

**Appendix K - Joint Negotiating Committee for Local Authority Chief
Officer Conditions of Service Handbook**

JOINT NEGOTIATING COMMITTEE
for
LOCAL AUTHORITY CHIEF OFFICERS

**CONDITIONS OF SERVICE
HANDBOOK**

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The Joint Negotiating Committee (JNC) for Chief Officers of Local Authorities is the national negotiating body for the pay and conditions of service of chief officers in England and Wales.

The Authorities' Side consists of elected members nominated by the Local Government Association and the Welsh Local Government Association. The Staff Side consists representatives of GMB and UNISON.

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NB: All hyperlinks and email addresses contained in this Agreement are correct at the time of publication. Please notify the Joint Secretaries of any discrepancies by emailing them at the addresses shown on the cover page.

PART 1 - CONSTITUTION

TITLE

1 The Committee shall be known as the Joint Negotiating Committee for Chief Officers of Local Authorities (hereinafter referred to as "the Committee").

SCOPE

2 The Committee shall have within their scope any officer of a local authority in England and Wales who

a is a chief officer designated by the employing authority as the administrative and executive head

either i of a separate department

or ii of a particular function or service

which in either case is regarded by the authority as important in relation to the total activities of the authority; or

b is designated by the authority as a recognised deputy to any chief officer covered by (a) above including an officer of deputy status but whose post may carry a different title.

MEMBERSHIP

3 The Committee shall consist of 36 members, appointed as follows:-

Representing local authorities:

Local Government Association 9

Welsh Local Government Association 1

Representing officers:

GMB 23

Unison 3

4 If any of the organisations named in paragraph 3 hereof fail to appoint the number of representatives provided for by the Constitution, such failure to appoint shall not vitiate the decisions of the Committee always providing the quorum referred to in paragraph 13 is met. In the event of any member of the Committee or any sub-committee thereof being unable to attend any meeting of the Committee or of the sub-

committee, as the case may be, the organisation represented by such member shall be entitled to appoint another representative to attend and vote in his/her place.

5 A member of the Committee shall automatically retire on ceasing to be a member of the organisation which he/she represents.

6 On the occurrence of a casual vacancy, a new member shall be appointed by the organisation in whose representation the vacancy occurs and shall sit until the end of the period for which his/her predecessor was appointed.

FUNCTIONS

7 The functions of the Committee shall be to secure the largest possible measure of joint action in respect of the salaries and service conditions of officers within the scope of the Committee; and to seek to resolve any differences between a local authority and its officers which may be referred to the Committee, in accordance with procedures to be determined by the committee from time to time.

PROCEDURE

8 **Sub-Committees** The Committee may appoint from their own members such sub-committees as they may consider necessary and with such authorities as they may from time to time determine. The reports of all sub-committees shall be submitted to the full Committee.

9 **Chair and Vice-Chair** The Committee shall appoint annually a Chair and Vice-Chair. When the Chair is a member of the Authorities' Side, the Vice-Chair shall be appointed from the Officers' Side and vice versa. The Chair shall be held in alternate years by a member of the Authorities' Side and a member of the Officers' Side. The Chair, or in his/her absence, the Vice-Chair, shall preside at all meetings of the Committee. In the absence of both the Chair and Vice-Chair at any meeting, a chair shall be elected to preside. In no case shall a Chair have a second or casting vote.

10 **Officers** The Committee shall appoint joint secretaries and a treasurer.

11 **Meetings** Meetings of the Committee shall be held as often as may be necessary, and the Chair shall call a special meeting if so requested by one-third of either side of the Committee. The notice summoning any special meeting shall state the nature of the business proposed to be transacted thereat, and no other matters shall be discussed. A special meeting shall take place within fourteen days after the request has been received.

12 **Voting** Voting in the Committee and in sub-committees shall be by show of hands or otherwise as the Committee or sub-committee, as the case may be, shall determine. No resolution shall be regarded as carried unless it has been approved by a majority of the members entitled to vote present on each side of the Committee or sub-committee, as the case may be.

13 **Quorum** The quorum of the Committee shall be 10, consisting of 4 representatives of local authorities and 6 of the officers. In the absence of a quorum the Chair shall vacate the chair, and the business then under consideration shall be the first business to be discussed either at the next ordinary meeting or at a further special meeting to be held within fourteen days after the date fixed for the first special meeting, as the case may be. The quorum of a sub-committee shall, subject to any directions given by the Committee, be determined by the sub-committee.

