

EXTRAORDINARY COUNCIL	AGENDA ITEM No. 3
31 AUGUST 2023	PUBLIC REPORT

Report of:	Adesuwa Omoregie, Interim Head of Legal and Deputy Monitoring Officer	
Cabinet Member(s) responsible:	Councillor Coles, Cabinet Member for Legal, Finance and Corporate Services	
Contact Officer(s):	Rachel Edwards, Head of Constitutional Services	Tel. 452277

ESTABLISHMENT OF INVESTIGATION AND DISCIPLINARY COMMITTEE AND APPEALS COMMITTEE

RECOMMENDATIONS	
FROM: Adesuwa Omoregie	Deadline date: N/A
<p>That Council:</p> <ol style="list-style-type: none"> 1. Establishes an Investigating and Disciplinary Committee which is a requirement of the Local Authorities (Standing Orders)(England) Regulations 2001 as amended by the Local Authorities (Standing Orders) England (Amendment) Regulations 2015 (IDC) to deal with disciplinary matters relating to the Head of Paid Service, Chief Finance Officer (S151 officer and Monitoring Officer). 2. Adopts the Terms of Reference for the Investigation and Disciplinary Committee which are included at Appendix 1. 3. Establishes an Appeals Committee to deal with disciplinary matters short of dismissal relating to the Head of Paid Service, Chief Finance Officer and Monitoring Officer which is a requirement of the Local Authorities (Standing Orders)(England) Regulations 2001 as amended by the Local Authorities (Standing Orders) England (Amendment) Regulations 2015. 4. Adopts the Terms of Reference for the Appeals Committee which are included at Appendix 2. 5. That seats on the Investigation and Disciplinary Committee and Appeals Committee will be allocated to political groups in accordance with the proportionality rules and that appointments (including the Chair and Vice-Chair) to both committees will be made following nominations received from the political groups. 6. That the Monitoring Officer and Head of Constitutional Services are authorised to make all other necessary and consequential amendments to the constitution to give effect to these recommendations. 7. That the Assistant Director of Human Resources and Development is authorised to arrange appropriate mandatory training for members serving on the Investigation and Disciplinary Committee and Appeals Committee. 	

1. PURPOSE AND REASON FOR REPORT

- 1.1 The purpose of this report is to establish an Investigation and Disciplinary Committee and Appeals Committee to deal with disciplinary matters relating to the statutory officers (namely the Head of Paid Service, Chief Finance Officer – S151 Officer and the Monitoring Officer).

2. BACKGROUND AND KEY ISSUES

- 2.1.1 The statutory officers of the council, the Head of Paid Service, Chief Finance Officer (Section 151) and the Monitoring Officer, have duties to advise and protect the council as a corporate body. In carrying out their duties at times they may be required to provide advice to members that is not welcome or popular, or to take such action in connection with that advice in order to fulfil their statutory responsibilities. Accordingly, these statutory posts are protected by law under specific regulations from unwarranted political interference in carrying out their proper duties. In the event that disciplinary action is contemplated against a statutory officer members will need to ensure that they understand the procedure to be used complies with the regulatory requirements and the relevant terms and conditions of employment.
- 2.1.2 The Local Authority (Standing Orders) (England)(Amendment) Regulations 2015 amended the previous legislation and outlined a new process to be followed and to be incorporated into Council constitutions.
- 2.1.3 This will require the Council to agree new procedures and establish a standing Investigation and Disciplinary Committee and an Appeal Committee. Officers will also require authorisation to amend the Constitution to give effect to these changes and arrange appropriate mandatory training for members of the new committees.
- 2.1.4 This report and the Terms of Reference included at Appendix 1 and Appendix 2 provide procedural clarity in the processes to be followed in the event that a complaint is to be made against one of the council's statutory officers. As in any employment situation, mediation by agreement should be considered prior to the commencement of formal action, however it is important that members have clarity in relation to the matters covered in this report so that the council complies with the relevant regulations and terms and conditions of employment.
- 2.1.5 Not all complaints about a relevant officer should lead to a referral to an IDC. Some may be more appropriately dealt with under for example, a service's complaints procedure. There needs to be a process to redirect complaints to the appropriate quarter or to filter out those that have no merit. It is proposed that in the case of a complaint against the Head of Paid Service, the Chief Finance Officer (Section 151 Officer) or the Monitoring Officer will decide whether a complaint should go to the IDC. In the case of complaints against the Monitoring Officer or the Chief Finance Officer (Section 151 Officer), the Head of Paid Service will decide whether the complaint should go to the IDC. In the absence of the statutory officer holding the relevant delegation, the Executive Director of Place and Economy will also be authorised to decide whether a complaint should go to the IDC.
- 2.1.6 The proposed Terms of Reference allow the relevant officer to be accompanied at any disciplinary meetings. This is wider than the statutory right given to all employees to be accompanied by a trade union official or work colleague. The Terms of Reference propose that the relevant officer be accompanied by a person of their choice (including a lawyer) at their own cost. Given the reputational and career implications for a relevant officer going through these procedures it is recommended that the Council adopts this approach.

3. CORPORATE PRIORITIES

3.1 The recommendation links to the following Council Corporate Priorities:

Sustainable Future City Council

- How we Work

3.2 Further information on the Council's Priorities can be found here - [Link to Corporate Strategy and Priorities Webpage](#).

4. CONSULTATION

4.1 Not applicable

5. IMPLICATIONS

Financial Implications

5.1 The financial implications to this report are an additional Special Responsibility Allowance for the proposed Chair of the IDC. The cost to the Council would be £3,328.00. There would be an additional associated cost for training which will fluctuate depending on where this is sourced at an appropriate time as required.

Legal Implications

5.2 The Council is required to put in place procedures for dealing with disciplinary matters in respect of the following statutory officers (namely Head of Paid Service, the Chief Finance Officer (Section 151 officer) and Monitoring Officer) which this report is seeking approval to establish.

Equalities Implications

5.3 No impact assessment has been carried out, but all relevant officers will be treated in accordance with equalities principles.

6. BACKGROUND DOCUMENTS

6.1 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015

7. APPENDICES

7.1 Appendix 1 – Terms of Reference Investigations and Disciplinary Committee
Appendix 2 – Terms of Reference Appeals Committee

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