

4.9-100719

Officer Disciplinary Procedure Rules for Officers Subject to JNC Terms and Conditions

1. Establishing if there is a case to answer

Where there is a serious complaint or a misconduct allegation received against a Protected Officer (Head of Paid Service, Monitoring Officer or Section 151 Officer) or other Chief Officer of the Council, an Investigating Panel will be convened to consider the seriousness of the allegation, if there is potentially a case to answer and whether an investigation is required. The Council's Investigating Panel will be comprised of a minimum of 3 people dependent on who the allegation is against:

- Leader or Deputy Leader
- Chief Executive
- Section 151 Officer
- Monitoring Officer
- Chief Operating Officer
- Strategic HR Manager

Where it is confirmed there is a potential case to answer, North West Employers or other organisation will be contacted to assist in identifying a suitably qualified independent investigator.

Where the conclusions of the independent investigator's report to the Investigating Panel are that the allegation is one that could constitute dismissal or disciplinary action short of dismissal the matter will be referred to the relevant Investigating Committee detailed below for a disciplinary hearing to be held.

The process will be in line with approved investigatory processes and the model disciplinary procedures set out in the terms and conditions in the Joint Negotiating Committee for Local Authority Chief Executives and for Chief Officers of Local Authorities (the JNC Terms and Conditions) (whichever is appropriate).

In case of conflict between these Collective Agreements and the Council's agreed procedures the Council's procedures shall prevail.

2. Protected Officers - Head of Paid Service, Monitoring Officer and S151 Officer

The **Investigating Committee for Protected Officers**, i.e. the Head of Paid Service, Monitoring Officer and S151 Officer - shall comprise of at least five elected members of the Council appointed on a politically balanced basis, to include the Leader and/or Deputy Leader and other senior members.

This Committee must be appointed by the Council at least 20 working days before the relevant meeting.

The Investigating Committee for Protected Officers will comprise:

- Leader
- Deputy Leader
- Executive Member for Resources and Performance Management
- Chair of the Scrutiny Committee
- Vice Chair of the Scrutiny Committee

4.9-100719

If as a result of the Committee's findings there is a proposal to dismiss a Protected Officer of the Council, the reports of the Investigating Committee for Protected Officers and the Independent Investigator should then be sent to an Independent Panel for its consideration prior to the proposal being considered by the Council.

The Council will be required to approve a proposal to dismiss the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer only following the receipt of advice, views or recommendations from the Council's Investigating Committee for Protected Officers which have been verified by a panel of Independent Persons.

The Independent Panel shall comprise at least two independent persons appointed by the Council under section 28(7) of the Localism Act 2011 or, in the case of the Council having insufficient independent persons, such person(s) appointed by another authority for the same purpose, such persons being appointed to the Independent Panel in the following priority order -

- a relevant independent person who has been appointed by the authority and who is a local government elector;
- any other relevant independent person who has been appointed by the authority
- an independent person who has been appointed by another authority or authorities.

Council - Before the taking of a vote at the relevant meeting of the Council on whether or not to approve the dismissal proposal, the Council must take into account, in particular:

- the conclusions of any investigation into the proposed dismissal;
- any advice, views or recommendations of the Disciplinary Committee;
- any representation from the Protected officer; and
- the views and conclusions of the Independent Panel.

3. Investigating Committee for other officers employed on JNC Terms and Conditions

The Investigating Committee will comprise:

Leader or Deputy Leader
Relevant Executive Member
Chair (or sub Vice Chair) of the Scrutiny Committee

This committee will be advised by the Chief Executive or the Chief Operating Officer and the Strategic HR Manager as appropriate.

Where the relevant Executive Member is the Leader or Deputy another Member of the Executive could make up the three.

The Council is **not** required to approve a proposal to dismiss Chief Officers other than Protected Officers.

4. Terms of Reference of the Investigating Committees

The Investigating Committee will consider the investigatory report and provide the officer under investigation with the opportunity to state his/her case before making a decision and in line with JNC Terms and Conditions, may decide to:

- take no further action;
- state their opinion as to whether (and if so to what extent) the evidence they have obtained supports any allegation of misconduct against the chief officer;
- determine the disciplinary action (if any) or a range of actions which appear appropriate to take against the chief officer. The appropriate action will be drawn from the following list: –
 - a. a recorded verbal warning;
 - b. a written warning;
 - c. suspension on half pay or no pay for a specified period;
 - d. reduction in salary for a specified period;
 - e. an invitation to resign or accept retirement;
 - f. dismissal with notice; (not Protected Officers)
 - g. dismissal without notice; (not Protected Officers)
 - h. recommend informal resolution or other appropriate procedures;
 - i. refer back to the Investigating Officer for further investigation and report
 - j. other disciplinary action short of dismissal.

If there is a recommendation to dismiss a Protected Officer, the reports and notes of the Investigating Committee for Protected Officers and the Independent Investigator should then be sent to the Independent Panel for its consideration prior to advising the Council.

5. Appeals

For Protected Officers an appeal against a proposal to dismiss will be considered at the Council meeting where the proposal is being considered. This would also include redundancy dismissals.

All other disciplinary appeals from Investigating Committees may be made to an JNC Appeals Committee constituted for that purpose.

6. General

If, by the application of these rules the membership of the Committee does not include at least one Member of an opposition group, then the Leader of the largest opposition group (or their nominee) will be substituted for the, or one of the Scrutiny places on the Committee.

The Investigating Committees will not include any member or officer with a direct personal involvement in the complaint or who has participated in the preliminary investigation.

7. Other matters

- (a) **Suspension.** The Head of Paid Service, Monitoring Officer and 151 Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months in order for such further period as directed by the Designated Independent Person in accordance with the JNC Terms and Conditions.

Suspension of all other officers on the JNC Terms and Conditions should be reviewed on a regular basis and where possible lengthy periods of suspension should be avoided.

- (b) Subject to the Rules contained in this Part and Council Policy relating to the discipline of officers not subject to the JNC Terms and Conditions **Members** will not be involved in the dismissal of any officer except where that involvement is necessary for any investigation or inquiry into alleged misconduct or to hear an appeal.
- (b) **Redundancy - proposal to dismiss Head of Paid Service, Monitoring Officer and S151 Officer**

Any proposal that potentially involves the redundancy dismissal of the Head of Paid Service, 151 Officer or Monitoring Officer must be first considered by the Independent Panel prior to the decision being taken by Council.