

Standing Orders – Officer Employment

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Note

The following Standing Orders are mandatory:

Standing Orders G2.1 and G2.2 (authorised versions – 1993 Regulations); and
Standing Orders G3 – G5 (2001 Regulations)

Torbay Council – Constitution

Standing Orders – Officer Employment

G1. Interpretation

G1.1 In these Standing Orders:

“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 Council”	means	Torbay Council
“Chief Finance Officer” and “Monitoring Officer”	have the same meanings as	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
“chief officer”	has the same meaning as	in Regulation 1 of the 1993 Regulations and includes the Head of the Paid Service
“designated independent person”	has the same meaning as	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
“Cabinet”	has the same meaning as	“executive” in Part II of the 2000 Act
“member”	includes	any co-opted member of any committee or sub-committee
“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
“proper officer”	means	an officer appointed by the Council for the purposes of the provisions of these Standing Orders

“statutory chief officer”,
“non-statutory chief
officer” and “deputy chief
officer”

have the
same
meanings as

in Section 2 of the 1989 Act

G2. Recruitment of Head of Paid Service and Chief Officers

G2.1 Where the Council proposes to appoint a chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Head of the Paid Service will:

- (a) draw up a job description and person specification setting out:
 - (i) the duties of the officer concerned; and
 - (ii) 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 arrangements for a copy of the job description and person specification mentioned in paragraph (a) above to be sent to any persons on request.

G2.2 Where a post has been advertised in accordance with Standing Order G2.1, either:

- (a) all qualified applicants shall be interviewed; or
- (b) a short list of such qualified applicants shall be selected and those included on the short list shall be interviewed

but where no qualified person has applied the Council shall make further arrangements for advertisement in accordance with Standing Order G2.1.

G2.3 Every appointment of a chief officer shall be made by the Council (or a committee or a sub-committee if delegated by Council) except that the appointment (or renewal of contract) of non-statutory chief officers may (if delegated to him/her) be made by the Head of the Paid Service after consultation with the Civic Mayor.

G3. Appointments, Disciplinary Actions and Dismissals that must be Discharged by the Head of Paid Service or Other Officers

G3.1 Subject to Standing Orders G3.2 and G4.4, the function of appointment and dismissal of (and taking disciplinary action against) any officer must be discharged, on behalf of the Council, by the Head of the Paid Service (or by an officer nominated by him/her).

G3.2 Standing Order G3.1 shall not apply to the appointment or dismissal of, or disciplinary action against:

- (a) the Head of the Paid Service;
- (b) a statutory chief officer;

- (c) a non-statutory chief officer
- (d) a deputy chief officer
- (e) assistants for political groups

(NOTE: The Council has delegated certain non-mandatory powers in relation to appointments, disciplinary action and dismissals to the Employment Committee and/or the Chief Executive and/or other officer in accordance with Part 3 of the Constitution.)

G4. Appointments Delegated to Committees and Sub-Committees

- G4.1 (1) Where a committee, sub-committee or an officer is discharging, on behalf of the Council, the function of the appointment or dismissal of the Head of the Paid Service, the Council must approve that appointment before an offer of appointment is made to him/her or, as the case may be, must approve that dismissal before notice of dismissal is given to him/her.
- (2) Where a committee or a sub-committee of the Council is discharging, on behalf of the Council, the function of the appointment or dismissal of any officer referred to in sub-paragraph (a), (b), (c) or (d) of Standing Order G3.2, at least one member of the Cabinet must be a member of that committee or sub-committee.
- G4.2 (1) In this Standing Order, “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) An offer of an appointment as an officer referred to in sub-paragraph (a), (b), (c) or (d) of Standing Order G3.2 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 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 the Council on behalf of the Cabinet to the proper officer; and
 - (c) either:
 - (i) the Leader of the Council has, within the period specified in the notice under sub-paragraph (b)(iii) above, notified the appointor that neither he/she nor any other member of the Cabinet has any objection to the making of the offer; or

- (ii) the proper officer has notified the appointor that no objection was received by him/her within that period from the Leader of the Council; or
- (iii) the appointor is satisfied that any objection received from the Leader of the Council within that period is not material or is not well-founded.

- G4.3 (1) In this Standing Order, "dismissor" means, in relation to the dismissal of an officer of the Council, the Council or (where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the Council) 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 Standing Order G3.2 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 of the Council on behalf of the Cabinet to the proper officer; and
 - (c) either:
 - (i) the Leader of the Council has, within the period specified in the notice under sub-paragraph (b)(iii) above, notified the dismissor that neither he/she 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 of the Council; or
 - (iii) the dismissor is satisfied that any objection received from the Leader of the Council within that period is not material or is not well-founded.

G4.4 Nothing in Standing Order G3.1 shall prevent a person from serving as a member of any committee or sub-committee established by the Council to consider an appeal by:

- (a) another person against any decision relating to the appointment of that other person as an officer; or

- (b) an officer against any decision relating to the dismissal of, or taking disciplinary action against, that officer.

(Standing Orders G2 to G4 are compulsory provisions pursuant to Part 1, Regulations 3(1) and 4(1), Schedule 1 of the Local Authorities (Standing Orders) (England) Regulations 2001)

G5. Disciplinary Action

(Schedule 3 of the Local Authorities (Standing Orders) (England) Regulations 2001)

G5.1 No disciplinary action in respect of the Head of the Paid Service, the Monitoring Officer or the Chief Finance Officer (except action described in paragraph G5.2 below) may be taken by the Council, or by a committee, a sub-committee, a joint committee on which the Council is represented or any other person acting on behalf of the Council, other than in accordance with a recommendation in a report made by an independent panel under Regulation 6 of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

G5.2 The action mentioned in Standing Order G5.1 above 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.

G6. Group Assistants

G6.1 No appointment shall be made to a post established by the Council pursuant to Section 9 of the 1989 Act (assistants for political groups), referred to in this Standing Order as a “Group Assistant”, unless the Council has identified the appropriate funding for the post(s) and allocated a Group Assistant post to each of the political groups that qualify for one under that section.

G6.2 No Group Assistant post shall be allocated by the Council to a political group that does not qualify for one under section 9 of the 1989 Act.

G6.3 No political group shall be allocated more than one group assistant post.

G6.4 Group assistants shall be appointed on merit but regard may be given to any person’s political activities or affiliation in determining whether he/she should be appointed. (Local Government and Housing Act 1989, Section 9(1))

G6.5 Group assistants shall be appointed by and ‘report to’ the Head of Governance Support following interview by a panel comprising the Head of Governance Support (or such other officer to whom he/she may delegate this responsibility), an officer from Human Resources and up to three members nominated by the Group Leader of the group to whom the Group Assistant will be allocated.

G6.6 The terms and conditions of appointment of the Group Assistants shall be determined by the Chief Executive (in consultation with the Monitoring Officer) having regard to the 1989 Act.

G6.7 The Head of Governance Support (or such other officer to whom he/she may delegate this responsibility) shall be responsible (in consultation with the relevant Group Leader) for taking any disciplinary action (including dismissal) in respect of any Group Assistant.