

## **Appendix 1**

### **TERMS OF REFERENCE - INVESTIGATION AND DISCIPLINARY COMMITTEE**

The Committee's duties relate to the following statutory officer posts;

- i) Chief Executive;
- ii) Monitoring Officer; and
- iii) Section 151 Officer

and to any staffing matters referred to it in accordance with the Joint Negotiating Committee for Local Authority Chief Executives Model Disciplinary Procedure (Model Procedure).

#### **Composition**

The Investigation and Disciplinary Committee (IDC) shall be a politically balanced committee of five members, at least one of whom must be a Member of the Cabinet.

All Members must undertake the relevant training before sitting on an IDC.

Members of the IDC may not be members of the Appeals Committee.

#### **Quorum**

The quorum of the IDC shall be three members including one cabinet member.

#### **Terms of Reference**

- 1 To consider allegations made against the statutory post holders referred to above.
- 2 To consider all matters referred to it in accordance with the Model Procedure.
- 3 To consider the comments of any officer subject to allegations in relation to those allegations and to determine one of the following outcomes:
  - 3.1 That no further action is required.
  - 3.2 That there is some minor fault or error on behalf of the officer, but the matter can be resolved with an informal un-recorded warning.
  - 3.3 That there are grounds for an independent disciplinary investigation to be conducted.

#### **Independent Investigation**

- 4 If the IDC determines that an independent disciplinary investigation should be conducted:

- 4.1 To appoint an Independent Investigator, from the list provided by the Joint Secretaries of the Joint Negotiating Committee for Chief Executives of Local Authorities.
- 4.2 To determine the scope of the investigation to be conducted by the Independent Investigator.
- 4.3 To note that the Independent Investigator may choose to undertake either a full hearing or an evidence gathering process.
- 4.4 To determine if the officer should be suspended. In the event of urgency, this function can be exercised by the Chair of the Investigation and Disciplinary Committee in conjunction with (i) the Head of Paid Service in the case of a complaint against the Monitoring Office or the Chief Finance Officer; or (ii) in conjunction with the Monitoring Officer or Chief Finance Officer in the case of a complaint against the Head of Paid Service or (iii) In the absence of the statutory officer that holds the relevant delegation in conjunction with the Executive Director of Place and Economy.
- 4.5 To review the continuance of the suspension of the officer should it exceed two months and conduct further reviews of the suspension at least every two months from the date of the previous review.
- 4.6 It is the responsibility of the Independent Investigator to determine the approach to the investigation, as referenced in the Model Procedure and this will have been notified in advance to all parties:-
  - 4.6.1 If the Independent Investigator has proceeded by way of an evidence gathering process the IDC should convene a meeting:-
    - (a) To receive the report and consider any recommendations of the Independent Investigator; and
    - (b) Conduct a hearing, at which both the Independent Investigator and the officer will be provided with an opportunity to submit evidence and call and question each other's witnesses.
  - 4.6.2 If the Independent Investigator has proceeded via a formal hearing process, the IDC should convene a meeting:-
    - (a) To receive the report and consider any recommendations of the Independent Investigator, and determine whether to limit the meeting to the consideration of the report or to call witnesses;

- (b) To conduct the meeting at which the report and any recommendations by the Independent Investigator are considered in accordance with the ACAS Code of Practice.
- (c) To consider any documentation and/or the evidence of any witnesses it chooses to call, to clarify the content of the Independent Investigator's report.
- (d) To invite the Independent Investigator and the officer to attend the meeting and provide both parties with an opportunity to summarise their case.

4.7 If at this stage there is new evidence produced which is material to the allegation/issue and may alter the outcome, the IDC may:

- (a) Take this into account in making their decision or
- (b) Request that the Independent Investigator undertake some further investigation and incorporate the impact of the new evidence into an amended report.

4.8 Following consideration of the Independent Investigator's report, representations from the Independent Investigator, the officer and relevant witnesses:

4.8.1 To determine either:

- (a) That there is no case to answer.
- (b) That disciplinary action short of dismissal should be taken against the officer.
- (c) That a recommendation be made to dismiss the officer.

4.9 If the IDC determines to recommend dismissal

4.9.1 To instruct that an Independent Panel is convened to consider the Independent Investigator's report and receive any oral or written representation from the officer.

4.9.2 To inform the Proper Officer that it is proposing to the Council that the officer be dismissed and that the Executive objections procedure should commence. The Proper Officer will notify all members of the Executive of the fact that the IDC is proposing to the Council that it dismisses the officer, providing any other particulars relevant to the dismissal and specifying the period

by which any objection to the dismissal is to be made by the Leader on behalf of the Executive, to the Proper Officer.

4.9.3 At the end of this period the Proper Officer will inform the IDC either that the Leader has notified them that neither he / she nor any member of the Executive has any objection to the dismissal, that no objections have been received from the Leader in the period or that an objection or objections have been received and provide details of those objections.

4.10 The IDC will consider any objections and satisfy itself as to whether any of the objections are both material and well founded. If they are, then the IDC will act accordingly, i.e. it will consider the impact of the Executive objections on its proposal for dismissal and may commission further investigation by the Independent Investigator and report if required.

4.11 In the event that the IDC is satisfied that there are no material and well founded objections to the proposal to dismiss, the IDC will inform the officer of the decision and put that proposal to the Independent Panel along with the Independent Investigator's report and any other necessary material.

### **Recommendations to dismiss**

5 Where the IDC has made a recommendation to Council to dismiss, the Council will review all available evidence and all views / recommendations expressed and consider oral and/or written submissions by the officer before reaching a final decision. The representations made by the officer to Council constitute the appeal process.

Where the IDC decides not to make a recommendation to Council to dismiss it must instead decide whether to take no further action or to take disciplinary action short of dismissal.

### **Right of appeal**

5 Where the IDC decides to take disciplinary action short of dismissal the officer may appeal to the Appeals Committee.

### **Operational matters**

1. In the case of a complaint against the Head of Paid Service, the decision whether to refer the matter to the IDC will be delegated to the Monitoring Officer or Chief Finance Officer.
2. In the case of a complaint against the Monitoring Officer or the Chief Finance Officer, the decision whether to refer the matter to the IDC will be delegated to the Head of Paid Service.

3. In the absence of the statutory officer that holds the relevant delegation in respects of points 1 and 2 of this section, the Executive Director of Place and Economy will also be authorised to deal with these matters.
4. The relevant officers will be given the same right to be accompanied at any disciplinary hearing as all Peterborough City Council employees. Additionally, this will include the right to be accompanied by a legal representative at their own cost.

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