

Section 4D - Appointment and Dismissal of Staff

1. Staff other than Chief Officers

- 1.1 Only the Head of Paid Service or Officers nominated by him or her may appoint, dismiss or take disciplinary action against a member of staff. This rule is a requirement of the Local Authorities (Standing Orders) (England) Regulations 2001. It does not, however, apply to members of staff who are Chief Officers of the Council or to political assistants.
- 1.2 Any disciplinary action will be taken in accordance with the Council's Disciplinary Policy and Procedure, as adopted from time to time.
- 1.3 These rules do not prevent a person from serving as a member of any committee or sub-committee established by the authority, or a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

2. Political Assistants

- 2.1 A group qualifies for a political assistant post if:-
- a) the membership of that group comprises at least one tenth of the membership of the Council;
 - b) no more than two other groups on the Council are larger; or if more than two other groups are larger or the same size as the group, the Council has decided that a post should be allocated to the group.
- 2.2 No appointment to a post of assistant to a political group on the Council may be made until such posts have been allocated to each group which qualifies; no more than three such posts shall be created; no group shall be allocated more than one such post and no such post shall be allocated to a group which does not qualify for one.
- 2.3 Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

2.4 A political assistant may not have delegated to them any of the powers of the Council or of the Executive.

3 Recruitment of Head of Paid Service and Chief Officers

3.1 This Standing Order applies to the appointment of all Chief Officer posts including temporary appointments. It does not apply, however, where it is proposed that the appointment be made exclusively from among the Council's existing officers.

3.2 —Before an appointment is made the Council will:

- (a) draw up a statement specifying the duties of the officer 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 the persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned above to be sent to any person on request.

3.3 A Chief Officer Appointments Sub Committee will either interview all qualified applicants for the post or select a shortlist of such applicants and interview those included on the shortlist. The [Chief Officer Appointments Sub](#) Committee must include at least one Member of the Executive.

3.4 Where no qualified person has applied or, the [Chief Officer Appointments Sub](#) Committee determines that it has not identified a sufficient shortlist to proceed to interview, the Council will make further arrangements for ~~an~~ advertisement [of the post](#).

4 –Appointment, dismissal and disciplinary action in respect of Head of Paid Service

[Appointment of Head of Paid Service](#)

- 4.1 Full Council will approve the appointment of the Head of Paid Service following a recommendation made by the Chief Officer Appointments Sub Committee.

Dismissal and Disciplinary Action against the Head of Paid Service

- 4.2 –Disciplinary action against the Head of Paid Service will be conducted in accordance with the Council’s disciplinary procedures for the Chief Executive Statutory Officers, which applies to disciplinary action on the grounds of conduct, proposals to dismiss on the grounds of misconduct or other reasons such as capability and other substantial reasons.
- 4.3 –~~A~~ The Staffing Matters and Urgency Committee or a Sub Committee (including at least one Member of the Executive) will hear disciplinary proceedings against the Head of Paid Service but Full Council must approve any decision to dismiss him or her before notice is given.
- 4.4 –Before making a decision to dismiss the Head of Paid Service, Full Council must consider a recommendation from the Disciplinary Staffing Matters and Urgency Committee or sub committee and take into account:
- (a) —any advice, views or recommendations of an Independent Panel appointed in accordance with schedule 3 of the Local Authorities (Standing Orders) (England) Regulations 2001 and whose membership includes independent persons;
 - (b) —the conclusions of any investigation into the proposed dismissal; and
 - (c) any representations from the Head of Paid Service.

5 –Appointment, dismissal and disciplinary action in respect of Chief and Deputy Chief Officers (Statutory and Non Statutory)

- 5.1 These provisions apply in respect of statutory and non statutory Chief and Deputy Chief Officers. In York these posts are:

Statutory

a) Section 151 Officer

b) Monitoring Officer
Non Statutory

- a) Directors
 - b) Assistant Directors
- and are referred to in these rules as “Chief Officers”.

Appointment of Chief Officers

- 5.2 —A Chief Officer Appointments Sub Committee will appoint all Chief Officers.

Dismissal and Disciplinary Action in respect of non statutory Chief Officers

- 5.3 —Disciplinary action against a non statutory Chief Officer will be conducted in accordance with the Council’s disciplinary procedures for non statutory Chief Officers.

- 5.4 —A Committee or Sub Committee (including at least one Member of the Executive) will hear and will have delegated powers to conclude disciplinary proceedings against a non statutory Chief Officer.

Dismissal and Disciplinary Action in respect of statutory Chief Officers

5.45.5 Disciplinary action against statutory Chief Officers will be conducted in accordance with the Council’s disciplinary procedures for Statutory Officers, which applies to disciplinary action on the grounds of conduct, proposals to dismiss on the grounds of misconduct and other reasons such as capability and other substantial reasons. However, additional rules apply in respect of any proposed dismissal of the Section 151 Officer or the Monitoring Officer. Full Council must approve any decision to dismiss either of these Officers.

5.55.6 —Before making a decision to approve the dismissal of the Section 151 Officer or the Monitoring Officer for disciplinary reasons, Full Council must consider a recommendation from the Disciplinary Staffing Matters and Urgency Committee or sub committee and take into account:

- (a) —any advice, views or recommendations of an [Independent Panel](#) appointed in accordance with schedule 3 of the Local Authorities (Standing Orders) (England) Regulations 2001 and whose membership includes independent persons;
- (b) —the conclusions of any investigation into the proposed dismissal; and
- (c) ~~(e)~~ —any representations from the [relevant Statutory Officer](#).

6. Consultation with Executive Members

6.1 No offer of an appointment or notice of dismissal in relation to the appointment or dismissal of the Head of Paid Service or a [Statutory or Non Statutory](#) Chief Officer or shall be given by the appointor or dismissor (as defined in the Local Authorities (Standing Orders) (England) Regulations 2001) until:

- (a) the appoint~~or~~er or dismissor has notified the proper officer of the name of the person to whom the appoint~~or~~er wishes to make the offer and any other particulars which the appoint~~or~~er considers are relevant to the appointment;
 - (b) the proper officer has notified every member of the Executive of –
 - i. the name of the person to whom the appoint~~or~~er wishes to make the offer or who the dismiss or wishes to dismiss;
 - ii. any other particulars relevant to the appointment or dismissal which the appoint~~or~~er or dismissor has notified to the proper officer; and
 - iii. ~~the period within which any objection to the making of the offer or to the dismissal is to be made by the Leader on behalf of the Executive to the proper officer; -and~~
- either –

- (i) –the Leader has, notified the appointee or dismissor that neither he nor any other member of the Executive has any objection to the making of the offer or;
- (ii) –the proper officer has notified the appointee or dismissor that no objection was received by him within that period from the Leader;
or
- (iii)– the appointee or dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.