

APPENDIX 3

6 Disciplinary Procedures - The Chief Executive (Head of Paid Service), Monitoring Officer, and Chief Finance Officer

6.1 For the purpose of these procedures, disciplinary action has the meaning set out in the Local Authorities (Standing Orders)(England)(Regulations) 2001 (as amended), namely:

~~“any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the authority, be recorded on the member of staff's personal file, and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill health, or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the authority has undertaken to renew such a contract”.~~

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6.2 The Chief Executive, Monitoring Officer or Chief Finance Officer (referred to below in each case as the “relevant statutory officer”) may be suspended on full pay for the purpose of investigating alleged misconduct by her/him.

6.3 Subject to the provisions set out below, the Chief Officer Disciplinary Committee may take disciplinary action short of dismissal against a relevant statutory officer or recommend to full Council that a relevant statutory officer be dismissed for disciplinary action ~~as defined in paragraph 6.1 above.~~

6.4 Where a potential disciplinary matter in respect of the Chief Executive, Monitoring Officer or the Chief Finance Officer arises, ~~the steps to be taken under the disciplinary procedure may be summarised as follows:~~

6.4.1 ~~The matter will be considered by the Chief Officer Disciplinary Committee. A preliminary investigation will be carried out by a group of not fewer than three elected members appointed by the Leader of Council.~~

6.4.2 ~~If the preliminary investigation shows there is a case to answer, a full investigation will be set up and heard by the Chief Officer Disciplinary Committee.~~

6.4.23 Where, following ~~the a~~ full investigation and hearing, the Chief Officer Disciplinary Committee considers that dismissal is the appropriate course of action in respect of a relevant statutory officer they must notify the proper officer giving particulars, in addition to the person's name, that are relevant to the proposed dismissal.

6.4.43 The proper officer will send that information, including the person's name, to every member of the Executive and will inform them of the timescale during which any objection to the proposed dismissal should be made by the Leader of Council, on behalf of the Executive, to the proper officer.

6.5 ~~The Chief Officer Disciplinary Committee must include at least one member of the Executive. Where dismissal is to be considered, the Chief Officer Disciplinary Committee must also include two Independent Persons appointed in accordance~~

~~with the Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015.~~

6.56 Only full Council can approve the dismissal of the Chief Executive, Monitoring Officer, or Chief Finance Officer, and must do so before notice of dismissal (if required) is given. The Chief Officer Disciplinary Committee's recommendation for dismissal will not be referred to Council for a decision until one of the following is satisfied:

6.56.1 The Leader of Council has notified the Committee within the specified timescale that neither s/he nor any other member of the Executive has objected to the proposed dismissal,

6.56.2 The proper officer has notified the Committee that s/he has received no objection from the Leader of Council within that timescale, or

6.56.3 The Committee is satisfied that any objection received from the Leader of Council within the specified timescale is not material or well founded.

6.6 If the Chief Officer Disciplinary Committee is proposing dismissal of the relevant statutory officer, this proposal must go before the Independent Panel, appointed under s.102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended)

6.7 Where the proposed dismissal is for disciplinary action ~~as defined in paragraph 6.1 above~~, Council must take into account, in particular: -

(a) ~~any advice, views or the~~ recommendations of the Chief Officer Disciplinary Committee. ~~The advice, views or recommendations of the Independent Persons on that Committee to be separately detailed;~~

(b) any advice, views or recommendation of the Independent Panel referred to above

~~(c)~~ the conclusions of any investigation into the proposed dismissal; and

~~(d)~~ any representations from the relevant statutory officer

before the taking of a vote at the meeting on whether or not to approve such a dismissal.

6.8 The ~~Independent Panel Chief Officer Disciplinary Committee~~ must be appointed by the Authority at least 20 days before the relevant meeting and must include two Independent Persons.

6.9 In relation to action short of dismissal, the relevant statutory officer has a right of appeal to Staffing Committee. There is no right of appeal beyond this level.

