

Consideration of related disciplinary matters

SUMMARY

- 1.1 Council approved at its meeting on 17 September 2014 the establishment of the Investigating and Disciplinary Committee and Disciplinary Appeals Committee, and the associated procedures and terms of reference. This approval established three investigatory and disciplinary procedures in relation to The Chief Executive, Statutory Officers other than the Chief Executive (the Chief Finance/S.151 Officer and Monitoring Officer) and Chief Officers (Strategic and Service Directors not covered by the above).
- 1.2 Separate policies are already in place establishing disciplinary procedures for officers operating at levels below those identified in paragraph 1.1. However, legal advice has identified the risk that issues relating to officers across levels could result in disciplinary hearings being convened with different decision makers when it would be more appropriate to have the same decision makers consider both related disciplinary cases.
- 1.3 This report seeks to amend the disciplinary procedures and Scheme of Delegations in order to address this risk.

RECOMMENDATION

- 2.1 To approve an amendment to the disciplinary procedures relating to officers operating below director level to enable investigations to be escalated to the Investigating and Disciplinary Committee where they relate to matters either being considered or due to be considered by that committee.
- 2.2 To authorise the Interim Strategic Director of Resources to make consequential changes to the disciplinary procedures relating to officers operating below director level and to report these back to the Personnel Committee for information.
- 2.3 To approve an amendment to the Scheme of Delegations empowering the Head of Paid Service to authorise the appropriateness of a matter being escalated to the Investigating and Disciplinary Committee where the conditions identified in Recommendation 2.1 have been satisfied.

- 2.4 To authorise the Director of Legal and Democratic Services to make consequential changes to the Scheme of Delegations arising from the decision recommended at paragraph 2.3.

REASONS FOR RECOMMENDATION

- 3.1 To address the existing potential issue arising from the approved procedures, which could result in different decision makers considering related disciplinary cases leading to a risk of inconsistent decision making at different levels.

OTHER OPTIONS CONSIDERED

- 4.1 Existing procedures enable investigations to be conducted, but there is a risk of duplication, related matters not being taken into account and an inability to ensure consistency is taken into account when making decisions. For that reason, the option of taking no action is not considered appropriate.

This report has been approved by the following officers:

Legal officer	Charlotte Hutton – Employment Solicitor
Financial officer	N/A
Human Resources officer	Charlotte Hutton – Employment Solicitor
Estates/Property officer	N/A
Service Director(s)	N/A
Other(s)	Phil O'Brien – Head of Democratic Services

For more information contact: Background papers: List of appendices:	David Walsh 01332 643655 david.walsh@derby.gov.uk None Appendix 1 – Implications
---	--

IMPLICATIONS

Financial and Value for Money

- 1.1 None directly arising.

Legal

- 2.1 Where related disciplinary issues arise that potentially implicate Chief Officers and employees the current framework would result in two different disciplinary decision makers (broadly an IDC panel of members for Chief Officers and a single manager for employees) taking decisions in isolation of the other involved party. This risks two different outcomes, which although could potentially be justified depending on the facts, this risk is significantly reduced if the issues are considered by the same decision makers so that a view can be taken considering all of the relevant information and facts.
- 2.2 Currently this situation is not covered by the disciplinary and dismissals policy, which in itself carries a risk of a related claim from an employee in proceeding as recommended in this report. Ensuring the option is available in the policy so that the organisation may refer appropriate matters to an IDC panel will reduce the risk of challenge to procedure by an employee covered by the disciplinary and dismissals policy.

Personnel

- 3.1 In relation to the adaptation of policies as detailed in the recommendations.

IT

- 4.1 None directly arising.

Equalities Impact

- 5.1 None directly arising.

Health and Safety

- 6.1 None directly arising.

Environmental Sustainability

- 7.1 None directly arising.

Property and Asset Management

8.1 None directly arising.

Risk Management

9.1 As detailed within the Legal implications, set out in paragraphs 2.1 and 2.2 of this Appendix.

Corporate objectives and priorities for change

10.1 None directly arising.