14 **Notices of meetings** All notices of meetings of the Committee and of any sub-committee thereof shall be sent to the respective members at least seven clear days before the date of the meeting.

FINANCE

15 The expenses of the Committee, excluding any necessary travelling or subsistence expenses incurred by the members, shall be shared equally by the two sides.

ARBITRATION

16 In the event of a dispute over terms and conditions of employment arising between the two sides of the Committee on any matter of general application to staff or of application to particular classes of staff, the dispute shall, at the request of either side, be reported to the Advisory, Conciliation and Arbitration Service by the Joint Secretaries with a request that the matter be referred for settlement by arbitration. The arbitration award shall be accepted by the two sides, and shall be treated as though it were an agreement between the two sides.

AMENDMENTS TO CONSTITUTION

17 Alterations in the Constitution of the Committee shall be made as follows:

a in paragraph 3 of this Constitution any change to the organisations represented on each Side, shall be a matter for each Side to determine.

b all other clauses can only be changed with the assent of both Sides.

PART 2 – CONDITIONS OF SERVICE

1. APPLICATION OF TERMS AND CONDITIONS GENERALLY

A chief officer shall enjoy terms and conditions in other respects not less favourable than those accorded to other employees of the local authority. Where terms and conditions are not specified locally, 'Green Book' provisions shall apply. Such terms and conditions may include:

- Adoption Scheme
- Car Allowances
- Continuous Service
- Grievance
- Health, Safety & Welfare
- Maternity / Paternity Scheme
- Reimbursement of Expenditure
- Sickness Scheme
- Training & Development

2. QUESTIONS OF INTERPRETATION

Any questions concerning the interpretation of the paragraphs of this booklet shall be referred to the Joint Secretaries who if necessary, may agree to refer it to the Joint Negotiating Committee for determination.

3. PERIODS OF NOTICE TO TERMINATE EMPLOYMENT

The period of notice on either side will normally be three months, but this can be changed by mutual agreement.

4. ANNUAL LEAVE

The chief officer shall be entitled to a minimum of 30 days' annual leave (in addition to statutory and other public holidays but inclusive of any long service leave, extra statutory and local holidays). In exceptional circumstances and by mutual agreement annual leave may be carried forward to the next leave year.

5. HONORARIUM PAYMENTS

A local authority may consider granting an honorarium (of an amount dependent upon the circumstances of each case) to an officer within purview of this Committee who performs duties outside the scope of his/her post over an extended period.

6. RELOCATION EXPENSES

In the case of officers being relocated it is the practice of some authorities to contribute towards the approved costs of removal

expenses and of other incidental expenses reasonably attributable to the removal; it would be in the best interests of local government and facilitate movement of officers if this practice were more widely followed.

7. SETTING REMUNERATION LEVELS

7.1 The Localism Act 2011 requires local authorities to produce and publish a pay policy statement. According to the Act and statutory guidance published in 2012 and 2013, the statement should include the local authority's policy on specific aspects of chief officers' remuneration: remuneration on recruitment, increases and additions to remuneration, use of performance-related pay and bonuses, termination payments, and transparency arrangements. It should also set out the approach to be adopted towards pay dispersion, (i.e. differentials). In addition, the Local Government Transparency Code 2015 requires local authorities to publish the differential between the taxable benefits of senior managers and the median taxable earnings figure for the local authority's whole workforce, and details of senior employee salaries (above £50,000), names (with the option for individuals to refuse to consent for their name to be published), job descriptions, responsibilities, budgets and numbers of staff.

7.2 In this context it is essential for good governance that local authorities can demonstrate that decisions on pay and reward packages for chief officers have been made in an open and accountable way.

7.3 One option is for a local authority to establish a remuneration committee. The establishment of a remuneration committee is of course optional and different models may well suit individual authorities. What is clear though is that more than lip service must be paid to the notion of providing a verifiable and accountable process for recommending the remuneration level of the most highly-paid officials.

7.4 The issues that local authorities will need to consider if they set up such a committee are set out at **Appendix 3** of the JNC Conditions of Service Handbook for local authority Chief Executives.

8. PERFORMANCE APPRAISAL

8.1 Chief officers' responsibilities and accountabilities should be set out in writing at the appointment stage. Where this has not been done at the appointment stage it should be agreed with the individual officer concerned prior to the implementation of the performance appraisal scheme. Subsequently, there should be an annual process of performance appraisal linked to those responsibilities and accountabilities.

