

Investigatory and Disciplinary Arrangements and Procedures

SUMMARY

- 1.1 The Council makes provision for investigatory and disciplinary procedures in relation to statutory officers (Head of Paid Service, Monitoring Officer, Section 151 Officer), non-statutory chief officers (other Strategic Directors) and deputy chief officers (Service Directors) (hereafter referred to collectively as Senior Officers) to be undertaken by a committee of Council in Rules OE14-OE19 within Part 4 of the Council Constitution. The requirement for such a provision exists within the Local Authorities Standing Orders (England) Regulations 2001, and within terms and conditions of service agreed by the respective JNCs in relation to Chief Executives and Chief Officers .
- 1.2 This report seeks to ensure specific arrangements are in place to ensure the rules, and regulations, can be practically applied through the establishment of two committees able to manage disciplinary proceedings and consider appeals in relation to them.
- 1.3 It is proposed to establish two committees for these purposes and to agree the appropriate appointments, procedures and terms of reference.
- 1.4 The report also seeks to ensure appropriate delegations are in place to ensure urgent decisions in relation to disciplinary matters can be taken.

RECOMMENDATIONS

- 2.1 To establish an Investigating and Disciplinary Committee to discharge, on behalf of the council, the function of managing disciplinary proceedings in relation to Senior Officers as specified in the terms of reference at Appendix 2.
- 2.2 To agree to the terms of reference for the Investigating and Disciplinary Committee as detailed in Appendix 2.
- 2.3 To receive nominations and make appointments to the Investigating and Disciplinary Committee as follows:
 - Four Labour (including two Council Cabinet members)
 - Two Conservative (two nominations received – Councillors Hickson and Keith)
 - One other (one nomination received – Councillor Ashburner)

- 2.4 To establish a Disciplinary Appeals Committee to consider certain appeals in relation to matters considered by the Investigating and Disciplinary Committee.
- 2.5 To agree to the terms of reference for the Disciplinary Appeals Committee as detailed in Appendix 3.
- 2.6 To receive nominations and make appointments to the Disciplinary Appeals Committee as follows:
- Four Labour (including two Council Cabinet members)
 - Two Conservative (two nominations received – Councillors Poulter and A Holmes)
 - One other (one nomination received – Councillor Skelton)
- 2.7 To adopt the investigatory and disciplinary procedures detailed in Appendix 4.
- 2.8 To delegate authority to the Investigating and Disciplinary Committee to suspend a Senior Officer.
- 2.9 To authorise the Chief Executive to utilise existing delegated authority for the purpose of suspending statutory officers and chief officers provided that the consent of the Leader of the Council has been granted, where the matter is urgent or where it would be impractical to convene a meeting of the Investigating and Disciplinary Committee.
- 2.10 To delegate authority to the Director of Legal and Democratic Services to authorise necessary amendments to the Council Constitution to reflect the changes detailed in recommendations 2.1 to 2.9.

REASONS FOR RECOMMENDATION

- 3.1 Provision for members to manage disciplinary matters in relation to officers operating at service director level and above, and including statutory officers, exists in Rules OE14-19 within Part 4 of the Council Constitution. It is felt the adoption of specific arrangements, terms of reference and procedures would better enable the practical application of this provision.

SUPPORTING INFORMATION

Background

- 4.1 The Local Authorities Standing Orders (England) Regulations 2001 include requirements relating to how disciplinary matters will be addressed by a local authority for chief officers, deputy chief officers and statutory officers. This is reflected in Rules OE14-19 of the Council Constitution.

- 4.2 Advice from Geldards Solicitors is that the authority would benefit from underpinning the existing provisions with specific arrangements that give effect to model procedures negotiated nationally by the JNCs in relation to Chief Executives and Chief Officers, to be adopted when disciplinary issues arise in relation to those officers. The proposals set out in the recommendations are in line with the relevant regulations, terms and conditions of service and appropriate guidance.

Committee requirements and political balance

- 4.3 Any committee of either the Investigating and Disciplinary Committee or the Disciplinary Appeals Committee would normally comprise three members from the pool of seven, save in the case of proceedings involving the Chief Executive when the committee should be a politically balanced committee comprising of, it is suggested, five members.
- 4.4 A committee which has been convened to consider one aspect of an ongoing investigation or disciplinary matter will be required to comprise the same membership if it is convened to consider another aspect in relation to the same matter, wherever practicable.
- 4.5 The committee pool of seven is recommended to provide capacity in the event that some members are unavailable from time to time. Rules on political balance have been applied, resulting in a political composition for each committee as follows:

Group	Number of members	Proportion of committee	Actual proportion on the council
Labour	4	57 per cent	53 per cent
Conservative	2	28.5 per cent	27.5 per cent
Others	1	14.5 per cent	19.5 per cent

- 4.6 It is a requirement that each committee that sits should include at least one Cabinet Member. In order to ensure flexibility, it is proposed that there should be a minimum of two Cabinet members in each pool from which the committee be drawn.

Delegation of authority to suspend

- 4.7 It is proposed that the Investigating and Disciplinary Committee is ordinarily the appropriate body to authorise the suspension of statutory officers, strategic directors and service directors where necessary.

- 4.8 In urgent cases, or where it is impracticable to convene a meeting of the Investigating and Disciplinary Committee, it is proposed that a specific provision be put in place confirming special arrangements as follows:-
1. The Leader shall have power to suspend the Chief Executive
 2. The Chief Executive shall have power suspend statutory officers and other chief officers on behalf of the Council, where the Leader has been consulted and has agreed that suspension is appropriate in the circumstances..

OTHER OPTIONS CONSIDERED

- 5.1 Advice from Geldards Solicitors is that more specific arrangements are in place rather than the Disciplinary Sub Committee which has previously been utilised, so the option of proceeding with this body has been discounted.

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Estates/Property officer Service Director(s) Other(s)	Janie Berry, Director of Legal and Democratic Services Kim Howell, Geldards LLP Solicitors Not applicable Not applicable Not applicable Not applicable Adam Wilkinson – Chief Executive Phil O'Brien – Head of Democratic Services
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For more information contact: Background papers: List of appendices:	David Walsh 01332 643655 david.walsh@derby.gov.uk None Appendix 1 – Implications Appendix 2 – Investigating and Disciplinary Committee proposed terms of reference Appendix 3 – Disciplinary Appeals Committee proposed terms of reference Appendix 4 – Proposed Investigatory and Disciplinary Procedures in relation to Statutory Officers, Strategic Directors and Service Directors.
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IMPLICATIONS

Financial and Value for Money

- 1.1 None directly arising from this report.

Legal

- 2.1 The requirements for the management of disciplinary matters in relation to statutory officers, Strategic Directors and Service Directors exist within the Local Authorities (Standing Orders) (England) Regulations 2001. While provisions within the Officer Employment Rules in Part 4 of the Council Constitution broadly cover these requirements, the recommendations in the report would ensure much more specific adherence to the requirements. The proposed arrangements in relation to chief officers also seek to give effect to collectively agreed terms and conditions of service in relation to this group of officers.

Personnel

- 3.1 The proposed procedures seek to formalise arrangements which are impliedly incorporated into terms and conditions of service applicable to chief executives and chief officers. As such there would appear to be no personnel specific issues arising directly from this report, except in so far as the adoption of procedures should facilitate greater clarity of process.

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- 4.1 None.

Equalities Impact

- 5.1 None.

Health and Safety

- 6.1 None.

Environmental Sustainability

- 7.1 None.

Property and Asset Management

- 8.1 None.

Risk Management

- 9.1 None.

Corporate objectives and priorities for change

10.1 None.