

## **Appendix 12 – Officer Employment Procedure Rules**

*To note: all staffing issues are a non-executive function and arrangements or any committees required must be done so by Council and not the Executive and or Leader of the Council.*

### **1 Recruitment and Appointment of Officers**

#### Declarations

- 1.1 The Council will draw up a statement requiring any candidate for appointment as an Officer to state in writing whether they are related to any Councillor or Council Officer or if they have a substantial relationship with any Councillor or Council Officer. Such a relationship would include parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of a Councillor or an Officer of the Council; or of the partner of such persons. No candidate related to a Councillor or an Officer will be appointed without the authority of the relevant Chief Officer or an Officer nominated by them.

#### Seeking support for appointment

- 1.2 The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. No Councillor will seek support for any person for any appointment with the Council.
- 1.3 This does not preclude a Councillor from giving a reference for a candidate for submission with an application for appointment.

#### Appointments

- 1.4 Subject to the paragraphs below and the exceptions detailed therein, the appointment of Officers is the responsibility of the Head of Paid Service, as delegated to Chief Officers or Officers nominated by the Head of Paid Service for their service area under the Officer Scheme

of Delegations at Appendix 1, and such appointments must not be made by Councillors. This provision does not apply to the appointment of the ~~Chief Operating Officer (Head of Paid Service)~~, Chief Officers listed at paragraph 3.4 of Article 11 of this Constitution, or Assistants to Political Groups.

## 2 Appointment of Assistants to Political Groups

2.1 A Group qualifies for an Assistant if:

a. The Membership of that Group comprises of at least one tenth of the membership of the Council;

b. No more than 2 other groups on the Council are larger, or if more than 2 Groups are larger or the same size as the Group, the Council have decided that a post should be allocated to the Group; and

b-c. At least two Groups are seeking an Assistant, one of which is the majority Group on the Council.

2.2 No appointment to a post of Assistant to a Political Group on the Council will be made until such posts have been allocated to each Group which qualifies. No more than 3 such posts shall be created. No Group shall be allocated more than 1 such post and no such post shall be allocated to a Group which does not qualify for one.

2.3 An Assistant to a Political Group may not have delegated to them any of the powers of the Council or of the Executive.

2.4 Appointment of an Assistant to a Political Group shall be made in accordance with the wishes of that Political Group.

~~2.5~~ The appointment of Assistants to Political Groups is a fixed term appointment up to the Annual Meeting following an election.

2.5

## 3 Appointment of the Director of Public Health

- 3.1 A Panel comprising the following will appoint the Director of Public Health:
- a. A Councillor as determined by the Head of HR;
  - b. the Chief Operating Officer or an Officer nominated by them;
  - c. an externally facilitated assessor appointed following consultation with the Faculty of Public Health and agreed by Public Health England;
  - d. The Regional Director of Public Health or their nominated deputy;
  - e. A senior NHS representative to be determined by the Corporate Director of People.
- 3.2 An offer of employment regarding the Director of Public Health appointment shall only be made where no well-founded objection from any Member of the Executive has been received.

#### 4 **Recruitment and Appointment of ~~Chief Operating Officer~~ (Head of Paid Service)**

- 4.1 Where the Council proposes to appoint a ~~Chief Operating Officer~~Head of Paid Service, whether by way of permanent or temporary appointment, and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will draw up a statement specifying:
- a. the duties of the Officer concerned; and
  - b. any qualifications or qualities to be sought in the person to be appointed

- 4.2 The Council will 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 will make arrangements for a copy of the statement set out above to be sent to any person on request.
- 4.3 This procedure at para 4.1 and 4.2 above does not apply where it is proposed that the appointment be made exclusively from among the Council's existing officers. In this instance the Council's internal recruitment policy and procedures will be followed in terms of advertisement of the role.
- 4.4 A Chief Officer Appointments Sub Committee will either interview all qualified applicants for the post or select a shortlist of such applicants and interview those included on the shortlist.
- 4.5 The Chief Officer Appointments Sub Committee must include at least one Member of the Executive and the composition of the Panel will be undertaken in consultation with the Head of HR.
- 4.6 Where no qualified person has applied, or the Chief Officer Sub Committee determines that it has not identified a sufficient shortlist to proceed to interview, the Council will make further arrangements for advertisement of the post.

