

Name of meeting: Council

Date: 13 December 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?	
Cabinet member portfolio	Graham Turner

Electoral wards affected: N/A

Ward councillors consulted: N/A

Public or private: Public

1. Summary

1.1 The Corporate Governance and Audit Committee have considered a number of options relating to proposals to change the arrangements that the Council would need to put in place if it were to consider the dismissal of its statutory officers (the Head of Paid Service, the section 151 officer and the Monitoring Officer). Details of this are set out in the attached reports. The Local Authority's (Standing Orders) (England) Regulations 2001 (as amended) provide for new arrangements in the disciplinary process, in particular reference to a panel including Independent Persons must be made before a decision is made on the dismissal of a statutory officer in relation to an allegation of alleged misconduct.

1.2 The implementation of the new arrangements have been considered by the Corporate Governance and Audit Committee on 15th September 2017 and on 17th November 2017 when Option A was approved as a recommendation to Council.

1.3 Corporate Governance and Audit Committee approved Option A as set out at paragraph 2. This process ensures that the Independent Persons are involved with the committee from the beginning. It was felt a separate committee dealing simply with dismissal would be the fairest

and most transparent and efficient manner to implement the changes. The reports considered by the committee are set out in the Background Reports as Appendix A.

1.4 This report sets out the recommendations of Corporate, Governance and Audit in relation to implementing the changes. Members of Council are asked to consider the report and approve the recommendations set out at 6.2 and agreed by Corporate Governance and Audit committee.

1.5 Members of the Council are asked to delegate authority to the Head of Legal Services to implement the changes required.

2. Information required to take a decision

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) in relation to alleged misconduct. 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.

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 and should we need to use this process then we are able to invite other Local Authority independent persons to join the committee 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 provide for 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.

The options have been considered by Corporate Governance and Audit Committee who recommend Option A set out in the report, to Council.

5. Next steps

If approved by 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 any recommendation to Council to make a decision. The Independent Person will be present with the Committee from the beginning. The Corporate Governance and Audit Committee are recommending this option to the Council.

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.

- iv) Delegate authority to the Head of Legal Services to make the amendments to the constitution to reflect the changes set out above.

7. Cabinet portfolio holder recommendation

Not applicable.

8. Contact officer

Samantha Lawton, Senior Legal Officer - Legal, Governance and Commissioning – 01484 221000
samantha.lawton@kirklees.gov.uk

9. Background Papers and History of Decisions

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

Changes to the Procedures for the Dismissal of Statutory Officers dated 15 September 2017

Changes to the Procedures for the Dismissal of Statutory Officers dated 17 November 2017

Appendices:

Appendix A – previous reports to Corporate, Governance and Audit dated 15 September 2017 and 17 November 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.
Telephone: 01484 221000 Email: julie.muscroft@kirklees.gov.uk

The Service Director recognises that she has a conflict of interest in relation to this report but responsibility primarily lies in her service.

Name of meeting: Corporate Governance & Audit Committee

Date: 15 September 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?	
Cabinet member portfolio	Graham Turner

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 potential changes to the legislation relating to the dismissal of statutory officers in June 2015. The regulations amend the Local Authority's (Standing Orders) (England) Regulations 2001 in relation to the disciplinary process for statutory officers, namely the Chief Executive (the Authority's Head of Paid Service), the Service Director for Finance, IT and Transactional Services (as the Authority's Chief Section 151 Finance Officer) and the Service Director for Legal, Governance and Commissioning (as Monitoring Officer).

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.

1.3 The regulations will require changes to some of the following: -

- a) Changes to Personnel Committee terms of reference; or
- b) Establishing a new committee
- c) Changes to the Officer Employment Procedure Rules; and

d) the possible establishment of a panel of independent persons.

