

Appendix A

Investigation and Disciplinary Committee (“IDC”) terms of reference.

Please refer to the IDC Handbook (link provided in Chapter 7, list of associated documents) for further information.

Membership: 5 Members

- 53 The Committee shall be politically balanced, shall consist of 5 Members of the Council of which 1 member of the Committee may be a member of the Cabinet. Members of the Committee must have completed mandatory training. A quorum for the meeting shall be 3 Members.

Statement of Purpose and Functions

- 54 Members shall be appointed to the Committee, as and when a Committee is required to be convened, under the normal processes for making appointments to committees (via group leader/whip notification to the Head of Governance and Democratic Services). In accordance with the Model Disciplinary Procedure contained in the JNC Handbook for Chief Officers, IDC meetings shall be convened by the Monitoring Officer (in consultation with the Chair of Staffing Committee). Should the Monitoring Officer (MO) be unable to act, the Head of Paid Service or Deputy Monitoring Officer (DMO) can also convene the Committee in consultation with the Chair of Staffing Committee. Subsequent meetings of a convened IDC Committee will be convened by the IDC Co-Ordinator in conjunction with the Chair of the Committee.
- 55 The Monitoring Officer, or where the Monitoring Officer cannot act the Deputy Monitoring Officer shall, in consultation with the Chair of the Staffing Committee and the Chair of any existing IDC, filter out and deal with allegations of misconduct which are clearly unfounded, trivial or can best be dealt with under some other procedure. The MO/DMO will also consider whether informal resolution is appropriate. Once appointed as MO/DMO for a specific IDC matter, the same MO/DMO shall see the matter through unless a conflict of interest arises or the MO/DMO is unavoidably indisposed.
- 56 For consistency, unless unavoidably indisposed or conflicted, once appointed, the same Members shall comprise the Committee (and any adjournment of it) over the course of the full consideration of the matter (and any related matter) that it has been convened to consider, until such time as the matter is disposed of. Should any Member become conflicted or indisposed over the course of the matter, any substitution shall be at the Chair’s discretion in conjunction with the Committee’s legal adviser.
- 57 All papers issued to the Committee by the IDC Coordinator must be returned to the Coordinator (legal representative) or IDC Clerk at the end of each IDC meeting.
- 58 If a matter passes the filter stage, the Committee will in conjunction with its legal adviser consider allegations/issues regarding disciplinary matters (as defined in The Local Authorities (Standing Orders) (England) Regulations 2001 as amended) relating to the Designated Statutory Officers of the Council (the Head of Paid Service, the Monitoring Officer and the S.151 Officer) (the ‘DSOs’)
- 59 The Committee will in conjunction with its legal adviser decide:
- 59.1.1 Whether no further formal action under this procedure is required,

59.1.2 To appoint an Independent Investigator (“II”) to investigate the issue and to commission reports from an II;

59.1.3 Whether it is appropriate to reach agreement with the DSO on a formal sanction (short of dismissal) without the need to appoint an II;

59.1.4 Whether to suspend a DSO or to reconsider suspension and to review at a frequency to be determined by the Committee, any decisions taken to suspend a statutory officer. The Committee shall have the delegated power to suspend a DSO;

59.1.5 What action should be taken against a DSO following an investigation. This could include taking no further action, informal resolution or other appropriate procedures, disciplinary action short of dismissal or proposed dismissal. The Committee shall have delegated authority to impose disciplinary action short of dismissal in these circumstances

60 In the event that the Committee recommends dismissal then that recommendation shall be referred to the Independent Persons Panel prior to being referred to full Council for a determination in accordance with the IDC Handbook.

61 With the exception of a decision to recommend to full Council that a DSO be dismissed, there shall be a right of appeal to the Disciplinary Appeals Committee against any decisions made by the Committee to take disciplinary action against a DSO.

Disciplinary Appeals Committee

Membership: 5 Members

62 The Committee shall be politically balanced, shall consist of 5 Members of the Council of which 1 member of the Committee may be a member of the Cabinet. No Member who was a member of the Investigation and Disciplinary Committee making the decision which is the subject of the appeal may be a member of the Disciplinary Appeals Committee. Members of the Committee must have completed mandatory training.