-Offer of Appointment and Procedure for seeking objections

- 4.7 Any proposal to appoint the Head of Paid Service shall only be made where no well-founded objection from any Member of the Executive has been received. No offer of appointment must be made until:
- a. The Panel proposing to appoint must notify the Head of HR of the name of the person to whom it is proposed the offer is made, together with any other relevant particulars;
  - b. The Head of HR must notify every Executive Member of the name of the person to whom it is proposed the offer of employment is made and any other relevant particulars;
  - c. The period of no more than 5 working days, within which any objection to the making of the offer of employment is to be

made by the Leader, on behalf of Executive, to the Head of HR; and;

- d. Either:
- The Leader has, within the period specified in the notice, notified the Panel appointing that neither he nor any other Executive Member has any objection to the making of the offer; or;
  - The Head of HR has notified the Panel that no objection was received by them within that period from the Leader; or;
  - The Panel appointing is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

4.8 Full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by The Chief Officer Appointments Sub Committee.

**5 Recruitment and Appointment of other Chief Officers ~~including the statutory posts of Monitoring Officer and the Section 151 Officer~~ set out at paragraph 3.4 of Article 11**

5.1 Where the Council proposes to appoint to a Chief Officer ~~(statutory and non-statutory)~~ as defined at paragraph 3.4 of Article 11 of the Constitution, whether by way of permanent or temporary appointment, and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will draw up a statement specifying:

- a. the duties of the Officer concerned; and
- b. any qualifications or qualities to be sought in the person to be appointed.

5.2 The Council will 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 will make arrangements for a copy of the statement set out above to be sent to any person on request.

- 5.3 This procedure at para 5.1 and 5.2 above does not apply where it is proposed that the appointment be made exclusively from among the Council's existing officers. In this instance the Council's internal recruitment policy and procedures will be followed in terms of advertisement of the role.
- 5.4 A Chief Officer Appointments Sub Committee will either interview all qualified applicants for the post or select a shortlist of such applicants and interview those included on the shortlist.
- 5.5 The Chief Officer Appointments Sub Committee must include at least one Member of the Executive and the composition of the Panel will be undertaken in consultation with the Head of HR.
- 5.6 Where no qualified person has applied, or the Chief Officer Sub Committee determines that it has not identified a sufficient shortlist to proceed to interview, the Council will make further arrangements for advertisement of the post.

-Offer of Appointment and Procedure for seeking objections

- 5.7 Any proposal to appoint a Chief Officer as defined at paragraph 3.4 of Article 11 of the Constitution or ~~Deputy Chief Officer~~ shall only be made where no well-founded objection from any Member of the Executive has been received. No offer of appointment must be made until:
- a. The Panel proposing to appoint must notify the Head of HR of the name of the person to whom it is proposed the offer is made, together with any other relevant particulars;
  - b. The Head of HR must notify every Executive Member of the name of the person to whom it is proposed the offer of employment is made and any other relevant particulars;
  - c. The period of no more than 5 working days, within which any objection to the making of the offer of employment is to be

made by the Leader, on behalf of Executive, to the Head of HR; and;

- d. Either:
- The Leader has, within the period specified in the notice, notified the Panel appointing that neither he nor any other Executive Member has any objection to the making of the offer; or;
  - The Head of HR has notified the Panel that no objection was received by them within that period from the Leader; or;
  - The Panel appointing is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

5.8 The appointment of Chief Officers as defined at paragraph 3.4 of Article 11 of the Constitution~~(statutory and non-statutory)~~ will be reported to Full council for noting only. The approval of Full council is not required other than for the post of Head of Paid Service.

5.9 Where the Head of HR is unable to act, the ~~Chief Operating Officer~~Head of Paid Service will nominate another Chief Officer to act in their place.

## 6 Disciplinary Action and Dismissal

6.1 Disciplinary action means any action occasioned by alleged misconduct which, if proved, would according to the usual practice of the authority be recorded on the Officer's personal file, and includes proposals for dismissal for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the Council has undertaken to renew such a contract.