1.4 The changes will provide clarity on the dismissal process for the relevant senior officers.

2. Information required to take a decision

- 2.1 It is a statutory duty of the Local Authority to designate officers to hold the statutory post of Head of Paid Service, Chief Finance Officer and Monitoring Officer. In this Council the Chief Executive is designated as Head of Paid Service, the Service Director for Finance, IT and Transactional Services is Chief Finance Officer, and the Service Director for Legal, Governance and Commissioning is Monitoring Officer. The three officers all discharge their statutory duties and responsibilities in a political environment.
- 2.2 Previously the statutory protection in 2001 legislation required an appointment of a designated independent person (DIP) to investigate any allegation of misconduct against the statutory post holders. Those regulations provided that no disciplinary action in respect of these statutory post holders could be taken other than in accordance with the recommendation in a report made by a DIP.
- 2.3 The 2015 regulations remove the mandatory requirements that a DIP should be appointed. In place of the DIP procedure the decision will be taken by full Council, which must consider any advice, views or recommendations from a panel, comprising independent persons, the conclusions of any investigation into the proposed dismissal and the representations from the officer concerned.
- 2.4 The regulations and their impact has been set out in an earlier report before Corporate, Governance and Audit in June 2015. As there was little information in the regulation as to how this would work in practice there were a number of questions raised by the LGA but there has not been any further information provided.
- 2.5 In the case of potential disciplinary action under the new regulations the Council is now required to form a panel comprising Independent Persons. The membership of the panel is formed if two or more independent persons accept invitation to serve on the panel.
- 2.6 Establishing the panel is only necessary in the event that disciplinary action is envisaged, but if this does happen, a panel has to be formed twenty days in advance of the relevant disciplinary meeting. Due to this it is proposed that full Council establish an independent panel and amend the constitution now so that it is always available should the need arise. The suggested terms of reference for this panel are set out in Appendix D.

Options with regard to the Composition of the Panel

- 2.7 It is not clear whether the Panel is required to be made up of only Independent persons or whether the panel is required to also include elected members.

There are two possible options:-

- A. Council appoint a new committee named the Statutory Officer Disciplinary Committee. The Committee would include two independent persons when considering whether to recommend dismissal to full Council.
- B. Council extend the composition of the Personnel Committee and widen its functions to address the changes made by the 2015 Regulations. In support and to reflect the requirements of the regulations the Council would appoint a Panel made up of Independent persons only, which is to be convened when Personnel Committee is considering whether to recommend dismissal to full Council.

Option A

- 2.8 In summary it is proposed the Statutory Officer Dismissal Committee will hear all disciplinary matters relating to 'disciplinary action' as defined in the 2015 regulations in respect of the Head of Paid Service, Monitoring Officer and Chief Finance Officer . It will comprise of five members of the Council, with the quorum being three members where at least one of whom must be a member of Cabinet.
- 2.9 Where the Committee is considering whether to recommend to Council the dismissal of the Head of Paid Service, Monitoring Officer or the Chief Finance Officer the committee will comprise 5 members of Council, at least one of whom must be a member of the Cabinet and two independent persons appointed in accordance with the 2015 regulations. This would enable the Independent person to be involved from a slightly earlier stage.
- 2.10 The advantage of this approach is that it is simple and the Independent persons are involved from an early stage. 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.

Option B

- 2.11 Kirklees already has a Personnel Committee and has within its current terms of reference the ability to consider and deal with disciplinary procedures in the case of officers above the level of Service Director as described, "*..1...Appointment of staff and determination of their terms and conditions of appointment, including disciplinary procedures and including negotiations and consultation with trade unions over issues relating to terms and conditions..*"
- 2.12 The committee could make a referral to full Council for a decision if dismissal is recommended. It is proposed that the role of Personnel Committee be slightly expanded to include the terms of reference as set out at Appendix B in line with the regulations to include investigation and consideration of appropriate issues relating to the other two senior posts referred to, the Chief Finance Officer and Monitoring Officer.

2.13 This means that there would be referrals by the Personnel Committee to the Independent panel, who would review the recommendation and have full access to the written evidence and recommendations of Personnel Committee. The Independent Panel would conduct a full review following the recommendation from Personnel Committee and would have a further opportunity to hear from the relevant officers, investigator and employee and make recommendations to full Council for a decision where appropriate. The Independent Panel would require appropriate support in place to ensure they were properly independent. The Independent panel would be made up of three independent persons and they would be appointed in accordance with the 2015 regulations. The Regulations state how and in what order of priority independent persons are approached to form the membership of the panel. It is as follows:

- a. A relevant independent person who has been appointed by the authority and who is a local government elector;
- b. Any other relevant independent person who has been appointed by the authority
- c. A relevant independent person who has been appointed by another authority or authorities

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 ask other Local Authorities to use theirs rather than appoint another one specifically to fulfil the role

2.14 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. This would also provide a mechanism for the statutory officer to appeal or challenge the investigation process so far and provide a second opportunity for the officer to have their views heard by the independent panel.

