

Council – 7 January 2012

Pay and Reward Policy

Service Area: Resources

Wards: None

Summary of report

Walsall Council has recently finalised a Pay and Grading exercise in relation to all NJC and Hay posts within the Council's structure. Walsall Council needs a Pay and Reward Policy for all staff employed at the Council to provide a framework to ensure that all staff are rewarded fairly and objectively, without discrimination for the work they undertake on behalf of the Council. There is also a statutory requirement under the Localism Act 2011 for the local authority to prepare a pay policy statement on an annual basis. This statement must include specific details regarding the remuneration of chief officers, details of the remuneration of the council's lowest paid employees, and the relationship between chief officer remuneration, and the remuneration of its employees who are not chief officers. This is known as pay dispersal.

Council is required by the legislation to pass a resolution approving the Pay Policy statement. It would be unlawful for the council not to have a senior pay policy statement as it is a requirement of Localism Act 2011.

The Council recognises that financial reward is only one element of a total reward package in remunerating its employees for the work they do on behalf of the Council. The Council therefore tries to ensure that all staff enjoy good working conditions. The policy also reflects fairness and equality of opportunity; the need to encourage and enable people to perform; the need to recruit and retain employees in a competitive market; and the desire to operate a transparent pay and grading structure.

The Council has to ensure that it has an appropriately staffed organisational structure that enables the Council to discharge all of its functions.

The Pay and Reward policy statement provides openness and accountability in how the Council rewards staff. This builds upon the Secretary of State's published code of recommended practice for local authorities on data transparency, of 29 September 2011, which enshrined principles of transparency and provided recommendations on the publication of data on senior salaries, and the structure of the council's workforce. The council already publishes data on chief officers pay in its annual accounts, which is a public document, and on the council website.

Council policy in respect of the recruitment and appointment of Chief Officers is established in the Council's Constitution at Part 4.6, as part of the Officer Employment Procedure Rules. Chief Officers are appointed by Council, a committee or sub-committee of council. All of these appointments are subject to the well-founded objection process involving Members of the Executive.

Recommendations

- (1) That Council approves the Pay and Reward Policy, with attached appendices.
- (2) A) That Council re-affirms the procedure for the appointment of Chief Officers as set out in the constitution:

OR

- B) That Council considers reserving to itself the power to approve the future level of remuneration in respect of Chief Officers on appointment that would be in excess of £100,000.

Resource and legal considerations

As stated previously the Council is required under the Localism Act 2011, section 38(1) to prepare a pay policy statement for the financial year 2012-2013, and each subsequent financial year.

Under section 39(1) the councils pay policy statement must be approved by a resolution of Council before it comes into force. In addition the first statement must be prepared and approved before the end of March 2012. Each subsequent statement must be prepared and approved before the end of 31 March immediately preceding financial year to which it relates.

There is a legal requirement under the Localism Act 2011 for the Council to publish its Pay Policy statement as soon as is reasonably practicable after the policies approved or amended.

The Pay and Reward Policy is not retrospective and establishes a framework for remuneration on an ongoing basis. There is no resource impact.

Citizen impact

This policy provides citizens of the borough with clear and transparent data in relation to the total reward package paid to council employees.

Environmental impact

None

Performance and risk management issues

A fair and transparent Pay and Reward policy will minimise the risk of inequalities in pay, and provide an objective mechanism to review pay dispersal throughout the Council.

Equality implications

A published fair and transparent Pay and Reward policy will help to facilitate equality in pay. As an employer the council is subject to the Equalities Act 2010 and subsequent amendments. This requires employers to ensure that men and women in the same employment, carrying out equivalent work (as defined below), receive the same level of pay.

Consultation

The Council participates in the consultation organised by the Local Government Association on behalf of the national employers' arrangements. The current policy does not make any substantive changes to existing personnel procedures, and consolidates existing policies. The policy will be reviewed on an annual basis.

Background papers

Pay and Reward Policy at Appendix 1

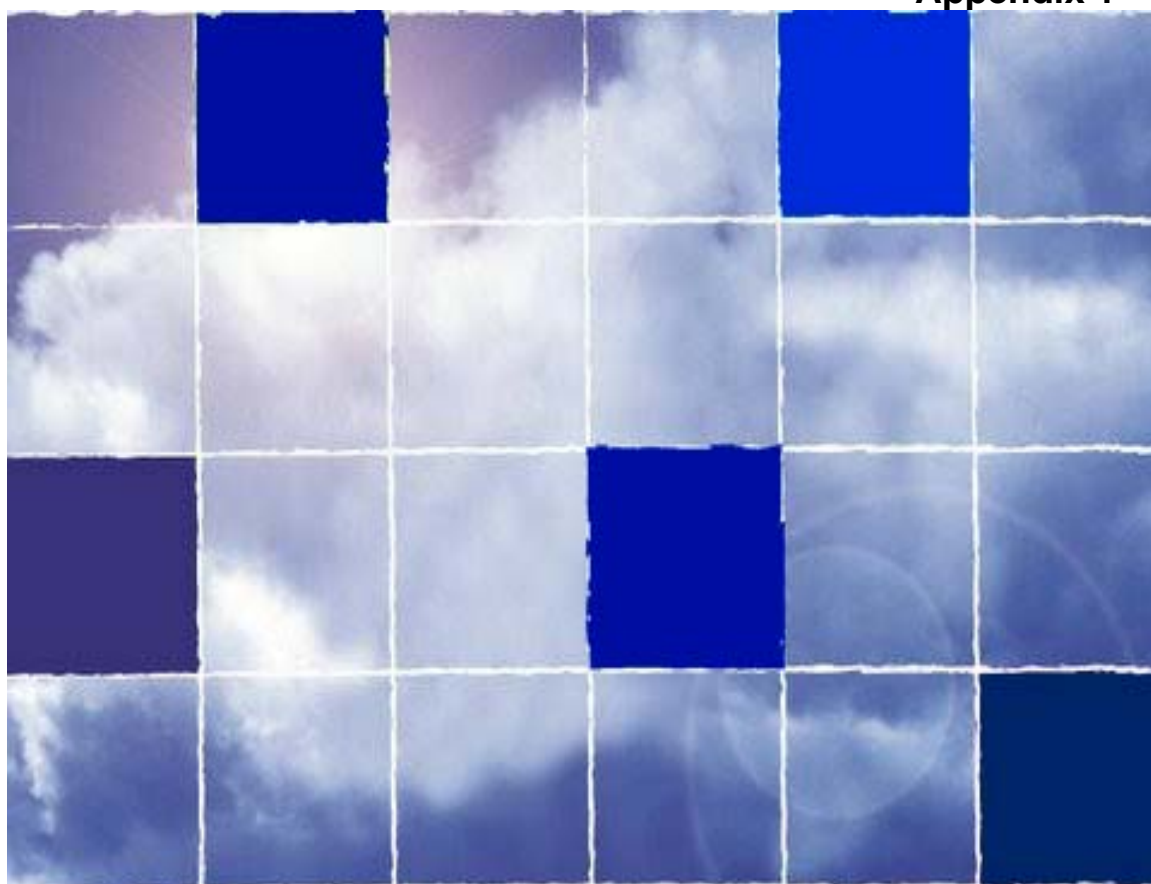
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Signed:

Executive Director (Resources):

Date:

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Pay and Reward Policy

	Walsall Council	HUMAN RESOURCES & DEVELOPMENT	Vision statement "To be an excellent employer we will create an environment which enables managers to develop, manage and lead people to achieve the council's vision"
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Document title:	Pay and Reward Procedure		
Version:	16	Owner:	HRD Operational Services
Status:	Final	Approved on:	09 January 2012
Review date:	Autumn 2013		
Last updated date:	December 2012	Last updated by:	HRD Recruitment & Retention
Purpose:	To comply with legislative requirements under the Localism Act 2011 and consolidate policy in respect of Pay and Reward of Council Employees		

Pay and Reward Policy Contents

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(England) Regulations 2001**

Summary

Walsall Council recognises the importance of managing pay fairly and in a way that motivates staff to make a positive contribution to the Council. All staff should be appropriately rewarded and valued for their work.

The decisions that are taken to determine starting salaries or to recognise a change in duties and responsibilities are crucial to maintaining equality of pay across the Council.

All NJC and Hay positions within the Council's organisation structure have gone through a pay and grading evaluation since 2008, and the new Pay Scheme that was implemented in November 2011, as approved by Council has been objectively and independently evaluated by Northgate Arinso.

The Pay and Reward Policy also incorporates the Councils Senior Pay Policy Statement as required by the Localism Act 2011.

1.0 Introduction

1.1 Walsall Council has a clear written policy on salaries for all staff employed at the Council to ensure that all staff are rewarded fairly, without discrimination for all the work they do.

1.2 When reviewing the pay policy, all relevant stakeholders including Trades Union Representatives will be consulted as appropriate and their views taken into account when deciding the pay policy.

1.3 Walsall Council recognises that financial reward is not the only means of supporting staff and the Council will try to ensure that all staff have good working conditions.

1.4 This policy will aim to reflect:-

- Fairness and equality of opportunity
- The need to encourage and enable people to perform to the best of their ability
- The need to recruit and retain in a competitive market
- The desire to operate a transparent pay and grading structure.

1.5 Walsall Council's employment offer includes a wider range of issues alongside pay – access to learning and development, flexible working, performance management and the opportunity to undertake work of a public value.