## 7 Action against other Officers (other than Assistants to Political Groups)

- 7.1 Any action against Officers (~~below other than~~ those of ~~CC~~Chief Officers as defined at paragraph 3.4 of Article 11 of the Constitution, or level) (~~other than~~ Assistants to Political Groups) ~~is~~ shall be the responsibility of the Head of Paid Service, as delegated to Chief Officers or Officers nominated by the Head of Paid Service for their service area under the Officer Scheme of Delegations at Appendix 1, and decisions regarding action against these Officers may not be made by Councillors.

## 8 Action of the Director of Public Health

- 8.1 In considering any disciplinary or dismissal action against the Director of Public Health, the Council will have regard to the provisions of Health and Social Care legislation and any associated guidance issued by the Secretary of State.
- 8.2 Before terminating the appointment of a Director of Public Health, the Council will consult with the Secretary of State.

## 9 Statutory Chief Officers

- 9.1 Annex 1 sets out the procedure relating to disciplinary action to be taken against the Head of Paid Service, ~~and the Statutory Chief Officers, namely,~~ the Monitoring Officer, and the Chief Finance Officer (S151 Officer).

## 10 ~~Non-Other Statutory~~ Chief Officers

- 10.1 —Annex 2 sets out the procedure relating to ~~Non-Statutory~~all other Chief Officers, which includes Deputy Chief Officers. The definition of all of these Officers can be found in Section 2 of the Local Government and Housing Act 1989.





## Annex 1

Disciplinary Procedure for the Head of Paid Service (Chief Operating Officer), ~~and Statutory Chief Officers~~: the Monitoring Officer, and Chief Finance (s151) Officer ~~(the Statutory Chief Officers)~~

### 1 Scope of Procedure

- 1.1 This disciplinary procedure is based on that set out in the Joint Negotiating Committee for Local Authority Chief Executives National Salary Framework and Conditions of Service Handbook (the JNC Handbook) as updated on 13 October 2016. It applies to ~~City of York Council's (the Council)~~ Head of Paid Service, ~~(Chief Operating Officer)~~, Monitoring Officer, and Chief Finance Officer (~~the Statutory Chief Officers~~ S151 Officer), jointly referred to as the "Statutory Chief Officers".
- 1.2 This procedure has been adopted by the Council for the purposes of dealing with disciplinary, capability and other substantial issues in relation to the Statutory Chief Officers. For the avoidance of doubt, this procedure also applies to a breakdown in trust and confidence between the Statutory Chief Officers and the Council.
- 1.3 Minor conduct issues can often be resolved informally. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).
- 1.4 The objective of this procedure is to:
  - a. Encourage Officers to achieve and maintain acceptable standards of behaviour;
  - b. Provide a fair and consistent method of dealing with alleged failure to maintain acceptable standards of behaviour;
  - c. Minimise disagreements about disciplinary matters; and
  - d. Reduce the need for disciplinary action and dismissals.
- 1.5 Save where alternative arrangements have been agreed in advance between the Council and the Statutory Chief Officer, the steps set out

in this procedure ~~should~~must be followed. The parties recognize that it may be necessary to depart from the procedure, from time to time, according to the particular circumstances of a case. In such circumstances, both parties agree to give fair consideration to reasonable proposals to modify the procedure accordingly.

- 1.6 This procedure does not form part of a Statutory Chief Officer's contract of employment, and it may be amended at any time, subject to ~~overall~~ compliance with the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended).
- 1.7 Any disciplinary matters will be dealt with sensitively and with due respect for the privacy of any individuals involved. All individuals involved must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

## **2 Initial Filter Stage**

- 2.1 If an allegation of potential misconduct against a Statutory Chief Officer is made, the Head of HR, in conjunction with the Head of Paid Service (or the Monitoring Officer and the Leader if the allegation is against the Head of Paid Service), will conduct a filter process of the allegations.
- 2.2 The Head of Paid Service with the Head of HR (or the Head of HR, the Monitoring Officer, and the Leader, where the allegation is against the Head of Paid Service) will determine whether the allegations should be filtered out of the process on the basis that they are clearly unfounded, trivial, can be dealt with informally or can best be dealt with under some other procedure.
- 2.3 The Head of Paid Service with the Head of HR (or the Head of HR, the Monitoring Officer, and the Leader, where the allegation is against the Head of Paid Service) shall also consider whether early informal resolution of the issues with the Statutory Chief Officer is appropriate, and any final decision as to early resolution of the issues will be made by the Head of Paid Service in conjunction with the Head of HR (or

the Head of HR, the Monitoring Officer, and the Leader, where the allegation is against the Head of Paid Service).