2.15 Once full Council has approved the dismissal following the decision to dismiss from the Personnel Committee and the Independent Panel, 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 the Personnel Committee and the Independent Panel can in effect become the appeal stage. The officer will have had a further opportunity to state their case before any proposal to dismiss is made and then to address the authority before any decision to approve the dismissal is made.

Impact on Senior Officers

2.16 The changes in the legislation have been discussed with the relevant officers. They have been informed that the new procedure will be an implied term within their current contract and will take precedence over the previous DIP procedure which may be referred to in their current terms and conditions. Once the changes are made it will become an express term and HR will confirm the amendment to their terms and conditions subject to approval of the changes by Council.

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 each of the options and approve either Option A or B as a recommendation for Council to adopt.

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

If Committee approve Option B the extension of the role of Personnel Committee is agreed, it is necessary to amend the Personnel Committee terms of reference to reflect the changes as set out in Appendix B and to amend the Officer Employment Procedure Rules as set out in Appendix C.

A report will be taken to full Council on 11 October 2017 recommending one of the options 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 Members are asked to recommend to full Council approval of **Option B for the reasons already set out in this report at paragraph 2.14 and 2.15:**

The reason for preferring Option B having considered a number of other Local Authorities procedures is because most have built in a three layer approach similar to Option B. This adds a further layer in

terms of an appeal, as there is no reference to this in the regulations and provides a further opportunity for the Independent Panel to consider the decision from Personnel Committee with 'fresh eyes' in accordance with the regulations. 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. This also places it in line with good practice in employment terms which requires an appeal process.

- 6.2 If **Option B is approved by members** amendments will be required to the Personnel Committees' terms of reference as set out at Appendix B to this report
- 6.3 Amendments to the Officer Employment Procedure as set out at Appendix C to this report.
- 6.4 That a panel be established to comprise a minimum of two Independent persons with terms of reference as set out in Appendix D
- 6.5 This Committee considers the requirements of the regulations as set out in the report and makes any comments/observations before the changes to the constitution are considered by Council.

7. Cabinet portfolio holder recommendation

Not applicable.

8. Contact officer

Samantha Lawton, Senior Legal Officer - Legal, Governance and Commissioning – 01484 221000
Samantha.lawton@kirklees.gov.uk

9. Background Papers and History of Decisions

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

Appendices:

Appendix A – Statutory Officer Dismissal Committee Terms of Reference

Appendix B - Personnel Committee Terms of Reference

Appendix C – Officer Employment Procedure Rules

Appendix D – Independent Persons Panel

10. Service Director responsible

Julie Muscroft, Service Director – Legal, Governance and Monitoring, First Floor (Executive Suite), Civic Centre 3, Huddersfield.
Telephone: 01484 221000 Email: julie.muscroft@kirklees.gov.uk

The Service Director recognises that she has a conflict of interest in relation to this report but responsibility primarily lies in her service.

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?	
Cabinet member portfolio	Graham Turner

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

Samantha Lawton, Senior Legal Officer - Legal, Governance and Commissioning – 01484 221000

Samantha.lawton@kirklees.gov.uk

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.

APPENDIX B

Statutory Officer Dismissal Committee

Membership

5 Members of the council (One to be a member of Cabinet) and two independent persons

Terms of Reference

Delegated responsibility in accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 for the following:-

- 1.To give advice, express its views and make recommendations to full Council as to the dismissal of the Head of Paid Service, the Monitoring Officer and the Chief of Finance Officer
- 2.To keep under review the suspension of the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer

APPENDIX C

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OFFICER EMPLOYMENT PROCEDURE RULES

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OFFICER EMPLOYMENT PROCEDURE RULES

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N.B. Reference should be made to the relevant sections of Part 3 of the Constitution for details of responsibilities delegated to Personnel Committee, Appointment Panels, Statutory Officer Disciplinary Committee, and Officers in accordance with these Procedure Rules.

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1. Definition of Chief Officer for the purposes of these Rules

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In these rules the expression "Chief Officer" means any Deputy Chief Executive, Strategic Director, Head of Service or Assistant-Service Director. This definition fulfils the relevant requirements of the 1993 and 2001 Standing Orders Regulations (as amended).

