

Name of meeting: Corporate Governance & Audit Committee

Date: 17 November 2017

Title of report: Changes to the Procedures for the Dismissal of Statutory Officers

Purpose of report

To recommend changes to the Council's Constitution to reflect changes to legislation relating to the dismissal of statutory officers

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	N/A
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports)?	N/A
The Decision - Is it eligible for "call in" by Scrutiny?	N/A
Date signed off by Director & name	
Is it also signed off by the Service Director for Finance, IT and Transactional Services?	
Is it also signed off by the Service Director - Legal Governance and Commissioning?	Yes 8.11.17
Cabinet member portfolio	Corporate

Electoral wards affected: N/A

Ward councillors consulted: N/A

Public or private: Public

1. Summary

1.1 This committee previously received a report about the changes to the legislation relating to the dismissal of statutory officers in June 2015 and September 2017. The full details are set out in those reports and the 2017 September report is attached at Appendix A.

1.2 The regulations provide for new arrangements in the disciplinary process, in particular reference to a panel including Independent Persons before a decision is made. Following the receipt of the feedback and comments at the September 2017 CGA meeting the option setting out the proposal has been presented below.

2. Information required to take a decision

2.1 In September 2017 committee outlined concerns at extending the role of Personnel Committee and preferred to establish a new committee as per Option A. They also highlighted their preference for the independent person to be involved in the proceedings from the

beginning of the committee process. Therefore, through discussions, the Committee highlighted that their preference would be for a separate committee to be established, to include the independent persons along with cross party representation of councillors, separate to those already appointed to the Personnel Committee.

Composition of the Panel

Option A:-

- A. Council appoint a new committee named the Statutory Officer Disciplinary Committee and it would include two independent persons.
- 2.2 In summary it is proposed the Statutory Officer Dismissal Committee will hear all disciplinary matters relating to 'disciplinary action' defined in the 2015 regulations in respect of the Head of Paid Service, Monitoring Officer and Chief Finance Officer, where the Committee is considering dismissal of those statutory officers (any dismissal being subject to approval by full Council). It will comprise of two independent persons, five members of the Council, cross party representation, with the quorum being three members where at least one of whom must be a member of Cabinet.
- 2.3 The advantage of this approach is that it is transparent, simple and the Independent persons are involved with the Committee from the beginning which should enable them to be better informed to advise and make recommendations to full council. It also allows the current employment procedures to consider any allegations that relate to disciplinary sanctions short of dismissal.
- 2.4 However, the disadvantage is that it does not build in a further opportunity for the officer to address or appeal the decision made which is contrary to employment practice. Investigations of misconduct at a senior level are often complex and involve an outside investigator. Although, having the Independent Panel involved from the beginning allows for transparency it leaves little in the way of appeal or to address any areas of concern from the officer point of view.

Independent Persons

- 2.5 Kirklees currently has one independent person; which may increase in the future if further recruitment is undertaken. If it has not increased then we are able to invite other Local Authority independent persons rather than appoint another one specifically to fulfil the role.
- 2.6 In practice the referral to the Independent panel would take place before Council so their views can be taken into account by full Council before reaching a decision.
- 2.7 Once full Council has approved the dismissal following the decision to dismiss from the Statutory Officer Disciplinary Committee (SODC), the regulations do not suggest there is a higher decision making body. It is for this reason that the decision to dismiss could be taken at the first stage by SODC Committee and Full Council will in effect consider whether to approve the dismissal.

3. Implications for the Council

The regulations require that the Council changes its procedures.

3.1 Early Intervention and Prevention (EIP)

N/A

3.2 Economic Resilience (ER)

N/A

3.3 Improving Outcomes for Children

N/A

3.4 Reducing demand of services

N/A

3.5 Legal and Financial Implications

The regulations require the council to change its procedures.

4. Consultees and their opinions

Consultations have been carried out with the relevant officers involved who understand the requirements and have no objections to the proposed procedures.

HR and Head of Legal Services.

5. Next steps

Members are asked to consider Option A as a recommendation for Council to adopt.

If Committee approve Option A and the establishing of a new committee the suggested terms of reference and composition are set out at Appendix B

The Officer Employment Procedure Rules will require amendment as set out in Appendix C.

If approved, a report will be taken to full Council on 13 December 2017 recommending Option A with any feedback, comments or recommendations from this meeting will be included in that report. Following Council the necessary changes will be made to the Constitution to reflect the new process.

6. Officer recommendations and reasons

- 6.1 The reason for preferring Option A is as a result of feedback and comments from Corporate Governance and Audit Committee, highlighting a preference for a new and independent committee. It offers a simple and clear process in line with the intention of the Regulations and provides an opportunity for the officer to be heard

before an Independent Panel prior to the recommendation to Council. The Independent Person will be present with the Committee from the beginning.

6.2 Members are asked to:-

- i) recommend to full Council approval of **Option A** for the reasons already set out in this report at paragraph 2.1, 2.3 and 6.1.
- ii) Approve the Terms of Reference and Composition for the Committee at Appendix B
- iii) Approve the amendments to the Officer Employment Procedure as set out at Appendix C to this report.

7. Cabinet portfolio holder recommendation

Not applicable.

8. Contact officer

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9. Background Papers and History of Decisions

Changes to Statutory Process for Dismissal Procedures for Senior Officer dated 24 June 2015

Appendices:

Appendix A – Report to CGA dated 15 September 2017

Appendix B - Statutory Officer Dismissal Committee Terms of Reference

Appendix C – Officer Employment Procedure Rules

10. Service Director responsible

Julie Muscroft, Service Director – Legal, Governance and Monitoring, First Floor (Executive Suite), Civic Centre 3, Huddersfield.
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The Service Director recognises that she has a conflict of interest in relation to this report but responsibility primarily lies in her service.