**Constitution**

**Article Fourteen: Officer Employment Procedure Rules**

**Interpretation**

In these Standing Orders:

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| ACOS | means | Appointments and Conditions of Service Committee |
| the 1989 Act | means | the Local Government and Housing Act 1989 |
| the 1993 Regulations | means | the Local Authorities (Standing Orders)  Regulations 1993 |
| the 2000 Act | means | the Local Government Act 2000 |
| the 2001 Regulations | means | the Local Authorities (Standing Orders) (England) Regulations 2001 |
| the 2013 Regulations | means | Local Government Pension Scheme Regulations 2013 |
| the 2014 Regulations | means | The Local Government Pension Scheme (Miscellaneous Amendments) Regulations 2014 |
| DCR | means | Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (“DCR”) |
| Compensation Limit | means | double the amount of the maximum amount of statutory minimum redundancy payment permissible to any employee.  The Compensation Limit is a financial threshold applicable only in circumstances which involved the settlement of Settlement of actual and/or potential Employment Tribunal Cases as detailed in 4.5 and 4.6 below. |
| The Council | means | Nottingham City Council |
| Chief Finance Officer  and Monitoring Officer | means | in Regulation 2 of the 2001 Regulations |
| Head of the Paid  Service | means | the person designated as the head of the Council’s paid service under Section 4(1) of the 1989 Act |
| Designated Independent  Person | means | in Regulation 7 of the 2001 Regulations |
| Disciplinary Action | means | 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. |
| Executive | means | “executive” in Part II of the 2000 Act |
| Officer | means | a person appointed to or holding a paid office or employment under the Council |
| Group Assistant | means | an assistant for a political group appointed under Section 9 of the 1989 Act |
| Leader | means | The person designated as the executive leader of the Council under Section 9 C of the 2000 Act |
| Proper Officer | means | an officer appointed by the Council for the purposes of the provisions of these Standing Orders, which in this case is the Deputy Chief Officer responsible for Human Resources and Equality, Diversity and Inclusion. |
| Statutory Governance Officers | means | the following Officers:  (a). Head of Paid Service  (b). Monitoring Officer appointed under Section 5 of the 1989 Act.  (c). Chief Finance Officer. |
| Statutory Chief Officer | has the same meaning as | in Section 2 (6) of the 1989 Act which includes the following posts:  (a). Head of Paid Service  (b). Chief Finance Officer.  (c). Director of Children’s Services (appointed under section 18 of Children’s Act 2004)  (d). Director of Adult Social Services (appointed under section 6 of Local Authority Social Services Act 1970)  (e) Director of Public Health (appointed under section 73A(1) of the National Health Service Act 2006) |
|  | has the same meaning as | in Section 2 (7) of the 1989 Act, which includes:  (a). a person for whom the head of the authority’s paid service is directly responsible;  (b). a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the head of the authority’s paid service; and  (c) any person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the local authority themselves or any committee or sub-committee of the authority.  **Please Note: For this Council, any posts within the established structure which fall within this definition are stated within the separate Governance Framework Document D – Senior Management Structure** |
|  |  |  |
| Deputy Chief Officer | has the same meaning as | in Section 2 (8) of the 1989 Act being a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers.  Section 2 (9) of the 1989 Act provides that a person whose duties are solely secretarial or clerical or are otherwise in the nature of support services shall not be regarded as a non-statutory chief officer or a deputy chief officer for the purposes of this Part.  **Please Note: For this Council, any posts within the established structure which fall within this definition are stated within the separate Governance Framework Document D – Senior Management Structure** |

* 1. **General Human Resource Management**

The Head of Paid Service has overall corporate management and operational responsibility for all staff (unless otherwise stated in these rules). This includes the functions of appointment, dismissal and disciplinary action.