2. Recruitment and Appointment

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(a) Declarations

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- (i) The council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or senior officer of the council; or of the partner of such persons.
- (ii) No candidate so related to a councillor or senior officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her

(b) Seeking support for appointment

- (i) Subject to paragraph (iii), the council will disqualify any applicant who directly or indirectly canvasses the support of any councillor for any appointment with the council. The content of this paragraph will be included in any recruitment information.
- (ii) Subject to paragraph (iii), no councillor will canvass support for any person for any appointment with the council.
- (iii) Nothing in paragraphs (i) and (ii) above will preclude a councillor from giving a written reference for a candidate for submission with an application for appointment.

3. Recruitment of Head of Paid Service and Chief Officers

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- (a)** Where the council proposes to appoint the Head of Paid Service or a chief officer (other than on an acting basis) and it is not proposed that the appointment be made exclusively from among their existing

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- officers, the council or its Personnel Committee will establish a committee or sub-committee to act as the appointment panel.
- (b) The appointment panel will:
- (i) draw up a statement specifying the duties of the post concerned; and an employee specification which describes the experience, education, training, knowledge, skills and other factors to be sought in the person to be appointed.
 - (ii) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
 - (iii) make arrangements for a copy of the statement mentioned in paragraph (i) to be sent to any person on request.
- (c) Where a post has been advertised, the appointment panel shall:-
- (i) Select a short list of qualified applicants and interview those included on the short list.
 - (ii) At all times act in accordance with the council's equal opportunities policy and code of practice on recruitment and selection.
 - (iii) When no person is appointed, make further arrangements for advertisement.
- (d) Where the council propose to appoint the Head of the Paid Service or a chief officer (other than on an acting basis) exclusively from amongst their existing officers, the council or its Personnel Committee will establish a committee or sub-committee which will make arrangements in connection with the appointment.
- (e) Where the duties of a chief officer include the discharge of functions of two or more local authorities in pursuance of Section 101 (5) of the Local Government Act 1972 -
- (i) The steps taken under this Rule may be taken by a joint committee of those authorities, a sub-committee of that committee or a chief officer of any of the authorities concerned;
 - (ii) Any chief officer may be appointed by such a joint committee, a sub-committee of that committee or a committee or sub-committee of any of those authorities.

4. Appointment of Head of Paid Service

- (a) The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a

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committee or sub-committee of the council. That committee or sub-committee must include at least one member of the Cabinet.

- (b) The full Council may only make or approve the appointment of the Head of Paid Service where the procedure set out in Annex 1 of these Rules has been completed.

5. Appointment of Chief Officers

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- (a) A committee or sub-committee of the council will appoint chief officers. That committee or sub-committee must include at least one member of the Cabinet.
- (b) An offer of employment as a chief officer shall only be made where the procedure set out in Annex 1 to these Rules has been completed.

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6. Other Appointments

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(a) Officers below chief officer

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Appointment of officers below chief officer (as defined in Rule 1) (other than assistants to political groups) is the responsibility of the Head of the Paid Service or officers nominated by him/her and may not be made by councillors.

(b) Assistants to political groups

- (i) The council may appoint up to three posts to provide assistance to the members of any political group to which members of the council belong to discharge any of their functions as members of the council.
- (ii) Each such post shall first be allocated to a political group in accordance with Section 9 of the Local Government & Housing Act 1989 and will then fall to be filled from time to time in accordance with the wishes of that group. No post shall be allocated to a political group which does not qualify for one.
- (iii) No appointment shall be made to any such post until the council has allocated a post to each political group that qualifies for one. No more than one post shall be allocated to any one political group.

7. Disciplinary Action

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(a) Suspension

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The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged

misconduct. That suspension will be on full pay and will last no longer than two months.

(b) **Independent ~~Panel~~erson**

Subject to (a) above, no disciplinary action ~~(as defined in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2015~~ may be taken in respect of any of those officers except in accordance with the ~~recommendation in a report made by a designated independent person under Regulation 7 of the~~ Local Authorities (Standing Orders) (England) Regulations 20~~15~~04 (investigation of alleged misconduct).

(c) **Involvement of Councillors**

Councillors will not be involved in ~~the disciplinary action against~~process ~~in respect of~~ any officer below chief officer (as defined in Rule 1), except where such involvement is necessary for any investigation or inquiry into alleged misconduct. ~~However, the council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.~~

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Comment [T1]: I have taken this out but do we still want this?