1.6 To make these principles work Walsall Council needs remuneration arrangements which:-

- Are based on a clear and rational process for setting and reviewing the pay of employees;

- Provide a pay practice and levels of remuneration which are sufficiently flexible and reasonably competitive taking account of relevant data on pay markets and recruitment and retention factors;
 - Are affordable by the Council and support the provision of quality public service.
- 1.7 Walsall Council will make this policy and any related procedures available to all staff ensuring that any appeal or other concerns are managed promptly, fairly and objectively.
- 1.8 Walsall Council wishes to ensure that promotion and development opportunities, where possible, are available to all employees.
- 1.9 Walsall Council will not promote staff through the grading system nor use other pay mechanisms in order to assist in securing an employee's improved pension entitlement on retirement.

2.0 Legal Framework

2.1 The primary legislation governing equal pay is the Equalities Act 2010 and subsequent amendments. This requires employers to ensure that men and women in the same employment, carrying out equivalent work (as defined below), receive the same level of pay. The following terms are contained in Equal Pay Legislation:

- 'Like work' is defined as work which is the same or broadly similar
- 'Work rated as equivalent' is defined as work which has achieved the same or similar number of points under a job evaluation scheme.
- 'Work of equal value' is defined as work which is broadly equal in value when compared under headings such as effort, skill and decisions

2.2 In addition, indirect discrimination has been incorporated into equal pay as a result of case law in the UK and Europe. Indirect discrimination may arise when pay policy has a disproportionate impact on one particular sex.

2.3 Differences in pay may be justified where it is established that the difference is for a genuine and material reason which is not related to gender.

3.0 Definition of Pay

3.1 For the purposes of this policy and in line with legislation, pay is defined by Article 141 of the Treaty of Rome as:

The ordinary basic or minimum wage or salary and any other consideration, whether in cash or kind, which the worker receives, directly or indirectly, in respect of his (or her) employment from his (or her) employer.

- 3.2 Pay therefore includes allowances, pensions, discretionary bonuses and sick pay as well as other non-financial benefits such as vocational training.

4.0 Principles

4.1 Pay Ranges - National Joint Council (NJC)

4.1.1. Walsall Council operates NJC pay structure, ranging from spinal column point (SCP) 5 to SCP 49. The NJC scale is extended locally from SCP50 to SCP 56. Single salaries for Chief Officers exist outside this range. A number of other staff are on local conditions outside those outlined below.

4.1.2. The pay range for a large proportion of staff will be based on the national agreement for Local Government (The Green Book). Arrangements for these scales provide for individuals to receive annual incremental progression within the grade.

4.1.3. Salary on recruitment in all pay ranges should be set at a level within the range consistent with attracting good calibre people. Flexibility exists, to pay a higher incremental point or a higher salary within the range for recruitment purposes. Such practice must be made within budgetary arrangements.

4.1.4. The lowest remuneration for Council employees is G1, Gradeline 291, SCP 5 £12,312. These are in essence the council's "lowest paid employees", by the fact that this grouping comprise the lowest paid workers in the council. These jobs as with all NJC jobs have been objectively evaluated against their job content in the course of the pay and grading project. The evaluation has been audited, and subject to an equality assessment by Northgate Ariso.

4.2 Pay Ranges Hay

4.2.1. Walsall Council operates the Hay pay scale.

4.2.2. Posts Scoring 739 or more on the NJC scheme have been judged as higher level posts and were evaluated according to the Hay scheme.

4.2.3. The cut-off score of 739 was selected through analysis of what a typical Hay graded postholder could expect to achieve on the NJC scheme. This process was agreed in conjunction with the trade unions.

4.3 Pay Ranges JNC

4.3.1 Walsall Council operates the JNC pay scale for senior management grades. These are locally agreed salary scales which are reviewed annually having regard to the JNC pay award for chief officers, market conditions and the financial situation of the council.

4.4 Salary Progression

4.4.1. Increments are due on the 1st April each year, or 6 months after appointment if less than 6 months in the new grade by 1st April, ie, an increment is paid after 6 months if the employee is appointed between 1st October and 31st March.

4.4.2. Posts are usually advertised within salary bands, where the top of the salary band advertised represents the maximum incremental point within that pay range. In practice most appointments are not made at the maximum of the pay range for jobs. Incremental progression for NJC evaluated jobs is automatic within the pay range for the job.

4.4.3. Incremental progression for Hay evaluated jobs is automatic.

4.4.4. Incremental progression for Chief Officer posts, under JNC terms is not automatic.

4.4.5. Incremental progression takes place until the maximum SCP of the job is achieved. Thereafter, the employee is only eligible for the annual cost of living award as negotiated by the appropriate bodies.

4.5 Pay Review

4.4.1. All pay ranges are reviewed in line with the national pay award.

4.6 Market Supplement

4.6.1. Basic pay may be supplemented by a market supplement as long as market evidence on demand for these skills supports it. This market supplement will apply to a relatively small number of people.

4.6.2 Supplements are temporary by nature and must be reviewed annually and can be adjusted or removed in line with market changes.

4.7 Pay Data

4.7.1. Walsall Council will obtain local, regional and if appropriate national pay data to inform decision making on local pay awards and market levels alongside relative factors e.g. labour turnover rates.

4.8 Allowances

- Overtime – Any overtime worked over 37 hours and on Saturdays, Sundays and public holidays will be paid at time plus 1/2. This is only applicable to those on grade 6 or below. Overtime is not normally paid on management grades. All overtime must be agreed by the relevant manager and closely monitored.
- Callout/Standby – payments are made to reflect the unsociability of working in particular circumstances. These will be locally agreed.
- Relocation - Walsall Council may provide relocation assistance to new recruits as part of the employment package. The Council does not make payments to employees to reflect increased travel to work if the employee's work location changes.
- Professional Subscriptions – these will be paid by the council where it is an essential requirement of the job. Essential would normally relate to a statutory reason, not a selection criteria that could be unfairly restrictive in obtaining good candidates and conflict with equality of opportunity.
- Car Allowances - Where the Council requires and authorises an employee to use a private car on official business, the employee will receive an allowance for the use of their motor vehicles. The Council will decide whether the use is casual or essential.
- Performance related pay for all employees have been removed.

4.9 Car Allowances

4.9.1. The Motor Vehicle Allowance Scheme has been in operation from 1 January 1995.

4.9.2. The scheme shall apply in its entirety to Officers in posts which are designated by the Chief Officer as having car allowances (Casual or Essential) attached thereto for the efficient performance of their duties.

4.9.3. Definitions

- Casual Users - *Are deemed to be those for when it is merely desirable that a car should be made available when required.*
- Essential User – *Availability of a car is the most cost effective solution for efficient conduct of Council business or specifically where there is a*

defined management requirement for the provision of emergency cover or call out which requires an immediate response (for example because of a life threatening situation) as determined by the Chief Officer. Essential User status will be attached to posts and Chief Officers in allocating these allowances will have regard to similarly designated/graded posts with a view to treating employees equally.

Full Guidance:

http://inside.walsall.gov.uk/payroll_and_pensions_motor_vehicle_allowance_scheme_january_1995_may_2006-2.doc

4.10 Annual Leave

- All employees have an entitlement to annual leave and bank holidays, which, if the employee is part time, is pro-rata of full time.
- If an employee works term time only, the annual leave calculation will be:

Number of weeks of term (including inset days if required)/52.143 x full time equivalent holiday entitlement.

- Annual leave entitlement varies according to grade and length of service:
- Part time employees are entitled to pro-rata leave in proportion to the hours worked. A part time employee works less than 37 hours per week.

Grade	Holidays	After 5 years continuous local government service
1-4	24	29
5-6	25	30
7-9	27	32
10+	28	33

- Employees transferring from another local authority will have their previous service counted for annual leave purposes provided there has been no break in service.

4.11 Sickness Benefit – for all staff will be in accordance with the National Agreement for Local Government. The Council has a policy and practice in place for monitoring absence and long term ill-health.

4.12 Equal Opportunity Considerations – pay and conditions will apply equally to employees working full-time and part-time in accordance with the Part-time Employment (Prevention of Less Favourable Treatment) Regulations 2000.

5.0 Pensions

5.1 As an employee of Walsall Council in a non-teaching post, you will be automatically enrolled in to the Local Government Pension Scheme (LGPS). If you are not currently a member of the LGPS at Walsall Council's Automatic Enrolment 'Staging Date' of 1st March 2013 (and subsequently every 3 years) and you meet specific age, contract and earnings criteria, you will be automatically enrolled into the LGPS at this point. Employees have the right to decide not to join the Scheme but you should give this matter careful consideration and may wish to take financial advice before doing so. The benefits and contributions payable under the Scheme are set out in the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended).

5.2 The current level of employees contributions to the scheme is :

Whole-time equivalent annual pay rate in the post	Employee contribution rate
Up to £13,500	5.5%
£13,501 to £15,800	5.8%
£15,801 to £20,400	5.9%
£20,401 to £34,000	6.5%
£34,001 to £45,500	6.8%
£45,501 to £85,300	7.2%
Over £85,300	7.5%

5.3 The Council's current published statements relating to pensions are contained at Appendix A of this document. The statements cover the Council's policy on making discretionary payments on early termination of employment under regulation 7 of The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006. It also covers the Council's policy on increasing an employee's total pension scheme membership and on awarding additional pension under Regulation 66 of The Local Government Pension Scheme (Administration) Regulations 2008.

