

## **Constitution Committee**

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**Date of Meeting:** 15 July 2019

**Report Title:** Amendment to the Constitution – Investigation and Disciplinary Committee Terms of Reference

**Senior Officer:** Catherine Parkinson – Interim Director of Governance and Compliance

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### **1. Report Summary**

- 1.1. Chapter 2, Part 5 of the Constitution, dealing with Functions of Committees, includes the Terms of Reference for the Investigation and Disciplinary Committee (“IDC”).
- 1.2. The current Terms of Reference have been reviewed in line with the requirements set out in the Model Disciplinary Procedure and Guidance in the JNC Conditions of Service Handbook as well as learning points from recent IDC matters to improve the process. A separate IDC Handbook has been produced which provides the detail on the process to be followed and which will be included as an associated document in the Constitution with a link provided for ease of reference.
- 1.3. Chapter 3, Part 6 of the Constitution, dealing with Employment Procedure Rules includes a section on Dismissal of Head of Paid Service and Statutory Chief Officers. This section is out of date and duplicates the process contained in the IDC Terms of Reference and Handbook.
- 1.4. An amendment to the Constitution is required to include the revised IDC Terms of Reference and IDC Handbook and to replace the Employment Procedure Rules section on Dismissal of Statutory Officers with a link to the updated procedures.

### **2. Recommendation**

- 2.1. To approve the amendments of the Constitution to include the revised Terms of Reference for the IDC as set out in Appendix A, the changes to

the Employment Procedure Rules at Appendix B and a new IDC Handbook to be included as an associated document at Appendix C. Appendix D shows the changes between the current Terms of Reference in the Constitution and Appendix A.

### **3. Reason for Recommendation**

3.1. To remove any duplication and to ensure that the Council's Constitution is kept up to date and that the Terms of Reference are:

- 3.1.1. compliant with current statutory and JNC guidance. Failure to update could increase risk of legal challenge from Statutory Officers involved in potential IDC matters;
- 3.1.2. efficient, fair and transparent; and
- 3.1.3. avoids incurring unnecessary costs and delay where possible.

3.2. To reduce the number of Members required for an IDC Committee from seven to five. This is in accordance with the JNC Model Disciplinary Procedure which recommends that the Committee comprises of five members.

3.3. Some of the detail of the IDC process has been removed from the Constitution and inserted and expanded upon in a separate IDC Handbook which now includes comprehensive guidance on each stage of the process to assist Officers and Members involved.

### **4. Other Options Considered**

4.1. Not applicable.

### **5. Background**

5.1. A working group was set up in 2018 to review the IDC Terms of Reference in order to check compliance with current guidance and to factor in learning points arising from recent IDC matters, identifying any 'gaps' in the process and clarifying roles and responsibilities.

5.2. The amended Terms of Reference at Appendix A is the product of this review together with the detailed IDC Handbook at Appendix B which contains the comprehensive guidance notes on the process. The amended Employment Procedure Rules are included as Appendix C.

5.3. The Constitution now requires amending to reflect these changes to ensure that it is kept up to date.

## **6. Implications of the Recommendations**

### **6.1. Legal Implications**

6.1.1. Section 37 of the Local Government Act 2000 and the guidance issued under it requires the Council to keep its Constitution up to date and regularly review it

6.1.2. The Constitution Committee may make any changes to the Constitution which are not major subject to the Monitoring Officer and s.151 Officer agreeing that the proposed changes are not major and to Council subsequently being informed of such changes. Changes that are considered by the Committee and agreed by the Monitoring Officer and s.151 Officer to be major shall be referred to Council for approval. (Constitution Chapter 2, Part 5, paragraph 98.4)

6.1.3. The Council is required to consider the Model Disciplinary Procedure and Guidance set out in the JNC Conditions of Service Handbook.

### **6.2. Finance Implications**

6.2.1. There are no specific Finance implications.

### **6.3. Policy Implications**

6.3.1. There are no known Policy implications.

### **6.4. Equality Implications**

6.4.1. There are no equality implications.

### **6.5. Human Resources Implications**

6.5.1. There are no specific HR implications – the proposed changes do not fundamentally change the approach to disciplinary matters for DSO's.

### **6.6. Risk Management Implications**

6.6.1. There are no direct risk management implications

### **6.7. Rural Communities Implications**

6.7.1. There are no direct implications for rural communities.

### **6.8. Implications for Children & Young People/Cared for Children**

6.8.1. There are no direct implications for children and young people.

## **6.9. Public Health Implications**

6.9.1. There are no direct implications for public health.

## **6.10. Climate Change Implications**

6.10.1. There are no climate change implications.

## **7. Ward Members Affected**

7.1. None

## **8. Access to Information**

8.1. Not applicable

## **9. Contact Information**

9.1. Any questions relating to this report should be directed to the following officer:

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