8.2 The performance appraisal process is separate from any scheme relating to either pay or performance related pay.

8.3 The performance appraisal process should involve the setting of both general and specific objectives for the year ahead and the review of performance in achieving previously set objectives. The focus of the process should be on clarifying what the chief officer will be expected to achieve and on identifying any continuing personal development needs to maintain a high level of performance.

8.4 The authority will provide training for all parties involved in the process, including elected members if involved.

8.5 The setting of objectives should be by consensus between the chief officer and his/her line manager, and/or the chief executive, and if desired an appropriate elected member. The result of the performance appraisal process will be to identify agreed objectives that are relevant and challenging but achievable and realistic in the light of available resources and time. (Joint Secretaries guidance on appraisal of chief officers is set out in full at **Annex 1**)

9. RESTRICTIONS ON RE-EMPLOYMENT

9.1 After termination of the chief officer's employment he/she:

a will not divulge any information to any third party which is confidential to the authority.

b will not, without the consent of the authority, which will not unreasonably be withheld, within a period of 12 months take up employment with or provide services for reward to any body:

i if during the chief officer's last two years of employment with the authority the officer has been directly involved in transactions with that body for which the offer of employment or provision of services could reasonably be regarded as a reward

ii which is likely to benefit from commercially sensitive information which is known to the chief officer by virtue of his/her past employment by the authority.

9.2 These provisions would not apply if the termination of employment with the local authority arose as the result of redundancy or the externalisation of work and consequent transfer to a new employer.

10. SALARY

The salary paid to a chief officer will be that determined by the employing local authority. Salaries shall be deemed to be inclusive, and all other fees and emoluments, unless they are covered by **Paragraph 11** or the authority expressly agrees that they shall be

retained by the officer, shall be paid by the officer into the local authority's accounts.

11. RETURNING OFFICER FEES

The chief officer shall be entitled to receive and retain the personal fees arising from such of the duties of returning officer, acting returning officer, deputy returning officer or deputy acting returning officer and similar positions as he or she performs subject to the payment of pension contributions thereon, where appropriate, unless a specific term has been included in the chief officer's contract referring to alternative arrangements.

12. OFFICIAL CONDUCT

12.1 The public is entitled to demand of a local government officer conduct of the highest standard.

12.2 An officer's off-duty hours are his/her personal concern but he/she should not subordinate his/her duty to his/her private interests nor put himself/herself in a position where his/her duty and his/her private interests conflict, or where public confidence in the conduct of the authority's business would be weakened.

12.3 Officers within purview of this Committee shall devote their whole-time service to the work of the local authority and shall not engage in any other business or take up any other additional appointment without the express consent of the local authority.

12.4 An officer shall not be required to advise any political group of the local authority, either as to the work of the group or as to the work of the local authority, neither shall he/she be required to attend any meetings of any political group. This shall be without prejudice to any arrangements to the contrary which may be made in agreement with any officer and which includes adequate safeguards to preserve the political neutrality of the officer in relation to the affairs of the local authority.

12.5 No officer shall communicate to the public the proceedings of any committee meeting nor the contents of any document relating to the authority which in either case is regarded by the authority as confidential unless required by law or expressly authorised to do so.

12.6 If it comes to the knowledge of an officer that a contract in which he/she has any pecuniary interest, whether direct or indirect (not being a contract to which he/she is himself/herself a party), has been or is proposed to be, entered into by the authority, he/she shall, as soon as practicable, given notice in writing to the chief executive of the authority of the fact that he/she is interested therein.
(Attention is

drawn to the provisions of the Local Government Act 1972 Section 117).

12.7 Information concerning an officer's private affairs shall not be supplied to any person unless the consent of such officer is first obtained.

PART 3 - DISCIPLINE, CAPABILITY AND REDUNDANCY

1. SPECIFIC STATUTORY OFFICERS

1.1 Where disciplinary action against the Monitoring Officer or s151 Officer or, in Wales, the Head of Democratic Services is contemplated, the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015) in England, and the Local Authorities Standing Orders (Wales) Regulations 2006 in Wales, provide a degree of protection for these officers against unwarranted political interference in their statutory role within local authorities.