6.0 Notice periods

The minimum period of notice to which employees are entitled to from the Council is:

(other than in circumstances of gross misconduct or gross negligence or otherwise, in accordance with the contract of employment where the Council is entitled to give summary notice):

Continuous service	Minimum notice
Up to 5 years	4 weeks
5 to 12 years	1 week for each year of continuous employment
12 years or more	12 weeks

From the employee to the council:

Grade	Notice Period
Grade 1-6	4 weeks
Grade 7-9	8 working weeks
Grade 10 and above	12 weeks

7.0 Senior Pay

- 7.1. The salary levels of chief officers on appointment have been set by elected members, at the relevant committee of council, for over ten years. The salary details for Chief Officers is published at <http://opendata.walsall.org.uk/opendata/opendata-datasets/opendata-employees.htm>. This information has been published since April 2011 and was updated in November 2011 in the interests of openness and transparency, and shows levels of remuneration for chief officers for the previous financial year. The public data also show Employee Analysis across the Council as of October 2011. The definition of Chief Officer is contained in Appendix B.
- 7.2 Regulation 4 of the Accounts and Audit (Amendment No2) (England) Regulations 2009 [SI 2009 No.3322] the Council has a legal requirement to report the remuneration of senior employees as part of its published salaries information. This requirement has now been reinforced under section 38 (1) of the Localism Act 2011 which requires the Council to produce a pay policy statement on an annual basis.
- 7.3 The process for the recruitment and remuneration of chief officers is set out in Part 4.6 of the council's constitution.

Whether Council proposes to appoint the Chief Executive or an executive director the post will be advertised externally unless there are exceptional circumstances, the Council will:

- (a) draw up a statement specifying:
- (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 statement mentioned in paragraph (1) (a) to be sent to any person on request.

In carrying out the recruitment and selection process the Council, Committee or Sub-Committee will be guided by best practice on recruitment and selection and the advice of the Head of Personnel and

Development. The Committee or Sub Committee will have received training in equal opportunities in recruitment and selection.

- 7.4 The Council will appoint the Chief Executive 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. The Council may only make or approve the appointment of the Chief Executive where no well founded objection has been made by any Member of the Executive. The appointment of the Chief Executive will be in accordance with Schedule 1, Part II of the Local Authorities (Standing Orders) (England) Regulations 2001, recited at Appendix C. No offer of appointment will be made until the Proper Officer has followed the notification requirements set out in Schedule 1, Part II 5(2) of the said Regulations.
- 7.5 The Chief Executive's total remuneration package includes fees payable for local election duties. Where appropriate fees for European and National elections and referenda are set out and paid by central government.
- 7.6 The remuneration of the Chief Executive as published is £189,533.00 per annum. The median basic remuneration for a full time equivalent is £21,525 per annum. The mean basic pay based on 4,970 posts ranging in pay from the Chief Executive's remuneration to G1, Gradeline 291, SCP 5 £12,312, is £23,158. The Hutton report on Fair Pay in the public sector was asked to explore the case for a fixed limit on pay dispersion in the public sector, through a requirement that no public sector manager can earn more than 20 times the lowest paid person in the organisation. There are advantages and disadvantages of using a maximum pay multiple. The current pay multiple from top to bottom of the organisation is 1:15. The ratio from the median pay to the Chief Executives pay is 1:9. The Hutton Report concluded that the most appropriate metric is top to median earnings. Transparency in relation to the same will ensure that organisations delivering public services are accountable for the relationship between the pay of their executives and the wider workforce ("pay dispersion")
- 7.7 Chief Officers on the Corporate Management Team of the council are paid £114,328.00. The current pay multiple from this pay scale to the lowest paid in the organisation is 1:9. The ratio from the median to Corporate Management Team remuneration is 1:5. The Council will monitor these ratios on an annual basis to ensure that there is not undue wage inflation in Chief Officer pay rates.
- 7.8 A Committee or Sub-committee of the Council will appoint Directors and Assistant Directors graded, above Scale 59. That Committee or Sub-Committee must include at least one Member of the Executive. An offer of employment as a Director and Assistant Director shall only be made where no well-founded objection from any Member of the Executive has been received. The appointment of those staff will be in accordance with Schedule 1, Part 2 of the Local Authorities (Standing Orders) (England)

Regulations 2001, and no offer of employment will be made until the Proper Officer has followed the notification requirements set out in Schedule 1, Part II 5 (2) of the said Regulations.

7.9 The Council's Appointments Board approves remuneration levels for the Chief Executive, Executive Directors and Assistant Directors (other than those associated with the National Pay Awards) on appointment, subject to negotiation. The Appointments Board also has delegated authority from council in respect of the actual appointment and dismissal of Executive Directors and Assistant Directors in accordance with the Employment Procedure Rules.

7.10 Chief Officers do not receive performance related pay or bonuses.

7.11 In addition to the basic remuneration Chief Officers receive the following payment by way of car allowance:

- the Chief Executive receives essential car user allowance of £1,239.00 per annum
- the Executive Directors receive £2,670.48 per annum
- the Assistant Director (Neighbourhood Services) receives £1,239.00 per annum
- Assistant Directors casual allowance is only claimed on a per journey basis. The level of payment is based on national NJC car allowances.

7.12 In relation to the termination of employment, the Council will have due regard to making any appropriate payments where it is in the Council's best interests. Any such payments will be in accordance with contractual or statutory requirements and take into account the potential risks and liabilities to the Council, including any legal costs, disruption to services, impact on employee relations and management time. This is consistent with the risk management practices of well governed organisations in private, public and voluntary/charitable sectors.

7.13 Where appropriate, the arrangements are reported to a committee of the council [as required by the Council's Constitution]. Furthermore external auditors are consulted about severance packages where appropriate.

7.14 The Council will, of course, have regard to the specific legal requirements which apply to the termination of employment of the Head of Paid Service, the Section 151 Officer and the Monitoring Officer.

8 Review of the Policy

8.1 This policy will be kept under review and developments considered in the light of external best practise and legislation, internal data on recruitment and retention and external pay data etc.

8.2 The Council will discuss any changes with all stakeholders including the recognised Trade Unions and present any proposals for amendment to Council. Council will approve any amendments to the Pay and Reward

Policy, on an annual basis at the time of the formulation of the council's budget proposals normally in September/October.



Walsall Council

Pension Policy Statement: 1 April 2010

Local Government Pension Scheme (LGPS) Regulations Policy Statement for all eligible employees

Under Regulation 66 of the LGPS Regulations 2008 each scheme employer must publish and keep under review a Statement of Policy to explain how it will apply certain discretions allowed under the Pension Regulations. Where references are made, A Reg refers to the "Administration" Regulations and B Reg to the Benefit" Regulations

This statement is applicable to all employees of Walsall Council who are eligible to be members of the LGPS.

Before the exercise of any discretion it will be necessary in each individual case to consider the full financial cost implications to the council and the Pension Fund.

All other past polices and discretions will be revoked following the approval of this policy. The discretions detailed in this policy will be the only ones that will apply from 1 April 2010.

Policy Statement

PART 1 - DISCRETIONS TO BE APPLIED CONTAINED IN THE ADMINISTRATION REGULATIONS

At the start of the employment contract

1. Regulation 15 A: Reg: Re-employed and rejoining deferred members

No policy change.

<p>Explanation This discretion allows the extension of the 12 month time limited election to aggregate previous periods LGPS service.</p>	<p>Council Policy The council has <u>NOT</u> adopted this discretion.</p>
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2. Regulation 25 A: Reg: Shared cost AVC (additional voluntary contributions)

No policy change.

<p>Explanation This discretion allows the council to maintain and contribute to an employee's Additional Voluntary Contribution Scheme</p>	<p>Council Policy The council has <u>NOT</u> adopted this discretion.</p>
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3. Regulation 83 A Reg: Power to allow inwards transfer values to be accepted after 12 months' Membership

No policy change.

Explanation This discretion allows the extension of the 12 month time limited transfer of pension rights from previous funds to be extended	Council Policy To allow this discretion in limited circumstances only. Each specific case will be judged equally and fairly on its own merits having fully considered service delivery and financial costs.
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PART 2 - DISCRETIONS TO BE APPLIED CONTAINED IN THE BENEFITS REGULATIONS

At the start of the employment contract

1. Regulation 3 B Reg: Contributions Banding payable by active members

No policy change.

Explanation Employers will determine the contribution rate payable based on whole time pensionable pay for existing members at 1 April 2010 or at the start of their membership and where there is a material change in pay	Council Procedures – How the Regulation is to be administered The council will review the contribution rate bands at six monthly intervals. Account will be taken when determining the rate of any impending pay award
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Discretions to be applied during employment

2. Regulation 12: B Reg: Power to increase total membership of Active Members (augmentation)

No policy change.

Explanation This discretion allows for an employees membership to be increased but any increase must not exceed, including earlier periods of added years, 10 years	Council Policy The council has <u>NOT</u> adopted this discretion.
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3. Regulation 13: B Reg: Power to award additional pension

No policy change.

Explanation This discretion allows the employer to award a scheme member additional pension benefits of not more than £5,000 a year, payable from the same date as scheme benefits. This is in addition to Regulation 12 B Reg	Council Policy The council has <u>NOT</u> adopted this discretion.
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4. Regulation 22 A Reg: Applications to make absence contributions

No policy change.

Explanation Employer has the discretion to extend the period of 30 days for a period of unpaid absence if person applies in writing	Council policy The council has <u>NOT</u> adopted this discretion.
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Discretions to be applied at the termination of employment

5. Regulation 18 B Reg: – Flexi Retirement

This is a revised policy – due to Regulation change.