- 2.4 The Head of Paid Service with the Head of HR (or the Head of HR, the Monitoring Officer, and the Leader, where the allegation is against the Head of Paid Service) will conduct an initial review of the allegation, which includes speaking with the Statutory Officer about whom the allegation is made.
- 2.5 This review will be considered by the Head of Paid Service with the Head of HR (or the Head of HR, the Monitoring Officer, and the Leader, where the allegation is against the Head of Paid Service), where this can be resolved informally a meeting will be held with the statutory officer to agree the resolution.
- 2.6 Where an informal resolution is not appropriate, the draft filter report will be shared with the Head of HR and the Chair of the Investigating and Disciplinary Committee (IDC) for comment. The Head of Paid Service (or Monitoring Officer if the complaint is against the Head of Paid Service) will finalise the filter report and will take into consideration the views of the Head of HR and the Chair of the IDC, however, the filter decision is an officer decision for the Head of Paid Service (or the Monitoring Officer where it is against the Head of Paid Service) to determine.
- 2.7 If the Head of Paid Service (or the Monitoring Officer is the compliant is against the Head of Paid Service) decides that the allegations should be filtered out of the process, this shall be the end of the procedure and the Statutory Chief Officer will be sent a letter informing him or her of the decision as soon as possible.
- 2.8 If the Head of Paid Service (or the Monitoring Officer is the compliant is against the Head of Paid Service) decides that the allegations should be progressed, the filter report and evidence considered should be finalised and presented to the IDC.

### **3 Informal resolution**

- 3.1 In accordance with recommendations in the JNC Handbook, the Council and the Statutory Chief Officer should seek an informal resolution before formal disciplinary proceedings are commenced. The Head of HR will be responsible for seeking an informal resolution with the Statutory Chief Officer. If informal resolution is not possible, the Head of Paid Service (~~with Head of HR~~ or the Monitoring Officer if it is about the Head of Paid Service) with Head of HR will inform the Chair of the IDC of the complaint/allegation made against the Statutory Chief Officer and the failure to achieve an informal resolution.

#### **4 Formal Resolution**

- 4.1 At all stages of the disciplinary process, the Council will refer the JNC Handbook for Chief Executives for procedural guidance.

#### **5 Roles and Responsibilities**

- 5.1 Where it appears that an issue has arisen which, if proven, could result in disciplinary action being taken against a Relevant Statutory Chief Officer, the matter will be referred to an Investigating and Disciplinary Committee for consideration at the earliest opportunity.

#### **6 Investigating and Disciplinary Committee (IDC)**

- 6.1 The Investigating and Disciplinary Committee shall be responsible for conducting the preliminary investigation which is further referred to in paragraph 7 below.
- 6.2 The Investigating and Disciplinary Committee should:
- a. Include no fewer than five elected Members;
  - b. Not include any Member with a direct personal involvement in the complaint;
  - c. Be politically balanced; and
  - d. Include at least one Member of the Executive Member.
- 6.3 The Investigating and Disciplinary Committee shall appoint a Chair to oversee the function of the Committee.

- 6.4 The Investigating and Disciplinary Committee may have to:
- a. Meet at short notice; and
  - b. Ensure its members do not have a conflict of interest and therefore substitutes will be required to be appointed by Council.

## **7 Appeals Committee**

7.1 The Council will be required to establish and Appeal Committee.

- 7.2 The purpose of the Appeals Committee is limited to:
- a. Hear appeals against action taken short of dismissal; and
  - b. To take a decision either to confirm the action or to impose no sanction or a lesser sanction.

- 7.3 The Appeals Committee should:
- a. Include no fewer than five elected Members;
  - b. Not include any Member with a direct personal involvement in the complaint;
  - c. Be politically balanced;
  - d. Include at least one Member of the Executive Member.

## **8 Independent Panel**

- 8.1 The council will appoint at least two Independent Persons who have been appointed by the Council or by another council for the purposes of the Council's Code of Conduct procedures pursuant to the Localism Act 2011. Membership of the Panel is in the following priority order:
- a. An independent person who has been appointed by the Council and who is a local government elector in York;
  - b. Any other independent person who has been appointed by the Council; and
  - c. An independent person who has been appointed by another council(s)

- 8.2 The Council will provide appropriate training for Independent panel members.