* 1. Chief Officers below the level of Head of Paid Service have delegated powers on human resource matters within their work areas, subject to them being exercised in accordance with relevant national and local conditions of service and policies of the Council. In the event of decisions that relate to remuneration and benefits which are outside the Council’s policies, they must also be approved by the Proper Officer.
  2. Unless otherwise stated in these rules or within the Council’s Scheme of Delegation, Chief Officers below the level of Head of Paid Service can delegate their powers and responsibilities to appropriate Directors and Managers.

**Recruitment and Appointment of Officers**

* 1. **General Process**

Where the Council recruits Officers, the Proper Officer will ensure that:

1. a job description and person specification is drawn up that details the duties of the officer concerned and the qualifications or qualities required of the person to be appointed
2. the post is advertised in such a way that is likely to bring it to the attention of people who are qualified to apply for it
3. the job description, person specification and relevant information regarding Nottingham, the City Council and the role are sent to any person who requests it
4. recruitment is consistent with the on-merit principles and for permanent senior roles, there will be an Assessment Centre arranged involving a range of panels before the final interview stage
5. for internal act-up and agency interim arrangements, on merit principles will apply
6. if required under these Standing Orders, ACOS undertakes the final interview stage
7. if required under these Standing Orders, ACOS will then seek the views of the Executive. The Proper Officer will inform every member of the Executive of the name of the prospective appointee, of anything else which is relevant to the appointment and will give a timescale for the Leader to make any objection on their own behalf or on behalf of one or more Executive members. This must be done undertaken prior to before an unconditional offer of appointment is made.
   1. Declarations

* The Council will require any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or officer of the Council, or of the partner of such persons.
* No candidate so related to a Councillor or an officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by him/her.
  1. Seeking support for appointment
* 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. No Councillor will seek support for any person for any appointment with the Council; and
* Councillors may provide a reference for a candidate if they are not directly involved in the recruitment process. However, any attempt by a Councillor to influence the process in the favour of the applicant will result in the applicant’s disqualification.
  1. **Statutory Governance Officers, Statutory Chief Officers and Chief Officers**

ACOS is responsible for the recruitment process, including shortlisting and approval of appointment of all Statutory Governance Officers, Statutory Chief Officers and Chief Officers at and above Corporate Director level with the following exceptions:

* For the designation of Head of Paid Service, the Committee is responsible for the appointment process with any subsequent recommendation regarding any appointee being subject to consideration and approval by full Council
* The appointment to the post of Director for Public Health which shall follow the process detailed in these Rules at 14.17.
  1. For the avoidance of doubt:
* responsibility for the recruitment process and approval of appointments for Statutory Chief Officers and Chief Officers below the level of Corporate Director shall follow the same process as set out for Deputy Chief Officers in paragraph 14.11 below
* in circumstances where a post holder is designated as Monitoring Officer in addition to their substantive post the employment procedure rules (appointments, severance, disciplinary including dismissal) applicable shall be those prescribed for the statutory role of Monitoring Officer or to a Non-Statutory Chief Officer as set out in these Rules.
  1. Following notification by the Chair of ACOS, the Proper Officer will inform every member of the Executive Board of the name of the prospective appointee, of anything else which is relevant to the appointment and will give a timescale for the Leader to make any objection on their own behalf or on behalf of one or more members of the Executive.[[1]](#footnote-1)
  2. The Proper Officer can approve and offer the appointment only if the Leader makes no objection on their own behalf or on behalf of one or more Executive members, or if the panel is satisfied that any objections made within the specified timescales are not material or well-founded. This process must be undertaken prior to an unconditional offer of appointment is made.
  3. **Appointment of Deputy Chief Officers**

Power is delegated to the Head of Paid Service or other Chief Officers nominated by the Head of Paid Service to appoint Deputy Chief Officers in consultation with a politically balanced interview panel[[2]](#footnote-2) consisting of five Councillors. In the event that it is not possible to convene an interview panel consisting of five Councillors, a politically balanced panel of no fewer than three Councillors should be convened.