Explanation A member who is aged 55 or over and with their employers' consent reduces their hours/or grade, can, but only with the agreement of the employer, make an election to the administrating authority (West Midlands Pension Fund) for all or part payment of their accrued benefits without having retired from that employment. If payment occurs before the age of 65, the benefits are actuarially reduced. The employer may chose to waive the reduction in whole or part. The cost of the waiving will have to be paid to the fund.	Council Policy The council will consider a waiver in exceptional circumstances only. The criteria for exceptional circumstances are defined in the detailed guidelines. Each specific case will be judged equally and fairly on its own merits having fully considered service delivery and financial costs.
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6. Regulation 30 B Reg: Early payment of Retirement benefits at the employees request

This is a revised policy due to Regulation change.

Explanation From age 55 members have the right to apply for early payment of their retirement benefits. Payment will be subject to the employers consent. For a member who joined the Scheme prior to 1 October 2006 where the members age and pension service (in whole years) equals less than 85 then reduced benefits would be payable. For a member who joined the scheme on or after 1 October 2006, then reduced benefits would be payable if taken before	Council Policy a) The council has adopted this regulation to be used in exceptional circumstances only. The criteria for exceptional circumstances are defined in the detailed guidelines. b) Where early retirement is granted the conditions opposite will apply. Each specific case will be judged equally and fairly on its own merits having fully considered service delivery and financial costs.
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age 65

7. Regulation 30 B Reg – Former Members Request for Early Payment of Benefits

This is a revised policy due to Regulation change.

<p>Explanation From age 55 former members with deferred benefits have the right to apply for early payment of their retirement benefits. Early payment will be subject to the employers consent.</p> <p>For a member who joined the Scheme prior to 1 October 2006 where the members age and pension service (in whole years) equals less than 85 then reduced benefits would be payable.</p> <p>For a member who joined the scheme on or after 1 October 2006, then reduced benefits would be payable if taken before age 65</p>	<p>Council policy The council has adopted this regulation to be used in exceptional circumstances only.</p> <p>The criteria for exceptional circumstances are defined in the detailed guidelines.</p> <p>The council will consider each specific case which will be judged equally and fairly on its own merits having fully considered service delivery and financial costs.</p>
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PART 3 - EARLY TERMINATION OF EMPLOYMENT (DISCRETIONARY COMPENSATION)

1. Regulation 5 of the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006

No limit on weekly pay for calculation of redundancy payment.

No policy change

<p>Explanation The council may decide to calculate a redundancy payment entitlement as if there had been no limit on the amount of the week's pay used in the calculation</p>	<p>Council Policy The council has decided to adopt this discretion and base redundancy payment calculations on an unrestricted week's pay</p>
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2. Regulation 6 of the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006

Additional lump sum compensation payment

No policy change

<p>Explanation A one-off lump sum compensation payment may be awarded to an employee up to a maximum value of 104 weeks pay (2 years) inclusive of any redundancy payment made.</p>	<p>Council Policy The council has decided to adopt this discretion in part and will award an additional lump sum compensation payment equal to the value of the statutory redundancy payment – maximum payment 30 weeks – but only in cases of some compulsory redundancies</p>
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	<p>Each award will be subject to a cap to be paid to an employee who is paid less than the full time equivalent of scale point 29.</p> <p>Each specific case will be judged equally and fairly on its own merits having fully considered service delivery and financial costs.</p>
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PART 4 – INJURY ALLOWANCES

1. Local Government Discretionary Payment Regulations 1996 - Part V –

This is a new policy decision

<p>Explanation</p> <p>The council operates The Walsall Council Injury Allowance Scheme under the permissive powers of The Discretionary Payment Regulations 1996.</p> <p>The scheme is unique to Walsall Council employees and is operated within the regulatory guidelines.</p>	<p>Council Policy</p> <p>The council has decided that all claims are to be submitted to and agreed by an Injury Allowance Panel. The panel will consist of The Head of Legal Services, The Head of Corporate Finance and the Head of Human Resources and Development or their nominees.</p> <p>Both temporary and permanent allowances are available within the terms of reference of the scheme. Each award will be judged on the relevant evidence presented to the panel. Payment will be made from the service budget.</p> <p>There is no separate internal appeals process as designated by thru Injury allowance panel.</p>
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PART 5 – APPEAL PROCESS

1. Regulation 57 A Reg: Internal Dispute Resolution Procedure (IDRP)

No change proposed.

<p>Explanation</p> <p>Responsibility for determination of LGPS disputes under the first stage of the procedure now lies with a “Specified Person” at the employing authority.</p> <p>The Executive Director (Resources) is the appointed Specified Person for the purposes of the Internal Dispute Resolution Process. If this presents a conflict of interest when the complaint relates to a member of the Resources</p>	<p>Council Policy</p> <p>Any disputes about decisions made under the LGPS should be sent in writing to:</p> <p>The Executive Director (Resources) The Council House Walsall Council WS1 1TW or</p> <p>The Chief Executive if the complaint</p>
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directorate, the Chief Executive will act as the Specified Person	relates to member of the Resources Directorate.
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Guidance on how to apply the policy will form part of the policy statement

February 2010



Local Government Pension Scheme Regulations Policy Statement for all eligible employees -

Guidance Notes

These notes establish clear and robust guidelines to managers and human resources officers. All decisions relating to the payments and discretions contained within this policy need to be objectively justifiable if challenged.

PART 1 - DISCRETIONS TO BE APPLIED CONTAINED IN THE ADMINISTRATION REGULATIONS

At the start of the employment contract

1 Regulation 15 A: Re-employed and rejoining deferred members

This Regulation was contained in the previous discretionary powers. There will be a cost to the service so this Regulation has not been adopted.

2. Regulation 25A: Shared cost AVC

This Regulation was contained in the previous discretionary powers. There will be a cost to the service so this Regulation has not been adopted.

3 Regulation 83A: Power to allow transfer values to be accepted after 12 months' membership

This Regulation was contained in the previous discretionary powers and there could be significant cost to the pension fund liabilities if this discretion was not limited. The extension will be allowed when the delay is of no fault of the employee e.g. previous scheme not providing transfer details in a timely manner.

The decision to allow the transfer will be authorised by the Chief Financial Officer or their Deputy (Head of Corporate Finance) on the recommendation of the Payroll & Pensions Control Manager. An appeal against a decision is provided within Part 5 of this guidance note.

PART 2 - DISCRETIONS TO BE APPLIED CONTAINED IN THE BENEFITS REGULATIONS

At the start of the employment contract

1 Regulation 3B: Contributions Banding payable by active members

This provision determines when and how the employees' contribution banding will be applied. The guidance is set out in the policy statement.

2 Regulation 12 B: Power to increase total membership of active members

There will be a cost to the service so this regulation has not been adopted.

3. Regulation 13B: Power to award additional pension

There will be a cost to the service so this Regulation has not been adopted.

4. Regulation 22 A Reg: Applications to make absence contributions

There will be a cost to the service so this Regulation has not been adopted.

Discretions to be applied at the termination of employment

5 Regulation 18 B: (Flexi Retirement): Requirement as to time of pension payment

Agreement to apply the waiver could have a significant impact on council funding as it is dependant on each individual's pensionable history. A shortfall may be created which will require a payment to the pension fund before the benefits can be paid.

- The waiver will be applied if there is no cost to the service or
- On compassionate grounds but only when it can be demonstratively shown that the inability of the employee to work is as a result of a severe medical condition of the employee or of the person for which they are the main carer (subject to medical evidence to support the application).

The above will be on the joint authority of the Chief Financial Officer or their Deputy (Head of Corporate Finance) and the Head of Human Resources and Development (both parties must be in agreement).

Prior to a decision being made the cost of the award must be obtained and the funding to support the award must be confirmed by the relevant Finance Manager.

6 Regulation 30 B: Early payment of Retirement benefits at the employees request

This could have a significant impact on council funding as the council may, dependant on each individual's pensionable history, be responsible for the shortfall the early retirement creates, therefore this will only be granted under the following circumstances.

- If there is no cost to the service.
- On compassionate grounds but only when it can be demonstratively shown that the inability of the employee to work is as a result of a severe medical condition of the employee or of the person for which they are the main carer (subject to medical evidence to support the application).
- To avoid compulsory redundancy and where all re-deployment opportunities have been explored and found unsuitable.
- Employees awarded immediate payment of retirement benefits shall not be re-employed by the council for a minimum of 12 months.

The above will be on the joint authority the Chief Financial Officer or their Deputy (Head of Corporate Finance) and the Head of Human Resources and Development (both parties must be in agreement).

Prior to a decision being made the cost of the award must be obtained and the funding to support the award must be confirmed by the relevant Finance Manager.

7 Regulation 30 B: Former Members Request for Early Payment of Benefits

This could have a significant impact on council funding as the council may, dependant on each individual's pensionable history, be responsible for the shortfall the early retirement creates, therefore this will only be granted under the following circumstances.

- If there is no cost to the service
- On compassionate grounds but only when it can be demonstratively shown that the inability of the employee to work is as a result of a severe medical condition of the employee or of the person for which they are the main carer (subject to medical evidence to support the application).

The above will be on the joint authority the Chief Financial Officer or their Deputy (Head of Corporate Finance) and the Head of Human Resources and Development (both parties must be in agreement).

Prior to a decision being made the cost of the award must be obtained and the funding to support the award must be confirmed by the relevant Finance Manager.

PART 3 - EARLY TERMINATION OF EMPLOYMENT (DISCRETIONARY COMPENSATION)

1 Regulation 5 of the Local Government (Early Termination of Employment) (Discretionary Compensation) - calculation of a redundancy payment entitlement as if there had been no limit on the amount of the week's pay used in the calculation.