*NOTE: For the purposes of investigation of the statutory Chief Officers, Independent Persons will be referred to as ~~the~~ Independent Investigators and appointments will be sought from the approved panel held centrally by the JNC Joint Secretaries*

## 9 Timescale

- 9.1 The procedure does not generally incorporate prescriptive timescales as it is recognised that these could be impracticable to achieve in the circumstances of a particular case. Where time limits do apply, they are included within the relevant section of this procedure. However, it is implicit that all stages of the procedure be operated expeditiously by all parties in order to avoid unnecessary delay and prejudice to the interests of all parties.

## 10 Suspension

- 10.1 Suspension is not regarded as disciplinary action under this procedure but as a neutral act which may be implemented where it is envisaged that the Statutory Chief Officer's continuing presence at work might compromise the investigation or otherwise impair the efficient exercise of the Council's functions.
- 10.2 Suspension may also be necessary if an allegation is such that, if proven, it would amount to gross misconduct.
- 10.3 The decision to suspend a Statutory Chief Officer will rest with the Investigating and Disciplinary Committee. Urgent or exceptional cases will include where the continuing presence of the Statutory Chief Officer could be a serious danger to the health and safety of others, or a serious risk to the resources, information, or reputation of the Council. In these cases, the Chair of the IDC can suspend.

- 10.4 Save in urgent or exceptional cases, prior to imposing suspension in any case, the Investigating and Disciplinary Committee shall inform the Statutory Chief Officer, in writing, of the reason for the proposed suspension and the Statutory Chief Officer shall have the opportunity to make representations before a decision is taken.
- 10.5 In urgent or exceptional cases, the Statutory Chief Officer shall be informed of such reasons in writing and may make representations to the Chair of the IDC.
- 10.6 The necessity for the Statutory Chief Officer to remain suspended should be reviewed at regular intervals and, where possible, lengthy periods of suspension should be avoided. Further, specific consideration should be given as to whether alternative working arrangements might be implemented which could avoid the need for the Statutory Chief Officer's suspension, whilst avoiding any prejudice to the investigation or to the efficient exercise of the Council's functions.
- 10.7 Absence from duty during any period of suspension shall be on full pay.
- 10.8 Any suspension should not last longer than 2 months from the day on which it takes effect, and only continued following consultation with the Independent Investigator after taking into account any representations made by the ~~Chief Operating Officer~~Head of Paid Service (or the Monitoring Officer if the complaint relates to the Head of Paid Service).

## 11 Preliminary Investigation

- 11.1 The Investigatory and Disciplinary Committee shall undertake a preliminary investigation into the allegations of conduct or capability, or other issues under investigation in order to determine whether a case to answer appears to exist which requires further consideration.
- 11.2 As soon as practicable, the Chair of the ~~Investigating and Disciplinary Committee~~ will inform the statutory Chief Officer in



writing of the allegations and or issues under investigation and provide any evidence the Committee is to consider and of their right to present oral evidence.

- 11.3 The statutory Chief Officer will be invited to submit written representations and any evidence, including witness evidence, which he or she wishes ~~ed~~ the committee to consider. It is not anticipated that witnesses will be required at an initial hearing, however the discretion to call witnesses lies solely with the Investigating and Disciplinary Committee.
- 11.4 Following very careful consideration of all of the material both relating to the allegations and the submissions by the statutory Chief Officer, the Committee will decide whether:
- a. The issue requires no further formal action under this procedure; OR
  - b. If the matter is not serious but there is some minor fault or error on the part of the statutory Chief Officer, then the Committee can issue an informal unrecorded warning; OR
  - c. The issue should be referred to an Independent Investigator.
- 11.5 The statutory Chief Officer will be informed of the decision without delay.

## **12 Appointment of an Independent Investigator**

- 12.1 The Investigating and Disciplinary Committee will be responsible for the appointment of an Independent Investigator and will be appointed from the list held centrally by the JNC Joint Secretaries.
- 12.2 The Independent Investigator will be provided with all necessary facilities, provision of all information and also be responsible for remuneration of the Independent person.
- 12.3 The ~~statutory~~ Statutory Chief Officer has up to 14 days to agree to the appointment of a selected Independent person, ~~and~~ If the Statutory Chief Officer fails to respond within the 14 days period,

the Committee can go ahead with the selection of an Independent person.