Disciplinary Procedures - Other Chief Officers, Deputy Directors, and Assistant Directors

- 6.10 Where a potential disciplinary matter arises which concerns a Strategic Director, Director, Deputy Director, or Assistant Director (referred to below in each case as the “relevant officer”), other than the Monitoring Officer or Chief Finance Officer the disciplinary procedures contained in the Joint Negotiating Committee (JNC) Agreement for Chief Officers will apply.
- 6.11 Subject to the provisions set out below, the Chief Officer Disciplinary Committee may dismiss for disciplinary action ~~as defined in paragraph 6.1 above~~ or take disciplinary action short of dismissal against Strategic Directors, Directors (other than the Director of Finance in relation to dismissal) Deputy Directors or Assistant Directors.
- 6.12 Where a potential disciplinary matter in respect of a relevant officer (other than the Monitoring Officer or Chief Finance Officer) arises, the steps to be taken under the disciplinary procedures are:
- 6.12.1 When the matter involves a Strategic Director or Director (other than the Director of Finance) the Chief Executive will undertake a preliminary investigation of the complaint. The preliminary investigation may in certain circumstances, including the prior involvement in the matter by the Chief Executive, be undertaken by another Chief Officer or by not fewer than two elected members. Where the matter involves a Deputy Director or Assistant Director, the Strategic Director will undertake a preliminary investigation of the complaint. This preliminary investigation may in certain circumstances, including the prior involvement in the matter by a Strategic Director, be undertaken by the Chief Executive, another Chief Officer or by not fewer than two elected members.
- 6.12.2 Unless the decision on the preliminary investigation is either that the complaint does not warrant a full investigation, or, if established, could be resolved informally, for example, through an unrecorded informal warning, the matter will be referred to the Chief Officer Disciplinary Committee, acting as the Investigating Committee under the JNC Agreement for Chief Officers. The Committee must include at least one member of the Executive and will have full delegated powers to act.
- 6.12.3 The employee will have a right of appeal against any disciplinary action to the Staffing Committee which must include at least one member of the Executive. There is no right of appeal beyond this level.
- 6.13 Where the Chief Officer Disciplinary Committee considers that dismissal is the appropriate course of action they must notify the proper officer giving particulars, in addition to the person’s name, that are relevant to the proposed dismissal.
- 6.14 The Proper Officer will send that information, including the person’s name, to every member of the Executive and will inform them of the timescale during which any objection to the proposed dismissal should be made by the Leader of the Council, on behalf of the Executive, to the proper officer.

6.15 The Committee must not give notice of the dismissal until one of the following is satisfied:

6.15.1 The Leader of Council has notified the Committee within the specified timescale that neither s/he nor any other member of the Executive has objected to the proposed dismissal,

6.15.2 The proper officer has notified the Committee that s/he has received no objection from the Leader of Council within that timescale, or

6.15.3 The Committee is satisfied that any objection received from the Leader of Council within the specified timescale is not material or well founded.

7 Dismissal other than for Disciplinary Action (for example dismissal by reason of redundancy) - The Chief Executive, Monitoring Officer, and Chief Finance Officer

7.1 Only full Council can approve the dismissal of the Chief Executive, Monitoring Officer, or Chief Finance Officer ("relevant statutory officers") and must do so before notice of dismissal is given.

7.2 Where the Staffing Committee considers that dismissal is the appropriate course of action in respect of a relevant statutory officer, they must notify the proper officer giving particulars, in addition to the person's name, that are relevant to the proposed dismissal.

7.3 The proper officer will send that information including the person's name, to every member of the Executive and will inform them of the timescale during which any objection to the proposed dismissal should be made by the Leader of Council on behalf of the Executive, to the proper officer.

7.4 The Staffing Committee's recommendation for dismissal will not be referred to Council for a decision until either paragraph 6.6.1 or 6.6.2 or 6.6.3 is satisfied. There is no requirement for the involvement of an Independent Panel in the case of proposed dismissals for reasons other than disciplinary action.

Dismissal other than for Disciplinary Action (for example dismissal by reason of redundancy) - Other Chief Officers, Deputy Directors, and Assistant Directors ("relevant officers")

7.5 Where the Staffing Committee considers that dismissal is the appropriate course of action in respect of a relevant officer, they must notify the proper officer giving the particulars in addition to the person's name that are relevant to the proposed dismissal.

7.6 The proper officer will send that information, including the person's name, to every member of the Executive and will inform them of the timescale during which any objection to the proposed dismissal should be made by the Leader of the Council, on behalf of the Executive, to the proper officer.

7.7 The Committee must not give notice of the dismissal until one of the following is satisfied:

- 7.7.1 The Leader of Council has notified the Committee within the specified timescale that neither s/he nor any other member of the Executive has objected to the proposed dismissal,
- 7.7.2 The proper officer has notified the Committee that s/he has received no objection from the Leader of Council within that timescale, or
- 7.7.3 The Committee is satisfied that any objection received from the Leader of Council within the specified timescale is not material or well founded.

| **PART 4 — CODES AND PROTOCOLS**