Statement of Purpose

63 Members shall be appointed to the Committee, as and when a Committee is required to be convened, under the normal processes for making appointments to committees (via group leader/whip notification to the Head of Governance and Democratic Services). For consistency, unless unavoidably indisposed or conflicted, once appointed, the same Members shall comprise the Committee (and any adjournment of it) over the course of the full consideration of the matter (and any related matter) that it has been convened to consider, until such time as the matter is disposed of.

64 To consider any appeals brought by the designated statutory officers of the Council (the Head of Paid Service, the Monitoring Officer or S151 Officer) (the 'DSOs') against any decision made by the Investigation and Disciplinary Committee to take disciplinary action against a DSO short of dismissal.

65 In the event that the Investigation and Disciplinary Committee recommends dismissal, then that recommendation shall be referred to the Independent Persons Panel prior to being referred to full Council for a determination in accordance with the Staff Employment Procedure Rules and IDC Handbook.

Procedure for the Disciplinary Appeals Committee

66 The DSO shall have the right to attend and be accompanied at the Committee Meeting which considers the appeal by a trade union representative or work colleague of their choice.

67 The Committee shall consider the appeal in accordance with the Council's normal procedure for dealing with appeals.

Access to Information

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

Access to Advice and Representation

69 For the avoidance of doubt, the Committee may commission and have access to external legal and professional advice.

70 For the avoidance of doubt, if a DSO chooses to retain professional advice and/or representation at or in respect of any meeting of or hearing before the Committee, then the DSO in question shall be responsible for the cost of that advice or representation.

Independent Persons Panel

Statement of Purpose and Functions

- 71 The Independent Persons Panel is an advisory committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of the officers designated as the Head of Paid Service, the S.151 Officer and the Monitoring Officer (together the “Designated Statutory Officers” or “DSOs”) in accordance with Schedule 3 to The Local Authorities (Standing Orders) (England) Regulations 2001.
- 72 The Panel must comprise at least two of the Independent Persons appointed under section 28(7) of the Localism Act 2011 (to advise on Member conduct allegations) by the Council or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the Council considers appropriate.
- 73 It shall be for the Monitoring Officer or DMO to invite the Council’s current Independent Persons (being those persons appointed to advise on Member conduct complaints under the Localism Act 2011) and if necessary one or more of the Independent Persons of neighbouring authorities (following consultation with the Monitoring Officers of those authorities), to be considered for appointment to the Independent Persons Panel. It shall be for the Chair of the Audit and Governance Committee to confirm appointments to the Independent Persons Panel.
- 74 The Panel will be appointed from those Independent Persons who have accepted an invitation to be considered for appointment, in accordance with the following priority order:
- an Independent Person who has been appointed by the authority and who is a local government elector in the Council’s area
 - any other Independent Person who has been appointed by the authority
 - an Independent Person who has been appointed by another authority or authorities.
- 75 One or more reserve members will be appointed to the Panel from Independent Persons who have been appointed under section 28(7) of the Localism Act 2011 by the authority or by another authority or authorities. A reserve member will take the place of any member of the Panel who is unable to act for the duration of the Panel meeting in question, or any adjournment of it. If more than one reserve member is available for the meeting then selection will be by the alphabetical order of their surnames so long as it does not conflict with the priority order set out in paragraph 74 above.
- 76 The appointment of a Panel Member to preside at the meeting will be the first item of business at each Independent Persons Panel meeting. Where there are equal votes cast at a meeting on any matter the Chair may exercise a second or casting vote.
- 77 The quorum for a meeting shall be three members of the Panel.

Terms of Reference

- 78 To advise the Council on matters relating to the dismissal of a DSO.

- 79 The advice of the Independent Persons Panel must be sought in accordance with the Staff Employment Procedure Rules and IDC Handbook where the Investigation and Disciplinary Committee propose to recommend the dismissal of a DSO.
- 80 The advice of the Independent Persons Panel may (but need not) be sought by the Investigation and Disciplinary Committee at any other point in an investigation under the IDC process or (if not conflicted) by the Disciplinary Appeals Committee.
- 81 For the avoidance of doubt, the Committee may commission and have access to external legal and professional advice.