* 1. The Head of Paid Service or nominated Chief Officer will chair the interview panel and make the decision on the appointment, in consultation with members of the panel.
  2. Following notification by the panel chair, the Proper Officer will inform every member of the Executive Board of the name of the prospective appointee, of anything else which is relevant to the appointment and will give a timescale for the Leader to make any objection on their own behalf or on behalf of one or more members of the Executive.[[3]](#footnote-3)
  3. The Chair of the panel can approve and offer the appointment only if the Leader makes no objection on her/ his own behalf or on behalf of one or more Executive members, or if the panel is satisfied that any objections made within the specified timescales are not material or well-founded. This process must be undertaken prior to an unconditional offer of appointment is made.
  4. **Interim Appointments**

For interim appointments, meaning any internal acting up and/or agency arrangements, for temporary appointments to posts falling within the definitions of Statutory Chief Officer, Chief Officer and Deputy Chief Officers, an interview panel comprising of the Head of Paid Service, the Proper Officer and/or other nominated Officer by the Head of Paid Service shall be established.\* The Panel may interview and a make a decision on interim appointments to the posts, subject to the following provision

* the Proper Officer will inform every member of the Executive Board of the name of the prospective appointee, of anything else which is relevant to the appointment and will give a timescale for the Leader to make any objection on their own behalf or on behalf of one or more members of the Executive
* the Chair of the Panel may approve and offer the appointment only where the Leader makes no objection on their own behalf or on behalf of one or more Executive members, or if the Panel is satisfied that any objections made within the specified timescales are not material or well-founded. This process must be undertaken prior to an unconditional offer of appointment is made
* any offer of appointment made in accordance with this provision is on an interim basis to provide temporary cover while permanent recruitment processes are undertaken. Meaningful recruitment to the substantive post must commence within 12 months of an interim appointment having been made under this provision
* Full Council must approve any interim appointment of the officer designated as Head of Paid Service.
  1. Director of Public Health

Specific requirements apply to the appointment of the Director of Public Health (DPH). The DPH must be appointed jointly by the Council and the Secretary of State (in practice Public Health England).

* 1. The Chair of the Health and Wellbeing Board will establish an appointment panel to include (in addition to her/himself):
* the Chief Executive
* an external professional assessor, appointed after consultation with the Faculty of Public Health (and who must be geographically distant from the locality where the post is being advertised)
* a senior local NHS representative
* the Public Health England (PHE) regional director or a senior professionally qualified member of Public Health acting on their behalf.
  1. In addition to the five core members, the Chair of the Health and Wellbeing Board can appoint additional members to the panel as s/he thinks appropriate, but the majority of the panel should consist of Nottingham City Council employees and professional members. PHE and the Faculty of Public Health must be consulted for advice and recommendations on panel membership. Roles in the appointment of the DPH are clearly outlined in government guidance.[[4]](#footnote-4)
  2. The Chair of the Health and Wellbeing Board will chair the appointment panel and make the decision on the preferred candidate in consultation with members of the panel.
  3. Following notification by the panel Chair, the Proper Officer will inform every member of the Executive Board of the name of the prospective appointee, of anything else which is relevant to the appointment and will give a timescale for the Leader to make any objection on their own behalf or on behalf of one or more members of Executive Board.
  4. If the Leader makes no objection on their own behalf or on behalf of one or more Executive members, or if the panel is satisfied that any objections made within the specified timescales are not material or well-founded the chair of the panel will write to the PHE Regional Director notifying her/ him of the preferred candidate.
  5. The PHE Regional Director must be involved in all stages of the decision making process for the appointment and the appointment cannot be confirmed without agreement on behalf of the Secretary of State for Health.
  6. As the DPH acts as a Chief Officer, the appointment process will also have to comply with paragraph 14.4 (a), (b) and (c), and (d).
  7. **Appointment of HM Senior Coroner for Nottingham and Nottinghamshire**

Specific requirements apply to the appointment of HM Senior Coroner for Nottingham and Nottinghamshire under the Coroners and Justice Act 2009. While the appointments process is essentially a matter for the Local Authority, all appointments of coroners require the consent of the Chief Coroner and the Lord Chancellor. Once appointed, a coroner becomes and remains an independent judicial office holder. Local authorities pay the coroner’s salary or fees and agree other terms and conditions. But there is no contract of employment between local authority and coroner. Coroners should not be equated in financial or other terms with chief officers.

