

Employment Rules

This section explains the arrangements for the employment and dismissal of senior officers.

1. DEFINITIONS

In this Order the following words have the following meanings:

The 1989 Act	The Local Government and Housing Act 1989
The 2000 Act	The Local Government Act 2000
The Council	North East Derbyshire District Council
Chief Finance Officer	The officer having responsibility for the purposes of section 151 of the Local Government Act 1972.
Designated Independent Person	Such person as may be agreed between the Council and a Chief Officer against whom misconduct has been alleged which, in the opinion of the Council, requires investigation and in default of such agreement, may be appointed by the Secretary of State.
Disciplinary Action	In relation to a member of staff of the Council, any action occasioned by alleged misconduct which, if proved, would according to the usual practice of the Council, be recorded on the member of staff's personal file, and 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 Council has undertaken to renew such a contract.

Employee	Person appointed to or holding a paid office of the authority or employed by the authority.
Head of Council's Paid Service	The officer designated under section 4(1) of the Local Government and Housing Act 1989.
Monitoring Officer	The officer designated under section 5(1) of the Local Government and Housing Act 1989.
Proper Officer	Section 151 Officer

2. EMPLOYMENT AND DISMISSAL OF SENIOR OFFICERS

- 2.1 Subject to paragraphs 2.2, 2.3 and 2.4 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 Head of Paid Service or his nominees.
- 2.2 Paragraph 2.1 shall not apply to the appointment or dismissal of, or disciplinary action against employees within the description of paragraph 3 of Part II of Schedule 1 of the Local Authorities (Standing Orders) (England) Regulations 2001 (SI 3384 of 2001), which may be summarised as:
- (a) Head of the Council's Paid Service;
 - (b) A statutory Chief Officer (this means the Chief Finance Officer (Section 151 Officer) and the Monitoring Officer);
 - (c) Senior Officers (this means Directors,) and
 - (d) Heads of Service (often designated Assistant Directors).
- 2.3 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.
- 2.4 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 paragraph 2.2 other than in relation to political assistants, at least one member of the Cabinet must be a member of that committee or sub-committee.
- 2.5 In paragraphs 2.6 and 2.7 "appointor" means, in relation to the appointment of a person as an officer of the Council, the Council or where a committee, sub-committee or officer is discharging the function of appointment on behalf of the Council, that committee, sub-committee or officer, as the case may be.
- 2.6 An offer of an appointment as an officer referred to in paragraph 2.2 other than in relation to political assistants, 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 Cabinet 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 had notified to the proper officer; and the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the Proper Officer; and
 - (iii) the Leader has, within the period specified in the notice, notified the appointor that neither s/he nor any other member of the Cabinet has any objection to the making of the offer;
 - (iv) the proper officer has notified the appointor that no objection was received by him/her within that period from the Leader; or
 - (v) the appointor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

2.7 In paragraphs 2.8 and 2.9, “dismissor” means, in relation to the dismissal of an officer of the Council, the Council Meeting or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the Council Meeting, that committee, sub-committee or other officer, as the case may be.

2.8 Notice of the dismissal of an officer referred to in sub-paragraph 2.2 other than in relation to political assistants, 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 Cabinet 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 Leader on behalf of the Cabinet to the proper officer; and
- (c) either:
 - (i) the Leader has, within the period specified in the notice notified the dismissor that neither s/he nor any other member of the Cabinet 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 Leader; or
- (iii) the dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

3 APPOINTMENT OF OFFICERS

3.1 All jobs will be open to competition and appointments will be made on merit except the following:

- (a) An appointment may be limited to internal applicants only whose jobs are at risk because of ill-health (as confirmed by the Occupational Health Service), disability or they are at risk of redundancy or potential redundancy and are on the Redeployment Register.
- (b) The appointment is for temporary added duties including, for example, a temporary secondment/development opportunity for up to a maximum period of two years.
- (c) In other exceptional circumstances as identified by the Head of Paid Service in consultation with the Leader after seeking advice from the Head of Corporate Governance and Monitoring Officer.

3.2 All applicants with a disability who meet the minimum requirements for a job vacancy will be interviewed subject to there being no “at risk” applicants.

3.3 Where the Council propose to appoint an officer to any post the Council will:

- (a) draw up a job description outlining the duties of the Officer concerned; and
- (b) draw up a person specification outlining any qualifications or qualities to be sought in the person to be appointed;
- (c) make arrangements for the post to be advertised in such a way that is likely to bring it to the attention of persons who are qualified to apply for it; and
- (d) make arrangements for a copy of the statement mentioned in paragraph 3.3 (a) to be sent to any person on request.

Every appointment of a Senior Officer shall be made by the Appointments Committee, save that the appointment of a Head of Paid Service must be approved by *Council Meeting*.

4. DISCIPLINARY ACTION – HEAD OF PAID SERVICE, CHIEF FINANCE OFFICER AND MONITORING OFFICER

4.1 A decision on whether to dismiss the Council’s Head of Paid Service, Monitoring Officer or Chief Finance Officer (Section 151 Officer) must be taken by Council who must consider any advice, views or recommendations made by a panel comprising at least two or more Independent Persons appointed under Section 28(7) of the

Localism Act as well as the conclusions of any investigation into the matter and the representations of the relevant officer.

- 4.2 Priority on the panel will be given to an Independent Person who has been appointed by the authority and is a local government elector for North East Derbyshire. Thereafter, priority will be given to any other Independent Persons appointed to the authority and then an Independent Person who has been appointed by another authority or authorities.
- 4.3 The Panel may only meet to consider the relevant case 20 working days after it has been selected.