8. Dismissal

(a) Councillors will not be involved in the dismissal of any officer below chief officer (as defined in Rule 1), except where such involvement is necessary for any investigation or inquiry into alleged misconduct. ~~However, the council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals. { See comment above }~~

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9. The Head of Paid Service, the Monitoring Officer and the Chief Finance Officer

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(b) ~~Subject to paragraph 9(g) the Statutory Officer Disciplinary Committee may recommend to full Council that the Head of Paid Service, Chief Finance Officer or Monitoring Officer be dismissed. Only full council can approve the dismissal~~

(c) ~~Where a committee or sub-committee of the authority is discharging, on behalf of the authority, the function of the dismissal of the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer, or a chief officer that committee or sub-committee must include at least one member of the Cabinet.~~

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(d) ~~Where a committee or sub-committee is discharging the function of the dismissal of the Head of Paid Service, the Monitoring Officer and the~~

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~~Chief Finance Officer, the full Council must approve any recommendation of the dismissal before notice of dismissal is given.~~

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~~(e) Before taking a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular-~~

~~(i) any advice, views or recommendations of an independent panel¹~~

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

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~~(iii) any representations from the relevant officer~~

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~~(f) The independent panel referred to must be appointed by the authority at least 20 days before the relevant meeting and should comprise a minimum of two independent panel members~~

~~(g) Notice of dismissal of the Head of Paid Service, the Monitoring Officer, Chief Finance Officer or a chief officer must not be given until the procedure set out in Annex 2 has been completed.~~

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¹ 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)

ANNEX 1

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APPOINTMENT OF HEAD OF PAID SERVICE AND CHIEF OFFICERS

1. This procedure applies to the appointment of the Head of Paid Service and chief officers as defined in Rule 1 of these rules ("relevant officers"). It has been incorporated into these Rules, as required by the Local Authorities (Standing Orders) (England) Regulations 2001.
2. In this procedure, "appointor" means, in relation to the appointment of a relevant officer, the committee, sub-committee or panel making the appointment, or, in the case of the appointment of the Head of Paid Service, making a recommendation to the council.
3. An offer of an appointment as a relevant officer must not be made by the appointor until -
 - (a) the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
 - (b) the proper officer has notified every member of the Cabinet of:
 - (i) the name of the person to whom the appointor wishes to make the offer
 - (ii) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and
 - (iii) the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the proper officer; and
 - (c) Either:
 - (i) the Leader has, within the period specified in the notice under sub-paragraph (b) (iii), notified the appointor that neither s/he nor any member of the Cabinet has any objection to the making of the offer;
 - (ii) no objection has been received by the proper officer within that period from the Leader; or
 - (iii) the appointor is satisfied that any objection received is not material or is not well-founded.
4. The "proper officer" for the purposes of paragraph 3 will be either of a **Strategic** Director responsible for human resources or the Head of the Human Resource

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Strategy Unit, and the above function may be exercised on their behalf by the Human Resource officer dealing with the particular appointment.

ANNEX 2

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DISMISSAL OF HEAD OF PAID SERVICE, MONITORING OFFICER, CHIEF FINANCE OFFICER, AND CHIEF OFFICERS

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1. This procedure applies to the dismissal of the Head of Paid Service, Monitoring Officer, Chief Finance and chief officers as defined in Rule 1 of these Rules (“relevant officers”). It has been incorporated into these Rules, as required by the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended);
2. In this procedure, “dismissor” means, in relation to the dismissal of a relevant officer, the authority or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the authority, that committee, sub-committee or other officer, as the case may be.
3. Notice of the dismissal of a relevant officer must not be given by the dismissor until:
 - (a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
 - (b) the proper officer has notified every member of the Cabinet of:
 - (i) the name of the person who the dismissor wishes to dismiss;
 - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
 - (iii) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the proper officer; and
 - (c) Either:
 - (i) the Leader has, within the period specified in the notice under sub-paragraph (b) (iii), notified the dismissor that neither s/he nor any other member of the Cabinet has any objection to the dismissal;
 - (ii) no objection has been received by the proper officer within that period from the Leader; or
 - (iii) the dismissor is satisfied that any objection received is not material or is not well-founded.
4. The “proper officer” for the purposes of paragraph 3 will be either of the member of the Executive Management Group responsible for human resources or the Head of Human Resources.

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| Revised ~~January 2014~~ August 2017

