

## **ARTICLE 15 B – INVESTIGATING AND DISCIPLINARY COMMITTEE & CHIEF OFFICER APPEALS COMMITTEE**

### Investigating and Disciplinary Committee (IDC)

#### **1 Composition**

- 1.1 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 in question;
  - c) Be politically proportionate;
  - d) Be gender balanced;
  - e) Include at least one Member of the Executive.
- 1.2 The Investigating and Disciplinary Committee members shall appoint a Chair by majority vote to oversee the function of the Committee.
- 1.3 The Investigating and Disciplinary Committee may have to:
  - a) Meet at short notice;
  - b) Ensure its members do not have a conflict of interest and therefore substitutes will be required to be appointed by Full Council

#### **2 Roles and Responsibilities**

- 2.1 The committee will:
  - a) Deal with all matters of discipline relating to Chief Officers employed by the Council under Joint Negotiating Committee (JNC) terms and conditions in accordance with the relevant procedures set out in Appendix 12 of this Constitution; and
  - b) Review and make recommendations to Council to amend the disciplinary procedures from time to time. However, in doing so, the committee is required to have regard to any changes to the model procedures, contained in the JNC Conditions of Service for Chief Executives and the JNC Conditions of Service for

Chief Officers respectively, which may be implemented from time to time.

### Definition of Chief Officer

- 2.2 At City of York Council, a Chief Officer post is the Chief Operating Officer, all Corporate Directors, all Directors and all Assistant Directors. All other posts in the Council's structure are classed as non-chief officers.

### Chief Officer Appeals Committee

## **3 Composition**

- 3.1 The Council will be required to establish a Chief Officer Appeal Committee.
- 3.2 The purpose of the Chief Officer 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.
- 3.3 The Chief Officer 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 proportionate;
  - d) Be gender balanced; and
  - e) Include at least one Member of the Executive Member.
- 3.4 The Chief Officer Appeals Committee members shall appoint a Chair by majority vote to oversee the function of the Committee.
- 3.5 The Chief Officer Appeals Committee may have to ensure its members do not have a conflict of interest and therefore substitutes will be required to be appointed by Full Council

## **4 Roles and Responsibilities**

### Chief Officers

- 4.1 The committee will deal with appeals from Chief Officers employed by the council under Joint Negotiating Committee (JNC) terms and conditions arising out of disciplinary action taken against them by the Council's Investigating and Disciplinary Committee, in accordance with the relevant procedures set out in Appendix 12 of this Constitution and which may be amended from time to time by the JNC handbook for Chief Executives and or the JNC Chief Officer Handbook.
- 4.2 Appeals from non-Chief Officers is dealt with under the Corporate Appeals Committee.

## **5 Nature of Chief Officer Appeals Committee**

- 5.1 Appeals are heard as a measure of good administration, they are not statutory. The Chief Officer Appeals Committee observes the rules of natural justice and to that end:
- a) No Member of the Committee should have a vested interested in the outcome of the proceedings or any involvement in an earlier stage of the proceedings;
  - b) All parties should be given an equal opportunity to present their case without unreasonable interruption;
  - c) The decision of the Committee is based on the written evidence submitted and the evidence submitted at the Meeting;
  - d) All written evidence must have been seen by all parties. If a new issue arises during the proceedings, parties should be offered an opportunity to consider and comment on it;
  - e) Council policies are not applied in a blanket fashion. They are considered in relation to the circumstances of each Appeal.

## **6 Procedure**

- 6.1 The following formal procedure will normally be observed:
- a) The Appellant and/or their representative and the Officers appearing for the Council are invited into the Meeting;

- b) The Chair of the Appeals Committee will confirm the nature of the appeal and ensure that the Appellant and/or their Representative are aware of the procedure to be followed;
- c) The Council's Representative(s) will be invited to present the Council's case;
- d) The Committee will be invited to put questions to the Council's Representative;
- e) The Appellant and/or their Representative will be invited to put questions to the Council's Representative(s);
- f) The Appellant and/or their Representative will be invited to present their case;
- g) The Committee will be invited to put questions to the Appellant and/or their Representative;
- h) The Council's Representative(s) will be invited to put questions to the Appellant and/or their Representative;
- i) The Council's Representative(s) will be invited to make a closing statement;
- j) The Appellant and/or their Representative will be invited to make a closing statement;
- k) The Appellant and/or their Representative and the Council's Representative(s) will be asked to leave the Meeting while the Committee considers the evidence;
- l) As soon as practicable, but no more than five working days after the Committee has made its decision, the Democracy Officer will notify in writing the parties of the Committee's decision. The notification should give the Committee's decision and reasons for that decision, which should be clear and easy to understand.

6.2 The panel will be supported by HR and / or legal professionals. These representatives could be internal or external to the authority depending on the case. The representatives will be confirmed and communicated to all involved at the initial set up of the panels.

6.3 In line with the JNC Chief Executive Handbook, where an investigation has taken place, an Independent Investigator will be appointed and they will be expected to feedback into the IDC and statutory chief officer appeal committee where required.