



General Purposes Committee

16 December 2015

Report from the Director Human Resources

For Action

Wards Affected:
ALL

Disciplinary and Dismissal Procedures for the Chief Executive, Monitoring Officer and Section 151/Chief Finance Officer

1.0 Summary

- 1.1 The purpose of this report is two fold. First, to give Members the opportunity to review draft Disciplinary and Dismissal Procedures for the roles of the Chief Executive, Monitoring Officer and Section 151/Chief Finance Officer. These procedures implement a recent change in legislation. Second, to update Members on new proposals to appoint additional 'independent persons'.

2.0 Recommendations

- 2.1 Approve the proposed Disciplinary and Dismissal Procedures at Appendix 1.
- 2.2 Approve the recruitment process for the appointment of additional independent persons set out in paragraph 3.10 and note that the final appointments will be made by Full Council.

3.0 Detail

New Disciplinary and Dismissal Procedures

- 3.1 On 22 June 2015 the practical requirements of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (the 2015 Regulations) – which came into force on 11 May 2015 – were reported to Full Council. The 2015 Regulations amend the Local Authorities (Standing Orders) (England) Regulations 2001 (the 2001 Regulations) by removing the requirement for the Council to appoint a 'designated independent person' (DIP) before taking disciplinary action against the Chief Executive, Monitoring Officer and Section 151/Chief Finance Officer (referred

to in this report as either the protected officers or protected officer as appropriate).

- 3.2 Under the old rules, the DIP, often a barrister, was appointed to investigate and make a binding recommendation on disciplinary action.
- 3.3. 'Disciplinary action' for these purposes includes any proposal for dismissal of a protected officer for any reason other than redundancy or ill-health. It therefore covers misconduct and competence dismissals.
- 3.4 Under the new rules, the decision to dismiss the protected officers has to be taken by Full Council but not before Full Council has considered, amongst other things, any advice, views or recommendations from a 'panel'. On 22 June 2015, the Full Council established the Dismissal Advisory Panel (DAP), to be comprised of 3 'independent persons', and approved changes to standing orders to meet the requirements of the 2015 Regulations.
- 3.5 An 'independent person' under the new rules is a person appointed under section 28(7) of the Localism Act 2011 to deal with Member Code of Conduct complaints. Thus, the 2015 Regulations have expanded the advisory role of the independent person.
- 3.6 It was noted by Full Council that new disciplinary and dismissal procedures for the protected officers, implementing the requirements of the 2015 Regulations, would be reviewed by this Committee. Accordingly, attached at Appendix 1 are draft procedures for the Committee's approval.
- 3.7 In summary, the procedures confirm that allegations or complaints likely to result in disciplinary action will be reported to this Committee. The Committee will act as the Council's investigation and disciplinary committee and will consider whether there is a case to answer, whether an investigation is necessary, whether to suspend the protected officer and whether to dismiss the allegation or take action short of dismissal or recommend dismissal. If dismissal is recommended all members of the Cabinet will be consulted. If there is no objection to the Committee's recommendation or, notwithstanding an objection the recommendation is reaffirmed, the advice, views and recommendations of the DAP will be sought. Thereafter, Full Council will consider whether to approve a recommendation to dismiss the protected officer. The flowchart annexed to the draft procedures illustrates the process.

Recruitment of additional independent persons

- 3.8 As already noted, the 2015 Regulations have expanded the advisory role of the independent person. Currently, the Council has appointed one independent person to deal with Member Code of Conduct complaints. At the Full Council meeting in June, it was proposed that the Chief Operating Officer explore the possibility of sharing independent persons appointed by other councils with a view to establishing a pool of 5 independent persons from which 3 can be selected to form a panel.
- 3.9 Having made enquiries of other councils, as well as the LGA, the use of independent

persons appointed by other councils is not currently a viable option. The preference seems to be for councils to rely upon independent persons they themselves have appointed. It is proposed therefore that the Council itself appoint additional independent persons.

- 3.10 The recruitment process for independent persons is not prescribed but the final appointment decision is a non-delegable function of Full Council. It is proposed therefore that Members approve the following process: the Director Human Resources to advertise for the role in January 2016; thereafter the Director Human Resources, the Leader and the lead Member for HR matters (i.e. the Deputy Leader) to short-list candidates, conduct interviews and to recommend appointments to Full Council for final approval.

4.0 Financial Implications

- 4.1 The additional independent persons will receive an annual allowance. The 2015 Regulations limit the remuneration that can be paid to independent persons to the level they would normally receive for their Member Code of Conduct role. This is currently £419.

5.0 Legal Implications

- 5.1 The legal implications have been discussed in the body of the report.

6.0 Diversity Implications

- 6.1 None.

Background Papers

None

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