

APPENDIX 4 - INVESTIGATION AND DISCIPLINARY COMMITTEE – DRAFT TERMS OF REFERENCE

1.0 Scope

- 1.1 To consider allegations/issues regarding disciplinary matters relating to the designated statutory officers of the Council (the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer) (the 'DSOs') and to authorise initial investigation.
- 1.2 To appoint an Independent Investigator ("II") to investigate allegations of misconduct against any DSO of the Council and to commission reports from an II.
- 1.3 To determine appropriate action upon receipt of any preliminary investigation.
- 1.4 To decide whether to suspend a DSO and to review decisions taken to suspend a statutory officer.
- 1.5 To determine what action should be taken against a DSO following an investigation. This could include action short of dismissal or dismissal.

2.0 Membership of the Investigation and Disciplinary Committee

- 2.1 The Committee shall be politically balanced, shall consist of 7 Members of the Council and at least 1 member of the committee shall be a member of the Cabinet.

3.0 Procedure for Investigation and Disciplinary Committee

Investigation

- 3.1 It is in the interests of all parties that the proceedings be conducted expeditiously and fairly.
- 3.2 In the exercise of its function, the Committee is to receive and consider any complaint/allegations made. It may:
 - make such enquiries of the relevant officer or any other person as it considers appropriate
 - request additional information, explanations or documents from any person
 - Invite or receive representations from any person.
- 3.3 The Committee having carried out such steps as it considers appropriate and having heard representations from the DSO or his or her adviser shall decide whether the issues;

- a) require no further formal action, or
 - b) should be referred to an II
- 3.4 In considering whether the threshold in deciding to appoint an II has been met the Committee will assess whether:
- if the allegations are proved it would be such as to lead to the dismissal or other action which would be recorded on the DSO's personal file; and
 - there is evidence in support of the allegation/issue sufficient to require further investigation.
- 3.5 In deciding whether the threshold for the appointment of an II has been reached the Committee may carry out such preliminary investigations as it considers appropriate or necessary or authorise officers to do so. This shall be solely for the purpose of establishing whether or not the threshold for appointing an II to carry out an investigation has been met.
- 3.6 Before deciding to appoint an II or suspend a DSO the Committee shall invite the representations of the DSO unless it is impracticable to do so. The DSO shall have the right to be accompanied at the Committee Meeting.

Receiving the II's Report/ Hearing

- 3.7 The Committee should receive any report produced by an II in relation to a DSO within one month of the receipt of the report by the Council.
- 3.8 The DSO shall have the right to attend and be accompanied at the Committee Meeting which considers the II's report.
- 3.9 The Committee shall consider the II's report and shall invite representations from the DSO and/or his/her representative. The Committee may impose disciplinary sanctions as set out in the Council's disciplinary procedures, the JNC Terms and Conditions Handbook for Chief Officers and the JNC Terms and Conditions Handbook for Chief Executives. In conducting any hearing the Committee shall have regard to the model disciplinary procedure in the JNC handbook for Chief Executives.

Decision

- 3.10 If the Committee decides that the DSO shall be dismissed the Full Council shall consider the Committee's recommendation of dismissal. Prior to consideration by Full Council the Independent Persons Panel shall consider the matter and the Committee shall give all members of the Cabinet the opportunity to raise any objections to the decision. This process is governed by the Staff Employment Procedure Rules set out in this Constitution.
- 3.11 In the case of any disciplinary action other than dismissal the DSO may appeal to the Disciplinary Appeals Committee against the decision.

Suspension

- 3.12 If a DSO has been suspended for a period of 2 months (or in the case of a decision to suspend taken under urgency provisions) then the Committee shall review that suspension. In carrying out that review the Committee shall consider any representations made by the II and the DSO and/or his or her representative. Further reviews of suspension shall be carried out at appropriate periods thereafter.

Access to Information

- 3.13 The Council's Access to Information Procedure Rules shall apply to meetings of the Committee.