1.2 (**England**) Paragraph 13 and 13A and Appendix 5A of the Conditions of Service Handbook of the Joint Negotiating Committee for Local Authority Chief Executives, which give effect to these statutory requirements, can be used as a reference guide in circumstances where disciplinary action against the Monitoring Officer or s151 Officer is contemplated.

1.3 (**Wales**) Paragraph 13 and 13B and Appendix 5B of the Conditions of Service Handbook of the Joint Negotiating Committee for Local Authority Chief Executives, which give effect to these statutory requirements, can be used as a reference guide in circumstances where disciplinary action against the Head of Democratic Services is contemplated.

2. CHIEF OFFICERS OTHER THAN SPECIFIC STATUTORY OFFICERS

2.1 The size and structure of local authorities varies greatly and it is therefore difficult to set out single disciplinary and capability procedures which would fit all authorities. However, authorities will have local procedures to deal with such issues.

2.2 In general, informal conciliation is to be preferred to formal disciplinary and capability procedures if it can bring about a mutually agreed solution to the problems that have arisen. Such solutions should make it clear what specific changes in behaviour and/or performance are expected and within what timescales. However, provision is required to undertake more formal action where necessary.

2.3 The principles of natural justice and good management practice must govern the conduct of any proceedings against a chief officer on the grounds of either alleged misconduct (i.e. 'discipline') or an alleged inability to carry out their role (i.e. 'capability'). Authorities should have full regard to the principles and standards set out in the ACAS Code of Practice on Disciplinary Procedures.

2.4 A particular consideration for Chief Officers is that the procedures must take account of an officer's position in the hierarchy when determining who conducts investigations, undertakes disciplinary/capability hearings taking any appropriate action and who hears appeals. Depending on the structure of the authority and the circumstances of the case these functions should normally be undertaken by officers as appropriate but in some cases may require a committee of members to be involved in hearings or appeals.

2.5 Where the chief officer's continuing presence at work compromises an investigation or impairs the efficient exercise of the local authority's functions, the chief officer may (subject to whatever consultation or approval may be required under the authority's standing orders) be suspended from duty. The Council, or appropriate committee or senior officer, acting under delegated powers, may carry out such suspension on full pay. Written notice stating the reasons for any such suspension shall be given at the earliest opportunity possible.

2.6 Suspension protocols regarding communication and matters such as annual leave and sickness should be agreed. The necessity for the chief officer to remain suspended should be reviewed at regular intervals and where possible lengthy periods of suspension should be avoided.

2.7 In England, where an authority operates a mayor or leader cabinet executive system and as a result of disciplinary proceedings there is a recommendation to dismiss, they should check whether the executive objections procedure set out in schedule 1, part I, paragraph 6 and part II, paragraph 6 of the Local Authorities (Standing Orders) (England) Regulations 2001 applies, and if so ensure it is followed before the chief officer is dismissed.

2.8 Where the chief officer in question is a Director of Public Health in England then the authority should ensure that it complies with section 73A of the National Health Act 2006, which provides that before terminating the appointment of its Director of Public Health, a local authority must consult the Secretary of State for Health. Further information on this is available in the Department of Health's guidance, Directors of Public Health in Local Government: Roles, responsibilities and context.

2.9 The Joint Secretaries (or their representatives) are available to act in an impartial conciliation role, whether formal or informal if required to do so by the local parties.

3. REDUNDANCY

3.1 Employing authorities should consult with any chief officer affected at the earliest possible stage when there is a suggestion that the chief officer's post might be abolished or proposed for abolition.

3.2 If after such consultation a proposal is formulated to abolish the chief officer's post, and that is part of a proposal to dismiss 20 or more employees from one establishment within 90 days the procedure of Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992, requiring consultation with trade unions, should be followed, the required statutory information being sent to the chief officer and to each independent trade union recognised by the employers for collective bargaining purposes for the chief officer. Where the provisions of the Act do not apply in any event a period of not less than twenty-eight days should be allowed for the individual consultation process. The chief officer and a trade union representative should also be afforded an opportunity of making oral representations to the Committee or Council meeting concerned before a final decision is made.

3.3 If following such consultations the authority decide that the post must nevertheless be abolished, the officer should be offered any suitable alternative employment that may be available or which may become available in consequence of the re-organisation giving rise to the abolition of the chief officer's post.

3.4 The authority should also bear in mind the possible application of discretionary powers of premature retirement, and permissible enhancement of benefits or redundancy payments, and the possibilities of providing an alternative post or of extending the period of notice to assist the chief officer in finding other employment.

