**Governance Framework Document**

**Document M: Disciplinary Procedure against Statutory Governance Officers**

**Disciplinary Procedure for Statutory Governance Officers**

***Investigating and disciplinary committee convened (IDC)***

This should be a standing committee of the Council

***The IDC considers the allegation[s]***

The Head of Paid Service should be asked for comments. In the light of the Chief Executive’s comments and having carefully considered the complaint / allegation the IDC may decide on any of the following actions

**Option 1.**

***No further action.*** This should be immediately communicated to the Head of Paid Service and the complainant notified if necessary.

**Option 2.**

***Informal un-recorded oral warning***

If the matter is not serious but there is some minor fault or error on the part of the Head of Paid Service then the IDC can issue an informal un- recorded warning

**Option 3**

***Case to answer / further investigation required***

If following consideration of the Chief Executive’s response the IDC believes that the case cannot be dismissed and requires further investigation and that, if the allegations were to be upheld they would result in a sanction greater than an

**Appointment of the Independent Investigator (II)**

***An Independent Investigator is appointed-***

A list of suitably qualified individuals should be maintained by the Joint Secretaries. This could operate as a taxi rank system or the authority could be given three names from which the Head of Paid Service could pick. Only genuine conflicts of interest etc. should be acceptable reasons for rejection by the Chief Executive. If the Head of Paid Service will not agree within 14 days the Council should be free to appoint their choice from the list.

**Role of the II**

In practice it should be for the II to determine the process they will follow. This will be dependent upon the nature of the allegations and availability of information. However, the JNC’s preferred process is ‘Evidence Collection and Investigation’.

informal warning, the IDC should appoint an Independent Investigator, II, and consider suspension.

***Suspension***

The chair of the IDC should have delegated authority to suspend. Suspension should be reviewed after a period of two months and only extended following consultation with the II and consideration of any objections / representations from the Chief Executive

**Evidence collection and investigation**

It may be a process of evidence gathering, hearing submissions etc. which will lead to the formulation of a recommendation for consideration by the IDC.

**Hearing the case**

Alternatively the II may hear the case.

If the II hears the case both parties will have the usual opportunities to present evidence and cross examine witnesses etc. At the hearing both parties are afforded the opportunity to be represented by an individual of their choice, although representation for the Head of Paid Service should be obtained at their expense. Following the hearing the II will produce a report for consideration by the IDC.

**The report of the II**

Irrespective of the manner in which the II investigates the case on completion of their investigation the II must prepare a report with recommendations and rationale for submission to the IDC.

**Consideration and Decision of the IDC**

If the II has held a full hearing the IDC will limit their hearing to a consideration of the II’s report. They may decide to

call witnesses for clarification. The Head of Paid Service and II should attend this meeting and both parties afforded the opportunity to summarise their case. The hearing should be conducted in accordance with the ACAS code of practice.

If the II did not hear the case then the IDC should now afford the Head of Paid Service the opportunity for a hearing to allow the postholder to challenge the recommendations of the II, call witnesses etc. The same rule regarding costs of representation would apply in this context

**Recommendations of the IDC**

Following either consideration of the report of the II or a full hearing of the case the IDC will essentially have three options

1. No case to answer
2. Disciplinary action short of dismissal
3. Dismissal

**No case to answer**

Appropriate communication should be prepared in agreement with the Head of Paid Service to ensure that as far as possible there is no damage to the postholder’s reputation. The IDC should consider reimbursement of any reasonable expenses incurred by the employee.

**Composition, role and process of the IP**

The IP should be a committee of the Council, appointed under section 102(4) of the Local Government Act 1972, and should comprise only independent persons (at least two) appointed under S28(7) of the Localism Act 2011. Appropriate training should be provided to these Independent members. Both parties should be present or represented\* at the meeting. The IP should receive any oral representations from the Chief Executive, in which case it should invite any response on behalf of the IDC to the points made, and may ask questions of either party. The IP should review the decision and prepare a report for Council. This report should contain clear rationale if they disagree with the recommendation to dismiss.

\* the IDC should nominate a person to attend on its behalf

**Action short of dismissal**

**Report to full Council**

Following consideration by the IP a report should be presented to Council. This report should comprise the recommendation of the IDC, the II’s report and any comments on the recommendation for dismissal from the IP. In the light of this information Council should consider the recommendation to dismiss. The Head of Paid Service should be provided with a right of appeal against the decision and allowed to attend this meeting and address Council. The II may also be invited to attend to provide clarification if required. Following this consideration Council should either confirm or reject the recommendation to dismiss. It may at this stage impose a lesser sanction. This stage in the process constitutes the Chief Executive’s final right of appeal.

A decision to take action short of dismissal should be communicated in writing to the Chief Exec with rationale for the decision. The Chief Exec has the right of appeal to the appeals committee against this decision

**Recommendation to dismiss**

If there is a recommendation to dismiss, the reports of the IDC and the II should then be sent to Independent Panel (IP) for its consideration. The Head of Paid Service may make written representations to the II.

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