

FAREHAM

BOROUGH COUNCIL

STANDING ORDERS WITH RESPECT TO THE APPOINTMENT, DISMISSAL AND DISCIPLINE OF EMPLOYEES



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(removal of Appeals Committee)

FAREHAM BOROUGH COUNCIL

STANDING ORDERS WITH RESPECT TO THE APPOINTMENT, DISMISSAL AND DISCIPLINE OF EMPLOYEES

1. General

- 1.1. These Standing Orders govern the Council's procedures for the appointment, dismissal and discipline of employees, including the provisions required by statutory Regulation.
- 1.2. Schedule 1 Part II to the Regulations, as set out at Appendix A, are deemed to be part of these Standing Orders.

2. Employee Establishment and Filling of Vacancies

- 2.1. Every appointment of a person to a post or paid office with the Council must be made on merit and in accordance with the provisions of the Disability Discrimination Act 1995 and other legislation, including racial and sexual discrimination legislation, Regulations and Codes of Practice governing the appointment, transfer and/or promotion of employees, particularly in relation to the evidence of unfair discrimination.
- 2.2. The Council will approve the overall permanent employee establishment and structure and the annual employee budget, on the recommendation of the Head of the Paid Service. No change may be made to the structure of the permanent establishment until the Head of the Paid Service has identified the source of any additional funding required.
- 2.3. Unless filled by promotion or transfer, all vacancies will be publicly advertised unless the Head of the Paid Service determines otherwise.
- 2.4. If a similar vacancy occurs within six months of the filling of a vacancy which has been publicly advertised, the appointing Chief Officer may appoint one of the former applicants.
- 2.5. A vacancy for a senior officer (normally graded at local grades 6 or 7) may be advertised in one or more newspapers or in journals circulating primarily among persons who may be expected to meet the person specification for the post.

3. Recruitment and Appointment

3.1. Declarations

- (a) A candidate for appointment as an employee must state in writing whether they are the parent, step parent grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or employee of the Council, or of the partner of such a person, and such candidate must also state in writing if they are known to any existing councillor or employee of the Council.

- (b) A candidate who fails to disclose such a relationship will be disqualified for the appointment and if appointed will be liable to dismissal without notice.
- (c) No candidate so related to a councillor or an employee will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.
- (d) For the purpose of this Standing Order, a person will be deemed to be a partner of a candidate if they are living together as a couple.

3.2 Seeking support for appointment:

- (a) Subject to paragraph (c) above, 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.
- (b) A member of the Council may not seek support for any person for any appointment with the Council but this will not preclude a member from giving a written reference or testimonial of a candidate's ability, experience or character.

4. Recruitment of the Head of Paid Service and Chief Officers

4.1. Where the Council proposes to appoint a Chief Officer/Director and it is not proposed that the appointment will be made exclusively from among their existing officers, the Council will:

- (a) draw up a statement specifying:
 - the duties of the post concerned; and
 - 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 any arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

5. Appointment of Head of Paid Service/Monitoring Officer/Chief Finance Officer

5.1. The full Council will approve the appointment of the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer following the recommendation of such an appointment by a committee or sub-committee of the Council. That committee or sub-committee must include at least one member of the Executive.

6. Appointment of Chief Officers and Deputy Chief Officers

- 6.1. A committee or sub-committee of the Council will appoint Chief Officers/Directors. That committee or sub-committee must include at least one member of the Executive.
- 6.2. Appointment of Deputy Chief Officers shall be made by the Head of the Paid Service or relevant Chief Officer / Director, provided that the Council or a Committee of the Council may make such appointments as it shall require from time to time.
- 6.3. An offer of employment as a Chief Officer or Deputy Chief Officer shall only be made where no well-founded objection from any member of the Executive has been received.

7. Other Appointments

7.1. Officers below Deputy Chief Officer

Appointment of officers below Deputy Chief Officer is the responsibility of the Head of Paid Service or his/her nominee and may not be made by councillors.

7.2. Assistants to Political Groups

Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

8. Disciplinary Action

- 8.1 The statutory provisions of Schedule 3 to the Regulations, as set out at Appendix B, are deemed to be part of these Standing Orders.

Suspension.

- 8.2 The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.

Independent Person.

- 8.3 No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a designated independent person.
- 8.4 Councillors will not be involved in the disciplinary action against any officer below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct. The Council's disciplinary, capability and related procedures, as adopted from time to time, may allow a right of appeal to the Council's Audit and Governance Sub- Committee in respect of disciplinary action.

9. Dismissal

- 9.1. Councillors will not be involved in the dismissal of any officer below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct. The Council's disciplinary, capability and related procedures, as adopted from time to time, may allow a right of appeal to the Council's Audit and Governance Sub-Committee in respect of dismissals.

10. Definitions

„Regulations“ means the Local Authorities (Standing Orders) (England) (Regulations) 2001 and Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

„Chief Officer“ and „Deputy Chief Officer“ have the same meaning as within section 2 of the Local Government and Housing Act 1989.

„Head of Paid Service“ and „Monitoring Officer“ mean the officers designated by the Council under sections 4 and f5 respectively of the Local Government and Housing Act 1989.

„Chief Finance Officer“ means the officer designated under section 151 of the Local Government Act 1972 or section 6 of the Local Government and Housing Act 1989.

**THE LOCAL AUTHORITIES (STANDING ORDERS) (ENGLAND) REGULATIONS
2001 and (AMENDMENT) 2015**

SCHEDULE 1 PART II

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 and 2015;
 “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; and
 “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(1) 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; or
- (d) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).

4. 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, the authority must approve that appointment before an offer of appointment is made to him or, as the case may be, must approve that dismissal before notice of dismissal is given to him.

Where a committee or a 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.
- (2) An offer of an appointment as an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 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;
 - (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
 - (i) 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 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 another officer is discharging the function of dismissal on behalf of the authority, that committee, sub-committee or other officer, as the case may be.
- (2) Notice of the dismissal of an officer referred to in sub-paragraph (a), (b), (c) or (d) 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 who 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 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 paragraph 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.

APPENDIX B

1. In paragraph 2, “chief finance officer”, “council manager”, “disciplinary action”, “head of the authority’s paid service” and “monitoring officer”, are Relevant Officers and have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and “relevant independent person” has the same meaning as in regulation 4 of those Regulations.
2. No disciplinary action in respect of the Head of the authority’s Paid Service (unless they are also a council manger of the authority), its Monitoring Officer or its Chief Finance Officer, except action described in paragraph 3, may be taken by the authority, or by a committee, a sub-committee, a joint committee on which the authority is represented or any other person acting on behalf of the authority, other than in accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015. This includes the appointment of an Independent Panel and the decision maker having regard to:
 - (i) any advice, views and recommendations of the panel,
 - (ii) the conclusions of any investigation into the proposed dismissal and
 - (iii) any representations from the relevant officer.
3. The action mentioned in paragraph 2 is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension must be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.