* 1. Appointment of all other officers

Chief Officers below the level of Head of Paid Service are responsible for all other officer appointments, under delegated powers as set out in 14.2 and 14.3 above.

* 1. Transfer or Secondment of Chief Officers or Deputy Chief Officers

Nominated Councillors must be informed before arrangements are agreed to transfer or temporarily second Chief Officers or Deputy Chief Officers to manage other directorates or divisions.

**Severance**

* 1. ACOS is responsible for the determining Council Policy where it relates to:
* discretions permitted under the Local Government Pension Scheme;
* discretions permitted under the Local Government Early Termination of Employment (“DCR”) Regulation.
* discretionary decisions relating to the Flexible Retirement Scheme.
  1. **Head of Paid Service, Statutory Chief Officers and Chief Officers**

ACOS determines any decisions relating to the Head of Paid Service, Statutory Chief Officers and Chief Officers where the post is at Corporate Director level or above, in relation to discretionary award of additional LGPS (Local Government Pension Scheme), payments permitted under DCR and in relation to flexible retirement within the Policy framework provided for by 14.27 above. ACOS must notify the Proper Officer and the Executive and carry out consultation with nominated councillors. For the avoidance of doubt, any decisions relating to Statutory Chief Officers and Chief Officers below the level of Corporate Director shall be taken in accordance with the process set out for Deputy Chief Officers at 14.29 below.

* 1. **Deputy Chief Officers**

For Deputy Chief Officers, the Head of Paid Service is responsible for any decisions taken in accordance within the Policies stated at 14.27 above (both in relation to employees who are eligible to be members of LGPS or of another pension scheme).

* 1. **Severance for all other officers**

For all other officers, the Head of Paid Service or an employee nominated by the Head of Paid Service may determine decisions taken within the Policies stated at 14.27 above. This includes employees who are eligible to be members of a pension scheme other than LGPS.

* 1. **Settlement of actual and potential Employment Tribunal Cases**

Chief Officers have the authority to agree offers of settlement in actual or potential Employment Tribunal cases, subject to agreement in advance by the Proper Officer in respect of settlements up to and including the Compensation Limit whether in respect of a single claim or in a multi-party claim.

* 1. For Employment Tribunal cases where the actual or potential settlement is higher than the Compensation Limit, Chief Officers have the authority to agree offers of settlement, subject to agreement in advance by the Head of Paid Service.

**Disciplinary Action and Dismissal**

* 1. **Nominations to act as Political Group consultee**

The Majority and Opposition Group(s) will each nominate one Councillor to be kept informed of and consulted on matters which relate to potential formal disciplinary and/or capability issues concerning Chief Officers. These nominations are submitted to the Chief Officer responsible for the function of Finance and Resources on an annual basis.

* 1. **Disciplinary action (including dismissal) against Statutory Governance Officers[[5]](#footnote-5)**

Any proposed investigation for disciplinary matters (including dismissal) against Statutory Governance Officers shall be in accordance with the procedure required by 2001 Regulations. Governance Framework Document M – Disciplinary Procedure against Statutory Governance Officers sets out an overview for that procedure.

* 1. **Disciplinary Action (including dismissal) against Statutory Chief Officers and Chief Officers[[6]](#footnote-6)**

The Head of Paid Service is responsible for taking disciplinary action against, and for dismissing, other Statutory Chief Officer and Chief Officers, unless the 2001 Regulations provide otherwise. In all cases, nominated councillors must be consulted before any formal action is taken.