- 12.4 The Investigating and Disciplinary Committee has responsibility for providing the Independent Investigator with
- a. Terms of reference for the investigation;
  - b. Details of the precise allegations and or issues to be investigated;
  - c. Provision of access to sources of information and people identified as relevant to the case;
  - d. Clarity as to timescales and any other known factors which may hinder the investigation e.g., availability or not of individuals.

### **13 The Independent Investigation**

- 13.1 Once appointed the Independent Investigator has full responsibility for the conduct of the investigation and will ultimately prepare a detailed report stating whether in their opinion:
- a. Whether, and if so the extent to which, the evidence obtained supports any allegation of misconduct or incapability or supports a need for action under this procedure for some other substantial reason; and
  - b. Recommending any disciplinary action (if any is appropriate) OR
  - c. Recommending a range of actions which appear to be appropriate for the authority to take against the ~~statutory~~ Statutory Chief Officer.

### **14 Receipt and Consideration of the Independent Investigators Report by the Investigating and Disciplinary committee**

- 14.1 The Investigating and Disciplinary Committee will receive the report and has authority from the council to take a decision on the outcome.
- 14.2 Unless the ~~statutory~~ Statutory Chief Officer is fully exonerated by the report, ~~then~~ he or she will be given an opportunity to state their case before the Investigating and Disciplinary Committee makes a decision. There will also be the opportunity to question witnesses

where relevant.

- 14.3 Having considered all of the material before it and the potential of any new evidence which may arise, the Investigating and Disciplinary Committee may:
- a. Take no further action;
  - b. Recommend informal resolution or other appropriate procedures;
  - c. Refer back to the Independent Investigator for further investigation and report;
  - d. Take disciplinary action against the ~~statutory~~ Statutory Chief Officer short of dismissal; or
  - e. Propose dismissal of the ~~statutory~~ Statutory Chief Officer
- 14.4 The ~~statutory~~ Statutory Chief Officer has a right of appeal against the decision of the Investigating and Disciplinary Committee.

## **15 Circumstances where dismissal of the statutory Chief Officer is proposed**

- 15.1 Where the Investigatory and Disciplinary Committee has determined that dismissal (whether summary or on notice) is the appropriate action in the circumstances, the Council must approve that dismissal before notice of dismissal is given and notice of dismissal must not be issued until an opportunity has been given to Members of the Executive to object to the dismissal.
- 15.2 The Investigating and Disciplinary Committee will notify the Head of HR that it is proposing to the Council that the Statutory Chief Officer be dismissed and that the Executive objections procedure should commence in accordance with the Local Authorities (Standing Orders)\_(England) Regulations 2001.
- 15.3 The Head of HR will notify all Members of the Executive of:
- a. The fact that the Investigating and Disciplinary Committee is proposing to the Council that it dismisses the Statutory Chief Officer;
  - b. Any other particulars relevant to the dismissal; and

- c. The period by which any objection to the dismissal is to be made by the Leader on behalf of the Executive, to the Head of HR.
- 15.4 At the end of the period of notification, the Head of HR will inform the Sub Committee that either:
- a. The Leader has notified that neither they nor any Member of the Executive has any objection to the dismissal;
  - b. No objections have been received from the Leader in the period;  
or
  - c. An objection or objections have been received and provide details of the objections.
- 15.5 The Investigating and Disciplinary Committee shall consider any objections and satisfy itself as to whether any of the objections are both material and well founded. If they are well founded, the Investigating and Disciplinary Committee will act accordingly which may include consideration of the impact of the Executive objections on the Investigation Report and relevance to the sanction or the commissioning of further investigation by the Independent Investigator.
- 15.6 Once the Investigating and Disciplinary Committee is satisfied that there are no material and well-founded objections to the proposal to dismiss, it will inform the Statutory Chief Officer of the decision and put that proposal to the Independent Panel along with the Independent Investigators report and any other necessary material or documentation it considers appropriate.

## **16 Appointment and role of the Independent Panel**

- 16.1 The Independent Panel must be appointed at least 20 days before the meeting of Council at which the recommendation for dismissal is to be considered.
- 16.2 The role of the Panel is to offer any advice, views or recommendations it may have to Council on the proposal for dismissal.

