

Appendix D

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: 75 Members

~~53~~—The Committee shall be politically balanced, shall consist of 75 Members

53 of the Council ~~and at least of which~~ 1 member of the ~~committee~~ ~~shall~~ Committee may be a member of the Cabinet. Members of the ~~committee~~ 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~~ Committee, as and when a ~~committee~~ 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 ~~and Governance~~). In accordance with the Model Disciplinary Procedure contained in the JNC Handbook for Chief ~~Executives~~ Officers, IDC meetings shall be convened by the Monitoring Officer (in consultation with the ~~Chairman~~ Chair of Staffing Committee) ~~who will,~~). 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 ~~Chairman~~ Chair of the Staffing Committee ~~and the Chairman of the~~. Subsequent meetings of a convened IDC, ~~filter out and deal~~ Committee will be convened by the IDC Co-Ordinator in conjunction with ~~allegations which are clearly unfounded, trivial or can best be dealt with under some other procedure~~ 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.

~~55~~6 For consistency, unless unavoidably indisposed or conflicted, once appointed, the same Members shall comprise the ~~committee~~ 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~~

Committee

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 ~~To~~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.

~~56~~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~~Designated Statutory Officers of the Council (the Head of Paid Service, the Monitoring Officer and the ~~Chief Finance~~S.151 Officer) (the 'DSOs') ~~and to authorise initial investigation.~~

59 The Committee will in conjunction with its legal adviser decide:

59.1.1 Whether no further formal action under this procedure is required,

~~57~~59.1.2 To appoint an Independent Investigator ("II") to investigate ~~allegations of misconduct against any DSO~~ the issue and to commission reports from an II;

~~58~~ ~~To determine appropriate action upon receipt of any preliminary investigation.~~

59.1.3 ~~To decide whether~~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~~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;

~~60~~59.1.5 ~~To determine what~~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 ~~or dismissal~~in these circumstances

~~61~~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 ~~Staff Employment Procedure Rules~~IDC Handbook.

- 6261** 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.

~~Procedure for Investigation and Disciplinary Committee~~

~~Investigation~~

- ~~63—It is in the interests of all parties that the proceedings be conducted expeditiously and fairly.~~
- ~~64—In the exercise of its function, the Committee is to receive and consider any complaint/allegations made. It may:~~
- ~~64.1—make such enquiries of the relevant officer or any other person as it considers appropriate~~
- ~~64.2—request additional information, explanations or documents from any person~~
- ~~64.3—invite or receive representations from any person.~~
- ~~65—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:~~
- ~~65.1—require no further formal action, or~~
- ~~65.2—should be referred to an II~~
- ~~66—In considering whether the threshold in deciding to appoint an II has been met the Committee will assess whether:~~
- ~~66.1—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~~
- ~~66.2—there is evidence in support of the allegation/issue sufficient to require further investigation.~~
- ~~67—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.~~
- ~~68—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~~

- ~~69 — 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.~~
- ~~70 — The DSO shall have the right to attend and be accompanied at the Committee Meeting which considers the II's report.~~
- ~~71 — 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~~

- ~~72 — 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 Proper Officer shall give all members of the Cabinet the opportunity to raise any objections prior to the decision. This process is governed by the Staff Employment Procedure Rules set out in this Constitution. [Note the Independent Persons Panel may meet concurrently with the Investigation and Disciplinary Committee]~~

~~In the case of any disciplinary action other than dismissal the DSO may appeal to the~~

~~73~~ **Disciplinary Appeals Committee ~~against the decision.~~**

~~Suspension~~

~~74—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. The Committee shall continue to review any continuing suspension every 2 months. In carrying out such review the Committee shall consider any representations made by the II and the DSO and/or his or her representative.~~

~~Access to Information~~

~~75—The Council's Access to Information Procedure Rules shall apply to meetings of the Committee.~~

~~Access to Advice and Representation~~

~~7653 For the avoidance of doubt, the Committee may commission and have access to external legal and professional advice.~~

~~7753 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.~~

Disciplinary Appeals Committee Membership: 75 Members

- 78—The Committee shall be politically balanced, shall consist of 75 Members
- 62 of the Council ~~at least of which~~ 1 member of the ~~committee shall~~ 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~~ Committee must have completed mandatory training.

Statement of Purpose

- 7963 Members shall be appointed to the ~~committee~~ Committee, as and when a ~~committee~~ 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 and Governance~~). For consistency, unless unavoidably indisposed or conflicted, once appointed, the same Members shall comprise the ~~committee~~ 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.
- 8064 To consider any appeals brought by the designated statutory officers of the Council (the Head of Paid Service, the Monitoring Officer or ~~Chief Finance Officer~~/S151 Officer) (the 'DSOs') against any decision made by the Investigation and Disciplinary Committee to take disciplinary action against a DSO short of dismissal.
- 8165 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

- 8266 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~~.
- 8367 The Committee shall consider the appeal in accordance with the Council's normal procedure for dealing with appeals.

Access to Information

Access to Information

~~8468~~ 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.

~~*Access to Advice and Representation*~~

~~8553~~ ~~For the avoidance of doubt, the Committee may commission and have access to external legal and professional advice.~~

~~86~~ ~~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~~

Committee

~~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

~~87~~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 ~~Chief Finance~~~~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.

~~88~~72 The Panel must ~~be convened having invited~~~~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.

~~89~~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 Constitution~~~~Chair of the Audit and Governance~~ Committee to confirm appointments to the Independent Persons Panel~~].~~

~~90~~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.

~~94~~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 ~~90~~74 above.

~~92~~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 ~~Chairman~~Chair may exercise a second or casting vote.

~~93~~77 The quorum for a meeting shall be ~~two~~three members of the Panel.

Terms of Reference

~~94~~78 To advise the Council on matters relating to the dismissal of a DSO.

~~95~~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.

~~96~~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 ~~of disciplinary~~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.~~For the avoidance of doubt, the Committee may commission and have access to external legal and professional advice.