* 1. Before giving notice of dismissal, the Proper Officer will inform every member of the Executive Board. They will inform them of the name of the person who they propose to dismiss, provide any details relevant to the dismissal and will give a timescale for the Leader to make any objection to the dismissal on their own behalf or on behalf of one or more members of the Executive.[[7]](#footnote-7) If, in the opinion of the Chief Executive, the Leader makes no material or well-founded objection on her/ his own behalf or on behalf of one or more members of Executive, the dismissal can take place.
  2. **Disciplinary Action (including dismissal) against Deputy Chief Officers**

The Head of Paid Service or another Officer nominated by the Head of Paid Service, is responsible for taking disciplinary action against, and for dismissing, Deputy Chief Officers. In all cases relating to Deputy Chief Officers, nominated Councillors must be consulted before any formal action is taken.

* 1. Before giving notice of dismissal, the Proper Officer will inform every member of the Executive Board. S/he will inform them of the name of the person who they propose to dismiss, provide any details relevant to the dismissal and will give a timescale for the Leader to make any objection to the dismissal on their own behalf or on behalf of one or more members of the Executive[[8]](#footnote-8) If, in the opinion of the Head of Paid Service or nominated Officer, the Leader makes no material or well-founded objection on their own behalf or on behalf of one or more members of Executive, the dismissal can take place.
  2. **Disciplinary Action (including dismissal) against Director of Public Health**

In the case of the Director of Public Health, (in addition to requirements relating to disciplinary action against Chief Officers), the Head of Paid Service or nominated Officer must consult with Public Health England (on behalf of the Secretary of State) before giving notice of dismissal. The Head of Paid Service may suspend the DPH from duty while this consultation takes place. Public Health England will normally provide the Secretary of State’s formal response within a maximum of 28 days, but cannot veto the Council’s final decision on dismissal.

* 1. If, at any time, the Secretary of State believes that the DPH is not properly carrying out any Secretary of State function that has been delegated to the Council s/he can direct the authority to review the DPH’s performance, to consider taking particular steps, and to report back. (This power does not extend to the DPH’s performance in relation to the Council’s own health improvement duties).
  2. **Disciplinary Action against HM Senior Coroner for Nottingham and Nottinghamshire**

A Senior Coroner may only be removed from office by the Lord Chancellor, with the agreement of the Lord Chief Justice, on grounds of incapacity or misbehaviour (Schedule 3, Part 4, paragraph 13 of the Coroners and Justice Act 2009). Such decisions are taken in accordance with the procedures contained in the Judicial Discipline (Prescribed Procedures) Regulations 2014*.*

* 1. **Disciplinary action (including dismissal) against all other officers**

Relevant Chief Officers are responsible for disciplinary action which affects officers below Deputy Chief Officer under delegated powers as set out in paragraph 14.2 (with the exception of political assistants).

* 1. **Assistants to Political Groups**

Any appointment, disciplinary action and dismissal of an assistant to a Political Group must be made in accordance with the wishes of that Political Group and the relevant statutory requirements.

1. Local Authority (Standing Orders) (England) Regulations 2001 [↑](#footnote-ref-1)
2. In this context and throughout these Employment Procedure Rules, political balance should be interpreted as requiring one minority councillor. [↑](#footnote-ref-2)
3. Local Authority (Standing Orders) (England) Regulations 2001 [↑](#footnote-ref-3)
4. Directors of Public Health in Local Government: Guidance on appointing directors of public health, Public Health England/ Faculty of Public Health/ Local Government Association, 2013 [↑](#footnote-ref-4)
5. The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 para 2(2) and para (5)(a) [↑](#footnote-ref-5)
6. The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 para 2(2) and para (5)(a) [↑](#footnote-ref-6)
7. Local Authority (Standing Orders) (England) Regulations 2001 [↑](#footnote-ref-7)
8. Local Authority (Standing Orders) (England) Regulations 2001 [↑](#footnote-ref-8)