In calculating a redundancy payment, this will be calculated based on the employee's actual weekly pay rather than the statutory weekly limit.

2 Regulation 6 of the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006 - A one-off lump sum compensation payment may be awarded to an employee up to a maximum value of 104 weeks pay (2 years) inclusive of any redundancy payment made.

This discretion cannot be applied if augmentation is applied (reg 12). Employees can not have both. If employees contracts are terminated through redundancy an exemption in the age regulations will allow employers to apply an enumerator of the statutory redundancy payment. This exemption does not apply to those who are terminated on efficiency grounds.

The council have decided to adopt this discretion in part and will award an additional lump sum compensation payment equal to the value of the statutory redundancy payment – maximum payment 30 weeks – but only in cases of some compulsory redundancies on the joint authority the Chief Financial Officer or Deputy (Head of Corporate Finance) and the Head of Human Resources and Development (both parties must be in agreement). Each award will be subject to a cap to employees paid less than the full time equivalent of NJC scale point 29.

Prior to a decision being made the cost of the award must be obtained and the funding to support the award must be confirmed by the relevant Finance Manager.

PART 4 - INJURY ALLOWANCES

1. Local Government Discretionary Payment Regulations 1996 - Part V

This is a new policy decision

An injury allowance is payable to non teachers in cases of absence due to an accident, injury or assault whilst in the course of the contractual duties. This includes attendance for instruction at a physical training or other classes organised and approved by the employer.

All claims are to be submitted to the Injury Allowance Panel and cannot be paid until approved by the Panel and payments are funded from the service budgets not the Pension fund.

1a. A temporary allowance payable to existing employees

The payment is made to the value of any shortfall in salary payments as a result of a work related absence.

Maximum payable -The difference between normal monthly contractual salary and the actual reduced contractual payments received during absence from work – less all payments received from state benefits and any payment from compensation or insurance resulting from claims made regarding the injury or illness. Reductions to the payments are made if –

1. 50% reduction for pre existing condition or
2. 50% reduction for contributory negligence.

Temporary injury allowances will only be awarded for a maximum period of 6 months. If an extension is required a review report is to be presented to the Panel within the six month period which will provide an update on

- Redeployed – once redeployed the allowance ceases regardless of circumstances.
- Ill health retirement
- Medical treatment
- Case reviews

There is no automatic transfer to a permanent allowance if the claimant retires on health grounds; a new claim will be required in every case if applicable.

1b. A permanent allowance payable to employees who have retired on health grounds.

A permanent allowance may be paid to an employee who retires on health grounds. The reason for ill health retirement must be related to an accident, injury or illness related to the contractual occupation and MUST be approved by the Injury Allowance Panel. The payment is limited to 85% of pensionable pay reduced by –

- Any payment from the LGPS
- State funded benefits
- Any related insurance payments
- The payment will cease at age 65

- The payments will reduce by 50% for
 - Pre exiting condition
 - Contributory negligence
- Payments will be graded in accordance with the tier of benefits awarded to the former employee from the pension fund
 - 1st tier – no allowance as the benefits are enhanced to age 65
 - 2nd tier – 85 % as above.
 - 3rd tier – 85 % as above to cease when benefits cease. Payment to last no longer than 3 years. If benefits are up lifted to 2nd the Injury Allowance will be uplifted too.
 - Non contributor to the fund – 85% as above
- Accident report forms MUST be sent to HRD Employee Services to be kept on the employee's personal file.
- The absence cannot be classed as industrial injury until evidence to support the payment is received
- A copy should be sent to Safety Health and Welfare section and retained in the school accident book

1c. Appeals

- If the award is not approved an appeal should be made to the Secretary of State for Local Government and Communities
- There is no internal dispute process against the amount awarded

PART 5 – APPEAL PROCESS

1 Reg 57 A: Internal Dispute Resolution Procedure (IDRP)

Any disputes about decisions made in respect of these discretions should be sent in writing to:

The Executive Director (Resources)
 The Council House
 Walsall Council
 WS1 1TW

or

The Chief Executive if the complaint relates to a member of the Resources Directorate.

This was contained in the previous policy statement and will continue unchanged within this revised policy. Appeals in writing should be received within 6 months of a decision to the specified person named in the policy.

Wendy Moore
Payroll and Pension Control Manager
February 2010

Appendix B - Definition of Chief Officer

The description of “chief officer” is defined both under statute and under Article 11 of the council's constitution.

Under the Localism Act 2011 Part One Chapter 8, section 43(2), “chief officer”, in relation to a relevant authority, means each of the following-

- (a) the head of its paid service designated under section 4(1) of the Local Government and Housing Act 1989;
- (b) its monitoring officer designated under section 5(1) of that Act;
- (c) a statutory chief officer mentioned in section 2(7) of that Act;
- (d) a non-statutory chief officer mentioned in section 2(7) of that Act;
- (e) a deputy chief officer mentioned in section 2(8) of that Act.

The Local Government and Housing Act 1989 provides the following definitions at section 2:

2(6) In this section “the statutory chief officers” means—

(a) the chief education officer **[F2**or director of education] appointed under **[F3**section 532 of the Education Act 1996]**[F2**or section 78 of the **M5**Education (Scotland) Act 1980];

(b).....

(c) the director of social services or **[F4**chief social work officer] appointed under section 6 of the **M7**Local Authority Social Services Act 1970 or section 3 of the **M8**Social Work (Scotland) Act 1968; and

(d) the officer having responsibility, for the purposes of section 151 of the Local Government Act 1972, section 73 of the **M9**Local Government Act 1985, section 112 of the **M10**Local Government Finance Act 1988 or section 6 below or for the purposes of section 95 of the **M11**Local Government (Scotland) Act 1973, for the administration of the authority's financial affairs.

(7) In this section “non-statutory chief officer” means, subject to the following provisions of this section—

(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.

(8) In this section “deputy chief officer” means, subject to the following provisions of this section, 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.

Article 11-Officers (W MBC Constitution)

This article sets out the senior management structure. It defines the roles of the Chief Executive and Directors and the Statutory Officer functions.

11.01 - Management Structure

(a) **General** - The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.

(b) **Chief Officers** - The Council will engage persons for the following posts, who will be designated Chief Officers with responsibilities as determined from time to time by the Chief Executive:-

Chief Executive

Executive Director for Children's Services

Executive Director for Resources

Executive Director for Neighbourhoods

Executive Director for Regeneration

Executive Director for Social Care and Inclusion

(c) **Head of Paid Service, Monitoring Officer and Chief Financial Officer.** The Council will designate those posts are shown:-

Post	Designation
Chief Executive	Head of Paid Service
Head of Legal and Democratic Services	Monitoring Officer
Assistant Director for Finance	Chief Finance Officer with Section 151 Responsibilities

2001 No. 3384

LOCAL GOVERNMENT, ENGLAND

**The Local Authorities (Standing Orders) (England)
Regulations 2001**

<i>Made</i>	- - -	<i>10th October 2001</i>
<i>Laid before Parliament</i>		<i>17th October 2001</i>
<i>Coming into force</i>	- -	<i>7th November 2001</i>

ARRANGEMENT OF REGULATIONS

1. Citation, commencement and extent
2. Interpretation
3. Executive arrangements—standing orders relating to staff, proceedings and business
4. Alternative arrangements—standing orders relating to staff
5. Standing orders relating to staff
6. Standing orders in respect of disciplinary action
7. Investigation of alleged misconduct
8. Amendments to the 1993 Regulations
9. Amendments to the Local Government Changes for England Regulations 1994
10. Transitional and consequential provisions

SCHEDULES

SCHEDULE 1. PROVISIONS TO BE INCORPORATED IN STANDING ORDERS RELATING TO STAFF

PART I: authority with mayor and cabinet executive

PART II: authority with leader and cabinet executive

PART III: authority with mayor and council manager executive

PART IV: authority operating alternative arrangements

SCHEDULE 2. PROVISIONS TO BE INCORPORATED IN STANDING ORDERS REGULATING PROCEEDINGS AND BUSINESS

PART I: authority with mayor and cabinet executive or mayor and council manager executive

PART II: authority with leader and cabinet executive

SCHEDULE 3. PROVISIONS TO BE INCORPORATED IN STANDING ORDERS IN RESPECT OF DISCIPLINARY ACTION

[DTLR 2224]

The Secretary of State for Transport, Local Government and the Regions, in exercise of the powers conferred on him by sections 8, 20 and 190 of the Local Government and Housing Act 1989(a) and sections 19 and 26 of the Local Government Act 1992(b), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Chation, commencement and extent

1.—(1) These Regulations may be cited as the Local Authorities (Standing Orders) (England) Regulations 2001 and shall come into force on 7th November 2001.

(2) These Regulations extend to England only and, accordingly, references in these Regulations to an authority are references to an authority in England.

