head of Paid Service, the Chief Financial Officer, the Monitoring Officer, Non-Statutory Chief Officers, and Deputy Chief Officers.

4.5.2 Notice of dismissal of any of those Officers must not be given by the Dismissor until:

- (a) the Dismissor has notified the Proper Officer of the name of the person whom the Dismissor wishes to dismiss and any other particulars which the Dismissor considers are relevant to the dismissal, including a summary of the evidence heard at the disciplinary hearing and the reasons for the proposed decision;
- (b) the Proper Officer has notified every Executive Member of both Councils of:
  - (i) the name of the person whom the Dismissor wishes to dismiss and the reasons for the decision;
  - (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 of either Council on behalf of their respective Executive to the Proper Officer; and
- (c) either:
  - (i) the Executive Leader of either Authority has, within the period specified in the notice under subparagraph (b)(iii), notified the Proper Officer that neither they nor any other Member of their Executive has any objection to the dismissal;
  - (ii) the Proper Officer has notified the Dismissor that no objection was received by them within that period from either Executive Leader; or
  - (iii) the Dismissor is satisfied that any objection received from an Executive Leader within that period is not material or is not well-founded.

#### 4.6 Appeals

4.6.1 The Joint Head of Paid Service, Joint Chief Finance Officer, Joint Monitoring Officer and Joint Strategic Directors shall have no right of appeal against disciplinary action.



- 4.6.2 Deputy Chief Officers who feel that the outcome of any Disciplinary Action against them is wrong or unjust may appeal in accordance with any relevant Council Staffing Policies to the Joint Head of Paid Service or their nominated representative.

The Joint Head of Paid Service's nominated representative may include an Officer of the Council, of the appropriate level of seniority, or an external expert, provided that such representative shall have, in the opinion of the Head of Paid Service, the appropriate level of independence, knowledge, expertise and competence. Such nominated representative must not be the same individual responsible for carrying out the investigation into the alleged misconduct, nor the same individual responsible for deciding upon the disciplinary action, and must be wholly independent from those individuals.