3.5 Where the chief officer in question is a Director of Public Health in England then the authority should ensure that it complies with section 73A of the National Health Act 2006, which provides that before terminating the appointment of its Director of Public Health, a local authority must consult the Secretary of State for Health. Further information on this is available in the Department of Health's guidance, Directors of Public Health in Local Government: Roles, responsibilities and context.

ANNEX 1

JOINT GUIDANCE ON APPRAISAL OF THE CHIEF OFFICER

1. INTRODUCTION

1.1 This guidance is intended for use by senior officers, elected members and the chief executive when agreeing a process for appraising the performance of the chief officer. The focus of this process should be on clarifying what the chief officer is expected to achieve and on identifying any continuing developmental needs which, if met, would maintain a high level of performance. The process of setting objectives should be by agreement and the result should be to identify objectives which are relevant and challenging but achievable.

1.2 The process should not become complex. At all times it needs to focus clearly on a few basic issues: what the chief officer's job is; what has been done well; what could have been done better; the major issues over the next year; and what developmental needs the process clearly identifies.

2. RESPONSIBILITY FOR APPRAISAL

2.1 The responsibility for appraising a chief officer lies primarily with their line manager and/or chief executive. It is a contractual obligation on the part of both the chief officer and the employing local authority to engage in a regular process of appraisal.

2.2 It will be for local decision in the light of local circumstances whether the appraisal should include any input from elected members representing all political groups or by a senior representative or representatives of the controlling group. Whichever approach is adopted, those conducting the appraisal need to bear in mind at all times that the chief officer is employed by the local authority as a whole, not by the controlling group, and is therefore required to serve all of the local authority.

3. AIMS OF APPRAISAL

- To identify and clarify the key objectives, priorities and targets of the local authority and appropriate timescales for their achievement over the next (e.g. twelve) months
- Agree what the chief officer should personally achieve over the next (e.g. twelve) months and identify required standards of performance, in order to help deliver the local authority's key objectives, priorities and targets. Wherever possible standards of performance should be expressed in ways which can be monitored objectively
- Discuss positive achievements over the past (e.g. twelve) months and identify reasons for good performance

□ Discuss instances over the past (e.g. twelve) months where targets have not been met, identifying the factors preventing the achievements of agreed goals

□ Discuss developmental requirements. The chief officer will have strengths and weaknesses and the parties should identify the professional development necessary to equip the chief officer with the requisite skills to meet the local authority's objectives. The parties should be proactive and anticipate future developmental needs in the context of the local authority's changing priorities. This discussion could lead to the design of a formal programme of continuous professional development (CPD). Equally this discussion may lead to agreement on changes to the working relationship between the chief officer and the chief executive. It should not be assumed that it is only the chief officer who may need to adjust his / her approach to the working relationship

3.1 Appraisal should be set in the context of the local authority's objectives, priorities and targets, generally expressed in corporate plans. Appraisal targets when taken as a whole should be related to agreed targets for the local authority as a whole.

4. THE APPRAISAL CYCLE

Appraisal should take place on a predetermined date, **at least annually**, backed up by regular monitoring meetings at which targets can be reviewed for continuing relevance. A formal system of appraisal should not prevent the continuous review of progress and performance.

5. KEY ELEMENTS OF THE APPRAISAL PROCESS

□ Continuous two-way monitoring of performance against objectives

□ Preparation for an appraisal interview

□ An appraisal interview where recent and current performance, future objectives and development needs are discussed

□ Agreement on action required from either party to ensure required performance is achievable

□ A continuing process of informal discussion regarding performance

6. THE APPRAISAL INTERVIEW AND AFTERWARDS

- Both parties should be well informed and prepared for the interview

- The process should be two-way

- The interview should be free from interruptions, and notes should be taken when necessary

- The parties should concentrate as far as possible on established facts rather than unsubstantiated opinions

- Targets which are realistic and capable of being monitored should be agreed

- Any agreed personal development plans should be implemented within the agreed timescale

- The chief officer should be given a reasonable opportunity to correct any shortfalls in performance

- A date for the next review should be agreed

7. OTHER MATTERS

The detailed content of appraisal interviews should normally be treated as confidential to the participants, unless both parties agree that it would be helpful for the targets agreed for the ensuing period to be shared more widely. However, it may be useful to report to an appropriate committee meeting that an appraisal interview has taken place.