Interpretation

2. In these Regulations—

“the 1989 Act” means the Local Government and Housing Act 1989;

“the 2000 Act” means the Local Government Act 2000(c);

“the 1993 Regulations” means the Local Authorities (Standing Orders) Regulations 1993(d);

“alternative arrangements” has the same meaning as in Part II of the 2000 Act (arrangements with respect to executives etc.);

“chief finance officer” means the officer having responsibility, for the purposes of—

(a) section 151 of the Local Government Act 1972(e) (financial administration); or
(b) section 6 of the 1989 Act (officer responsible for financial administration of certain authorities),
for the administration of the local authority’s financial affairs;

“council manager” has the same meaning as in section 11(4)(b) of the 2000 Act;

“disciplinary action” in relation to a member of staff of a local authority means any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the authority, 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 authority has undertaken to renew such a contract;

“elected mayor”, “executive”, “executive arrangements” and “executive leader” have the same meaning as in Part II of the 2000 Act;

“head of the authority’s paid service” means the officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service);

“local authority” means—

(a) a relevant authority;

(b) the Common Council of the City of London in its capacity as a local authority, police authority or port health authority; or

(c) the Council of the Isles of Scilly;

“member of staff” means a person appointed to or holding a paid office or employment;

“monitoring officer” means the officer designated under section 5(1) of the 1989 Act(f) (designation and reports of monitoring officer);

“plan or strategy” means—

(a) a plan or strategy of a description specified in column (1) of the table in Schedule

(a) 1989 c. 42; section 8 was amended by S.I. 2001/1517. The functions of the Secretary of State under sections 8, 20 and 190 are, so far as exercisable in relation to Wales, transferred to the National Assembly of Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672, to which there are amendments not relevant to these Regulations); see the entry in Schedule 1 for the Local Government and Housing Act 1989.

(b) 1992 c. 19.

(c) 2000 c. 22.

(d) S.I. 1993/202.

(e) 1972 c. 70.

(f) Subsection (1) of section 5 was amended by paragraph 35 of Schedule 4 to the Police and Magistrates’ Courts Act 1994 (c. 29), paragraph 1 of Schedule 7 to the Police Act 1996 (c. 16), paragraph 62 of Schedule 27 to the Greater London Authority Act 1999 (c. 29) and paragraph 24 of Schedule 5 to the 2000 Act.

3 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000(a) (functions not to be the sole responsibility of an authority's executive), as amended from time to time;

(b) a plan or strategy for the control of a relevant authority's borrowing or capital expenditure; or

(c) any other plan or strategy whose adoption or approval is, by virtue of regulation 5(1) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (discharge of executive functions by authorities) as amended from time to time, a matter for determination by a relevant authority;

“relevant authority” means a county council, a district council or a London borough council; and

“working day” means any day which is not a Saturday, a Sunday, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday, a bank holiday in England or a day appointed for public thanksgiving or mourning (and “bank holiday” means a day to be observed as such under section 1 of and Schedule 1 to the Banking and Financial Dealings Act 1971(b)).

Executive arrangements—standing orders relating to staff, proceedings and business

3.—(1) Subject to paragraphs (3) and (4) of regulation 10, on or before the date on which a relevant authority starts to operate executive arrangements under Part II of the 2000 Act—

(a) if its executive is to take the form specified in section 11(2) of the 2000 Act (mayor and cabinet executive), it must—

(i) incorporate in standing orders relating to its staff(c) the provisions set out in Part I of Schedule 1 or provisions to the like effect; and

(ii) incorporate in standing orders for regulating its proceedings and business(d) the provisions set out in Part I of Schedule 2 or provisions to the like effect;

(b) if its executive is to take the form specified in section 11(3) of the 2000 Act (leader and cabinet executive), it must—

(i) incorporate in standing orders relating to its staff the provisions set out in Part II of Schedule 1 or provisions to the like effect; and

(ii) incorporate in standing orders for regulating its proceedings and business the provisions set out in Part II of Schedule 2 or provisions to the like effect;

(c) if its executive is to take the form specified in section 11(4) of the 2000 Act (mayor and council manager executive), it must—

(i) incorporate in standing orders relating to its staff the provisions set out in Part III of Schedule 1 or provisions to the like effect; and

(ii) incorporate in standing orders for regulating its proceedings and business the provisions set out in Part I of Schedule 2 or provisions to the like effect; and

(d) it must modify any of its existing standing orders in so far as is necessary to conform with the provisions referred to in sub-paragraphs (a), (b) and (c).

(2) A relevant authority which has incorporated provisions in standing orders pursuant to paragraph (1) must, where it proposes to change its executive arrangements so that its executive will take a different form, make variations to its standing orders to the extent necessary to conform with the provisions referred to in sub-paragraph (a), (b), (c) or (d) of paragraph (1), as the case may be, on or before the date on which it starts to operate those changed executive arrangements.

Alternative arrangements—standing orders relating to staff

4. Subject to paragraphs (3) and (4) of regulation 10, on or before the date on which a relevant authority starts to operate alternative arrangements under Part II of the 2000 Act it must—

(a) incorporate in standing orders relating to its staff the provisions set out in Part IV of Schedule 1 or provisions to the like effect; and

(a) S.I. 2000/2853; amended by S.I. 2001/2212.

(b) 1971 c. 80.

(c) See section 8 of the 1989 Act.

(d) See paragraph 42 of Schedule 12 to the Local Government Act 1972.

- (b) modify any of its existing standing orders in so far as is necessary to conform with the provisions referred to in sub-paragraph (a).

Standing orders relating to staff

5. Where a relevant authority has standing orders incorporating the provisions in paragraph 4(1) of Part I, paragraph 4(1) of Part II or paragraph 4 of Part IV of Schedule 1 (or provisions to the like effect), the power to approve the appointment or dismissal of the head of the authority's paid service shall be exercised by the authority itself and accordingly section 101 of the Local Government Act 1972 (arrangements for discharge of functions by local authorities) shall not apply to the exercise of that power.

Standing orders in respect of disciplinary action

6. No later than the first ordinary meeting of the local authority falling after the day on which these Regulations come into force, a local authority must, in respect of disciplinary action against the head of the authority's paid service, its monitoring officer and its chief finance officer—
- (a) incorporate in standing orders the provisions set out in Schedule 3 or provisions to the like effect; and
 - (b) modify any of its existing standing orders in so far as is necessary to conform with those provisions.

Investigation of alleged misconduct

7.—(1) Subject to paragraph (5), where, after a local authority has incorporated provisions in standing orders pursuant to regulation 6, it appears to the local authority that an allegation of misconduct by—

- (a) the head of the authority's paid service;
 - (b) its monitoring officer; or
 - (c) its chief finance officer,
- as the case may be, ("the relevant officer"), requires to be investigated, the authority must appoint a person ("the designated independent person") for the purposes of the standing order which incorporates the provisions in Schedule 3 (or provisions to the like effect).

(2) The designated independent person must be such person as may be agreed between the authority and the relevant officer or, in default of such agreement, nominated by the Secretary of State.

(3) The designated independent person—

- (a) may direct—
 - (i) that the authority terminate any suspension of the relevant officer;
 - (ii) that any such suspension must continue after the expiry of the period referred to in paragraph 3 of Schedule 3 (or in provisions to the like effect);
 - (iii) that the terms on which any such suspension has taken place must be varied in accordance with the direction; or
 - (iv) that no steps (whether by the authority or any committee, sub-committee or officer acting on behalf of the authority) towards disciplinary action or further disciplinary action against the relevant officer, other than steps taken in the presence, or with the agreement, of the designated independent person, are to be taken before a report is made under sub-paragraph (d);
- (b) may inspect any documents relating to the conduct of the relevant officer which are in the possession of the authority, or which the authority has power to authorise him to inspect;
- (c) may require any member of staff of the authority to answer questions concerning the conduct of the relevant officer;
- (d) must make a report to the authority—
 - (i) stating his opinion as to whether (and, if so, the extent to which) the evidence he has obtained supports any allegation of misconduct against the relevant officer; and

- (ii) recommending any disciplinary action which appears to him to be appropriate for the authority to take against the relevant officer; and
- (e) must no later than the time at which he makes his report under sub-paragraph (d), send a copy of the report to the relevant officer.
- (4) A local authority must pay reasonable remuneration to a designated independent person appointed by the authority and any costs incurred by him in, or in connection with, the discharge of his functions under this regulation.
- (5) This regulation shall not apply in relation to the head of the authority's paid service if he is also the council manager of the authority^(a).

Amendments to the 1993 Regulations

8.—(1) In Schedule 1 to the 1993 Regulations (standing orders relating to chief officers), in so far as it extends to England—

- (a) in paragraph 1 of Part I (appointments), after “chief officer”, there shall be inserted “(within the meaning of the Local Authorities (Standing Orders) Regulations 1993)”; and
- (b) in paragraph 3 of Part II (authorised variations), at the end of paragraph (b) there shall be added—
 “, and
 (c) any appointment in pursuance of regulations made under paragraph 6 of Schedule 1 to the Local Government Act 2000 (mayor’s assistant).”
- (2) Subject to paragraph (3), the following provisions of the 1993 Regulations shall be revoked in so far as those provisions extend to England—
 - (a) in regulation 1(2) (interpretation), the words ““disciplinary action”” and the definition of that term;
 - (b) in regulation 2 (standing orders), the words “and disciplinary action against the head of its paid service”;
 - (c) regulation 3 (investigation of alleged misconduct); and
 - (d) paragraph 3 (appointments) and paragraph 4 (disciplinary action) of Part I of Schedule 1.
- (3) Paragraph (2) shall not apply in relation to a National Park authority in England^(b).

Amendments to the Local Government Changes for England Regulations 1994

9. In regulation 11 of the Local Government Changes for England Regulations 1994^(c) (functions and powers of the shadow authority)—

- (a) in paragraph (7), for “The shadow authority”, there shall be substituted “Subject to paragraph (9), the shadow authority”;
- (b) at the end of paragraph (7), there shall be added—
 “, and
 (k) the Local Authorities (Standing Orders) (England) Regulations 2001”; and
- (c) after paragraph (8), there shall be added—
 “(9) Sub-paragraph (k) of paragraph (7) shall only apply in relation to a shadow authority which will become a county council in England, a district council or a London borough council.”