- 16.3 The Panel will receive all necessary material including the Independent Investigators report and the representations of the ~~statutory~~ Statutory Chief Officer and the Panel may ask the Independent Investigator and the ~~statutory~~ Statutory Chief Officer questions if required.
- 16.4 The Panel will then formulate advice, views and recommendations it wishes to present to Council. If the Panel is recommending an alternative course of action to dismissal then it should provide clear reasons.

## **17 Role of Full Council**

- 17.1 Council is required to approve the dismissal before a notice of dismissal is issued.
- 17.2 The ~~statutory~~ Statutory Chief Officer may attend council to put forward their views and may also be represented.
- 17.3 The Council is at liberty to reject the proposal to dismiss and may substitute a lesser sanction and in some circumstances may refer the matter back to the Investigating and Disciplinary Committee to determine the sanction.

## **18 Appeals against dismissal**

- 18.1 Where the Investigating and Disciplinary Committee makes a proposal to dismiss a ~~statutory~~ Statutory Chief Officer, the hearing by Council will fulfil the appeal function.

## **19 Appeals against action short of dismissal**

- 19.1 The Statutory Chief Officer shall have the right to appeal the Investigating and Disciplinary Committee's decision to the Appeal

Committee. The Statutory Officer Appeals Committee will consider the report of the Independent Investigator and any other relevant information considered by the Investigating and Disciplinary Committee.

- 19.2 The process for appeal will be conducted in accordance with the Council's existing policies relating generally to all employees.
- a. The Statutory Officer Appeal Committee will give careful consideration to all of the material before it, including the views of the ~~statutory~~ Statutory Chief Officers, and may conduct any further investigation it considers necessary to reach a decision.
  - b. The decision of the Statutory Officer Appeals Committee is final.

## Annex 2

### Disciplinary Procedure for Non Statutory Chief Officers

#### 1 Scope of Procedure

- 1.1 For all formal disciplinary related matters in respect of a non-statutory-Statutory Chief Officer, the Council's existing HR policies and procedures will apply.

#### 2 Initial Filter Stage

- 2.1 If an allegation of potential misconduct against a non-statutory Chief Officer is made, the Head of Paid Service (or as delegated to their Chief Officer), in conjunction with the Head of HR, will conduct a filter process of the allegations.
- 2.2 The Head of Paid Service (or as delegated to their Chief Officer), will determine whether the allegations should be filtered out of the process on the basis that they are clearly unfounded, trivial or can best be dealt with under some other procedure.
- 2.3 The Head of Paid Service (or as delegated to their Chief Officer shall also consider whether early informal resolution of the issues with the non-statutory-Statutory Chief Officer is appropriate, any final decision as to early resolution of the issues will be made by the Head of HR.
- 2.4 If an informal resolution is not appropriate, the Head of Paid Service (or as delegated to their Chief Officer) will consider the evidence and, unless the matters are clearly unfounded or trivial, the Head of Paid Service (or as delegated to their Chief Officer) may contact the non-statutory-Statutory Chief Officer informing him or her of the allegations and asking for their representations. A meeting may be arranged by the Head of Paid Service (or as delegated to their Chief Officer) with the non-statutory-Statutory Chief Officer to discuss the allegations.

- 2.5 Having discussed the non-~~statutory~~ Statutory Chief Officer's views and evidence available, the Head of Paid Service (or as delegated to their Chief Officer) will draft an initial filter report.
- 2.6 The draft filter report will be shared with the Head of HR for comment. The Head of Paid Service (or as delegated to their Chief Officer) will finalise the filter report and will take into consideration the views of the Head of HR.
- 2.7 If the ~~Head of Paid Service~~ (or as delegated to their Chief Officer) decides that the allegations should be filtered out of the process, this shall be the end of the procedure and the non-statutory Chief Officer will be sent a letter informing him or her of the decision as soon as possible.
- 2.8 If the Head of Paid Service (or as delegated to their Chief Officer) decides that the allegations should be progressed, the filter report and evidence should be finalised. This should include comments from Head of HR, and Head of Paid Service if this has been delegated to Chief Officers.
- 2.9 In the event that there is a case to answer, the procedures as detailed within the Council's existing HR policies will commence.