

POLICY, FINANCE AND ADMINISTRATION COMMITTEE

29th NOVEMBER 2017

REPORT OF THE SOLICITOR TO THE COUNCIL

STATUTORY OFFICERS DISCIPLINARY PROCEDURE- UPDATE

1.0 PURPOSE OF REPORT

- 1.1 To update the Committee on the position with regards to the recently adopted Disciplinary Policy with respect to the council's statutory officers and the consequential amendments required to the Council's substitute policy.

2.0 RECOMMENDATIONS

- 2.1 That the Governance Committee consider recommending to Council that its substitute policy be amended to reflect the restriction on a member of Policy, Finance and Administration Committee from being a substitute on the Appeals Committee and vice versa as set out in paragraph 3.4, and that there is a requirement for members of the Policy, Finance and Administration Committee undergo appropriate training prior to sitting as the IDC.

3.0 KEY ISSUES

- 3.1 At its meeting on 26 September 2017 the Committee approved a revised disciplinary procedure for the Council's statutory officers (Head of Paid Service, Chief Financial Officer (S151) and Monitoring Officer). The new procedure requires the establishment of an Investigating and Disciplinary Committee and an Appeals Committee. It was recommended to Full Council that the Policy, Finance and Administration Committee's terms of reference be amended to incorporate the function of the IDC and that the terms of reference of the existing Appeals Panel be expanded to include dealing with appeals against disciplinary action short of dismissal, lodged by a statutory officer. This was approved by Council on 11 October 2017.
- 3.2 The revised procedure is based upon the model disciplinary procedure and guidance issued by the Joint National Councils. In accordance with the rules of natural justice, the procedure is clear that a member who sits on the IDC and considers the complaint at the initial stage cannot also be a member of the Appeals Committee who may consider an appeal against a decision of the IDC. At the meeting on 26 September 2017 members requested a further report detailing any consequential impacts this may have on the Council's substitute policy.
- 3.3 The Council's substitute policy is set out at paragraph 25 of Part 4 of the Constitution. An extract of the policy has been attached as Appendix A for ease of reference.
- €The substitute policy is clear that before a member can sit on the Appeals Panel the member and any substitute member must have received the appropriate training. It is also recommended that members of this committee should also receive appropriate training prior to exercising its function as the Investigating and Disciplinary Committee.
- 3.4 In addition to the specific training requirement for members on both the IDC and

Appeals Committee it is suggested that the substitute policy be amended to reflect the position that a member of the Policy, Finance and Administration Committee cannot be a substitute on the Appeals Committee and vice versa. Whilst it is noted that the restrictions on substitutes would only strictly apply in circumstances when the Appeals Committee was considering appeals by the statutory officers, as the nominated substitutes re appointed at Annual Council and notice has to be given for any changes, the most effective approach would be to appoint a substitute that would not be limited in the matters they could consider.

4.0 POLICY AND CORPORATE IMPLICATIONS

4.1 The Council has adopted revised disciplinary procedures for statutory officers in line with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and has amended its standing orders accordingly.

5.0 FINANCIAL AND OTHER RESOURCE IMPLICATIONS

5.1 The Council needs to ensure that its employment procedures are legally sound to protect both officers and the authority. The Council could be vulnerable to employment claims if its procedures are not legally compliant .There are additional training requirement for members and external training may need to be procured.

6.0 LEGAL IMPLICATIONS/POWERS

6.1 The Council has adopted revised disciplinary procedures as required following the implementation of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (2015 Regulations) and the conclusion of the national negotiations relating to the JNC terms and conditions of employment.

7.0 COMMUNITY SAFETY

7.1 None as far as this report is concerned.

8.0 EQUALITIES

8.1 An Equalities Impact Assessment will need to be undertaken and is being explored

9.0 RISKS

9.1

L I K E L I H O O D	A	Very High				
	B	High				
	C	Significant				
	D	Low				
	E	Very Low		1		
	F	Almost Impossible				
			Negligible 1	Marginal 2	Critical 3	Catastrophic 4
		IMPACT				

Risk No	Risk Description
1	Procedures are not legally sound and officers and the authority are not protected leaving the Council vulnerable to employment claims

10.0 CLIMATE CHANGE

10.1 None as far as this report is concerned

11.0 CONSULTATION

11.1 None as far as this report is concerned.

12.0 WARDS AFFECTED

12.1 All

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Date: 20.11.17

Appendices : Appendix A: Substitute Policy

Background Papers:

Reference : X : Committees\