Transitional and consequential provisions

10.—(1) Subject to paragraph (2), where a local authority made standing orders incorporating the provisions set out in paragraph 4 of Part I of Schedule 1 to the 1993 Regulations (or provisions to the like effect), until the authority incorporates provisions in standing orders in accordance with regulation 6—

- (a) Neither a monitoring officer nor a chief finance officer of an authority may be a council manager: *see* paragraph 13(b) and (c) of Schedule 1 to the 2000 Act.
- (b) *See* paragraph 5 of Schedule 5 to the National Park Authorities (England) Order 1996 (S.I. 1996/1243) (application of enactments and instruments—standing orders).
- (c) S.I. 1994/867, regulation 11 was amended by S.I. 1995/1055 and 1995/1748.

- (a) those standing orders shall continue in force; and
- (b) regulation 7 shall apply in relation to them in respect of the head of the authority's paid service, as it does in relation to standing orders which incorporate provisions in accordance with regulation 6.

(2) Anything which, before the date on which the local authority incorporated provisions in standing orders in accordance with regulation 6, was being done by, to or in relation to an officer in accordance with—

- (a) regulation 3 of the 1993 Regulations;
 - (b) the provisions set out in paragraph 4 of Part I of Schedule 1 to the 1993 Regulations (or provisions to the like effect) incorporated in the local authority's standing orders; or
 - (c) regulation 7 as applied by paragraph (1)(b),
- may be continued after that date by, to or in relation to him in accordance with the provisions referred to in sub-paragraphs (a), (b) or (c), as the case may be.

(3) Where a relevant authority—

- (a) sent a copy of proposals to the Secretary of State, before the date on which these Regulations come into force, under—
 - (i) section 25 of the 2000 Act (proposals); or
 - (ii) regulations made under section 31 of the 2000 Act (a) (alternative arrangements in case of certain local authorities); and
- (b) had not started to operate executive arrangements or alternative arrangements before that date,

if the authority considers that it would be impracticable to comply with the requirements of regulation 3 or, as the case may be, regulation 4 on or before the date on which it starts to operate executive arrangements or alternative arrangements, it shall comply with those requirements as soon as reasonably practicable after it has started to operate those arrangements.

(4) Where a relevant authority started to operate executive arrangements or alternative arrangements before the date on which these Regulations come into force, it shall comply with the requirements of regulation 3 or, as the case may be, regulation 4 as soon as reasonably practicable after that date.

Signed by authority of the Secretary of State
for Transport, Local Government and the Regions

Nick Raynsford
Minister of State,
10th October 2001 Department for Transport, Local Government and the Regions

(a) See the Local Authorities (Proposals for Alternative Arrangements) (England) Regulations 2000 (S.I. 2000/2850).

SCHEDULE 1

Regulations 3(1) and 4(1)

PROVISIONS TO BE INCORPORATED IN STANDING ORDERS RELATING TO STAFF

PART I

AUTHORITY WITH MAYOR AND CABINET EXECUTIVE

1. In this Part—
 - “the 1989 Act” means the Local Government and Housing Act 1989(a);
 - “the 2000 Act” means the Local Government Act 2000(b);
 - “disciplinary action” has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;
 - “elected mayor” and “executive” 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(c) (politically restricted posts);
 - (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
 - (d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act;
 - (e) a person appointed in pursuance of section 9 of the 1989 Act(d) (assistants for political groups); or
 - (f) a person appointed in pursuance of regulations under paragraph 6 of Schedule 1 to the 2000 Act (mayor’s assistant).
- 4.—(1) 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.
 - (2) Where a committee or 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-paragraphs (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

(a) 1989 c. 42.
(b) 2000 c. 22.

(c) Section 2(6) was amended by paragraph 95 of Schedule 37 to the Education Act 1996 (c. 56).

(d) There are amendments to section 9 which are not relevant to these Regulations.

- (iii) the period within which any objection to the making of the offer is to be made by the elected mayor on behalf of the executive to the proper officer; and
 - (c) either—
 - (i) the elected mayor 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 elected mayor; or
 - (iii) the appointor is satisfied that any objection received from the elected mayor 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 elected mayor on behalf of the executive to the proper officer; and
 - (c) either—
 - (i) the elected mayor 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 elected mayor; or
 - (iii) the dismissor is satisfied that any objection received from the elected mayor 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.

PART II

AUTHORITY WITH LEADER AND CABINET EXECUTIVE

- 1.** In this Part—
- “the 1989 Act” means the Local Government and Housing Act 1989(a);
 - “the 2000 Act” means the Local Government Act 2000(b);
 - “disciplinary action” has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;
 - “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.

(a) 1989 c. 42.

(b) 2000 c. 22.

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^(a) (politically restricted posts);
 - (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
 - (d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act; or
 - (e) a person appointed in pursuance of section 9 of the 1989 Act^(b) (assistants for political groups).

4.—(1) 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.

(2) 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
 - (iii) 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.

(a) Section 2(6) was amended by paragraph 95 of Schedule 37 to the Education Act 1996 (c. 56).

(b) There are amendments to section 9 which are not relevant to these Regulations.

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.

PART III

AUTHORITY WITH MAYOR AND COUNCIL MANAGER EXECUTIVE

1. In this Part—
- “the 2000 Act” means the Local Government Act 2000(a);
 - “council manager” has the same meaning as in section 11(4)(b) of the 2000 Act;
 - “disciplinary action” has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001; and
 - “member of staff” means a person appointed to or holding a paid office or employment under the authority.
2. Subject to paragraphs 3 and 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 council manager 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 council manager(b);
 - (b) a person appointed in pursuance of section 9 of the Local Government and Housing 1989 Act(c) (assistants for political groups); or
 - (c) a person appointed in pursuance of regulations under paragraph 6 of Schedule 1 to the 2000 Act (mayor’s assistant).
4. 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—
- (a) by 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.

PART IV

AUTHORITY OPERATING ALTERNATIVE ARRANGEMENTS

1. In this Part—
- “the 1989 Act” means the Local Government and Housing Act 1989(d);
 - “disciplinary action” has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001; and
 - “member of staff” means a person appointed to or holding a paid office or employment under the authority.
2. Subject to paragraphs 3 and 5, 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(e) (politically restricted posts);
 - (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;

(a) 2000 c. 22.
(b) The council manager is appointed to the executive by the authority: see section 11(4)(b) and (10) of the 2000 Act.
(c) 1989 c. 42. There are amendments to section 9 which are not relevant to these Regulations.
(d) 1989 c. 42.
(e) Section 2(6) was amended by paragraph 95 of Schedule 37 to the Education Act 1996 (c. 56).

- (d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act; or
 - (e) a person appointed in pursuance of section 9 of the 1989 Act^(a) (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.
5. 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.

SCHEDULE 2

Regulation 3(1)

PROVISIONS TO BE INCORPORATED IN STANDING ORDERS REGULATING PROCEEDINGS AND BUSINESS

PART I

AUTHORITY WITH MAYOR AND CABINET EXECUTIVE OR MAYOR AND COUNCIL MANAGER EXECUTIVE

1. In this Part—
- “elected mayor” and “executive” have the same meaning as in Part II of the Local Government Act 2000(b); and
 - “plan or strategy” and “working day” have the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001.
2. Where the executive of the authority has submitted a draft plan or strategy to the authority for its consideration and, following consideration of that draft plan or strategy, the authority has any objections to it, the authority must take the action set out in paragraph 3.
3. Before the authority—
- (a) amends the draft plan or strategy;
 - (b) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
 - (c) adopts (with or without modification) the plan or strategy,
- it must inform the elected mayor of any objections which it has to the draft plan or strategy and must give to him instructions requiring the executive to reconsider, in the light of those objections, the draft plan or strategy submitted to it.
4. Where the authority gives instructions in accordance with paragraph 3, it must specify a period of at least five working days beginning on the day after the date on which the elected mayor receives the instructions on behalf of the executive within which the elected mayor may—
- (a) submit a revision of the draft plan or strategy as amended by the executive (the “revised draft plan or strategy”), with the executive’s reasons for any amendments made to the draft plan or strategy; to the authority for the authority’s consideration; or
 - (b) inform the authority of any disagreement that the executive has with any of the authority’s objections and the executive’s reasons for any such disagreement.
5. Subject to paragraph 6, when the period specified by the authority, referred to in paragraph 4, has expired, the authority must, when—
- (a) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;
 - (b) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
 - (c) adopting (with or without modifications) the plan or strategy,

(a) There are amendments to section 9 which are not relevant to these Regulations.

(b) 2000 c. 22.

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the executive's reasons for those amendments, any disagreement that the executive has with any of the authority's objections and the executive's reasons for that disagreement, which the elected mayor submitted to the authority, or informed the authority of, within the period specified.

6. Where the authority proposes to—

- (a) amend the draft plan or strategy or, as the case may be, the revised draft plan or strategy;
- (b) approve, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
- (c) adopt with modifications the plan or strategy,

and that plan or strategy (whether or not in the form of a draft), with any proposed amendments or modifications, is not in accordance with the draft plan or strategy or, as the case may be, the revised draft plan or strategy, the question whether to amend, to approve or to adopt the plan or strategy must be decided in accordance with paragraph 7.

7. The question referred to in paragraph 6 must be decided by a two thirds majority of the members of the authority present and voting on the question at a meeting of the authority.

8. Subject to paragraph 14, where, before 8th February in any financial year, the authority's executive submits to the authority for its consideration in relation to the following financial year—

- (a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49 of the Local Government Finance Act 1992(a) (calculation of budget requirements etc.);
- (b) estimates of other amounts to be used for the purposes of such a calculation;
- (c) estimates of such a calculation; or
- (d) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992 (precepts),

and following consideration of those estimates or amounts the authority has any objections to them, it must take the action set out in paragraph 9.

9. Before the authority makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph 8(a), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the elected mayor or of any objections which it has to the executive's estimates or amounts and must give to him instructions requiring the executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the authority's requirements.

10. Where the authority gives instructions in accordance with paragraph 9, it must specify a period of at least five working days beginning on the day after the date on which the elected mayor receives the instructions on behalf of the executive within which the elected mayor may—

- (a) submit a revision of the estimates or amounts as amended by the executive ("revised estimates or amounts"), which have been reconsidered in accordance with the authority's requirements, with the executive's reasons for any amendments made to the estimates or amounts, to the authority for the authority's consideration; or
- (b) inform the authority of any disagreement that the executive has with any of the authority's objections and the executive's reasons for any such disagreement.

11. Subject to paragraph 12, when the period specified by the authority, referred to in paragraph 10, has expired, the authority must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph 8(a), or when issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account—

- (a) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
- (b) the executive's reasons for those amendments;
- (c) any disagreement that the executive has with any of the authority's objections; and
- (d) the executive's reasons for that disagreement,

which the elected mayor submitted to the authority, or informed the authority of, within the period specified.

(a) 1992 c. 14. Section 32 was amended by S.I. 1994/246, 1995/234 and 2001/216 and Schedule 9 to the Police Act 1997 (c. 92). Section 33 was amended by S.I. 1994/246, 1995/234 and 2001/216. Section 43 was amended by S.I. 1994/246, 1995/234 and 2001/216 and Schedule 9 to the Police Act 1997. Section 44 was amended by S.I. 1994/246, 1995/234 and 2001/216. Section 46 was amended by Schedule 9 to the Police and Magistrates Courts Act 1994 (c. 29). Sections 52L, 52J, 52T and 52U were inserted by paragraph 1 of Schedule 1 to the Local Government Act 1999 (c. 27). There are other amendments to some of these sections which are not relevant to these Regulations.

12. Where the authority, for the purposes of making the calculations or issuing the precept, proposes to use estimates or amounts (“the different estimates or amounts”) which are not in accordance with the executive’s estimates or amounts or, as the case may be, the executive’s revised estimates or amounts, the question whether to use the different estimates or amounts must be decided in accordance with paragraph 13.
13. The question referred to in paragraph 12 must be decided by a two thirds majority of the members of the authority present and voting on the question at a meeting of the authority.
14. Paragraphs 8 to 13 shall not apply in relation to—
- (a) calculations or substitute calculations which an authority is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992 (limitation of council tax and precepts); and
 - (b) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52I or 52U of that Act.

PART II

AUTHORITY WITH LEADER AND CABINET EXECUTIVE

1. In this Part—
- “executive” and “executive leader” have the same meaning as in Part II of the Local Government Act 2000(a); and
- “plan or strategy” and “working day” have the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001.
2. Where the executive of the authority has submitted a draft plan or strategy to the authority for its consideration and, following consideration of that draft plan or strategy, the authority has any objections to it, the authority must take the action set out in paragraph 3.
3. Before the authority—
- (a) amends the draft plan or strategy;
 - (b) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
 - (c) adopts (with or without modification) the plan or strategy,
- it must inform the executive leader of any objections which it has to the draft plan or strategy and must give to him instructions requiring the executive to reconsider, in the light of those objections, the draft plan or strategy submitted to it.
4. Where the authority gives instructions in accordance with paragraph 3, it must specify a period of at least five working days beginning on the day after the date on which the executive leader receives the instructions on behalf of the executive within which the executive leader may—
- (a) submit a revision of the draft plan or strategy as amended by the executive (the “revised draft plan or strategy”), with the executive’s reasons for any amendments made to the draft plan or strategy, to the authority for the authority’s consideration; or
 - (b) inform the authority of any disagreement that the executive has with any of the authority’s objections and the executive’s reasons for any such disagreement.
5. When the period specified by the authority, referred to in paragraph 4, has expired, the authority must, when—
- (a) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;
 - (b) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
 - (c) adopting (with or without modification) the plan or strategy,
- take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the executive’s reasons for those amendments, any disagreement that the executive has with any of the authority’s objections and the executive’s reasons for that disagreement, which the executive leader submitted to the authority, or informed the authority of, within the period specified.
6. Subject to paragraph 10, where, before 8th February in any financial year, the authority’s executive submits to the authority for its consideration in relation to the following financial year—

(a) 2000 c. 22.

(a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;

(b) estimates of other amounts to be used for the purposes of such a calculation;

(c) estimates of such a calculation; or

(d) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,

and following consideration of those estimates or amounts the authority has any objections to them, it must take the action set out in paragraph 7.

7. Before the authority makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph 6(a), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the executive leader of any objections which it has to the executive's estimates or amounts and must give to him instructions requiring the executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the authority's requirements.

8. Where the authority gives instructions in accordance with paragraph 7, it must specify a period of at least five working days beginning on the day after the date on which the executive leader receives the instructions on behalf of the executive within which the executive leader may—

- (a) submit a revision of the estimates or amounts as amended by the executive ("revised estimates or amounts"), which have been reconsidered in accordance with the authority's requirements, with the executive's reasons for any amendments made to the estimates or amounts, to the authority for the authority's consideration; or
- (b) inform the authority of any disagreement that the executive has with any of the authority's objections and the executive's reasons for any such disagreement.

9. When the period specified by the authority, referred to in paragraph 8, has expired, the authority must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph 6(a), or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account—

- (a) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
 - (b) the executive's reasons for those amendments;
 - (c) any disagreement that the executive has with any of the authority's objections; and
 - (d) the executive's reasons for that disagreement,
- which the executive leader submitted to the authority, or informed the authority of, within the period specified.

10. Paragraphs 6 to 9 shall not apply in relation to—

- (a) calculations or substitute calculations which an authority is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and
- (b) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52I or 52U of that Act.

SCHEDULE 3

Regulation 6

PROVISIONS TO BE INCORPORATED IN STANDING ORDERS IN RESPECT OF DISCIPLINARY ACTION

1. In paragraph 2, "chief finance officer", "council manager", "disciplinary action", "head of the authority's paid service" and "monitoring officer", have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001 and "designated independent person" has the same meaning as in regulation 7 of those Regulations.

2. No disciplinary action in respect of the head of the authority's paid service (unless he is also a council manager 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 a recommendation in a report made by a designated independent person under regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001 (investigation of alleged misconduct).

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.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations require certain local authorities in England to make or modify standing orders so that they include the provisions set out in the Regulations, or provisions to the like effect.

Part II of the Local Government Act 2000 provides for local authorities to draw up proposals for the operation of executive arrangements (under which certain functions of the authority are the responsibility of an executive) or, in the case of certain authorities, for the operation of alternative arrangements. In the case of executive arrangements, the local authority's executive must take one of the forms specified in section 11 of that Act.

A county council, district council or London borough council which is operating executive arrangements must have standing orders relating to its staff which include the provisions set out in *Schedule 1* and must have standing orders for regulating its proceedings and business which include the provisions set out in *Schedule 2* (or provisions to the like effect). The standing orders must be the appropriate ones for the particular form that the executive takes (as set out in different Parts of Schedules 1 and 2) and, if that form changes, the standing orders must be varied accordingly (*regulation 3*).

A county council, district council or London borough council which is operating alternative arrangements must have standing orders relating to its staff which include the provisions set out in *Part IV of Schedule 1* (or provisions to the like effect) (*regulation 4*).

A county council, district council, London borough council, the Common Council of the City of London and the Council of the Isles of Scilly must, in respect of disciplinary action against the head of the authority's paid service, its monitoring officer and its chief finance officer, make standing orders incorporating the provisions set out in *Schedule 3* (or provisions to the like effect). Such standing orders must be made no later than the first ordinary meeting of the local authority falling after the day on which these Regulations come into force (*regulation 5*).

Regulation 7 prescribes a procedure for investigation by an independent person, which is to be followed where there is alleged to have been misconduct by the head of the authority's paid service (unless he is the authority's council manager), its monitoring officer or its chief finance officer. Similar provisions were included in the Local Authorities (Standing Orders) Regulations 1993 ("the 1993 Regulations") in relation to the head of the authority's paid service and *regulation 8* revokes the similar provisions in the 1993 Regulations in so far as they extend to England (but not in relation to a National Park authority in England to which the 1993 Regulations apply by virtue of the National Park Authorities (England) Order 1996).

Regulation 9 amends the Local Government Changes for England Regulations 1994 so that these Regulations apply to a shadow authority that will become a county council in England, a district council or a London borough council.

Regulation 10 contains transitional provisions in relation to existing standing orders for disciplinary action made under the 1993 Regulations. It also sets out consequential provisions for authorities that have already submitted proposals for executive arrangements or alternative arrangements to the Secretary of State when these Regulations come into force or started operating such arrangements before that date.

STATUTORY INSTRUMENTS

2001 No.

LOCAL GOVERNMENT, ENGLAND

The Local Authorities (Standing Orders) (England)
Regulations 2001

£3.00

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E1667 10/2001 659080 19585

