

REPORT TO: FINANCE AND MANAGEMENT AGENDA ITEM: 12  
COMMITTEE  
DATE OF MEETING: 2<sup>nd</sup> SEPTEMBER 2004 CATEGORY: DELEGATED  
REPORT FROM: CHIEF EXECUTIVE OPEN  
MEMBERS' CONTACT POINT: DAVID CLAMP (EXT 5729) DOC:  
SUBJECT: SENIOR OFFICER DISMISSALS REF: pers/reports  
PROCEDURE  
WARD(S) AFFECTED: ALL TERMS OF REFERENCE: FM05

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## 1.0 Recommendations

- 1.1 That the procedure outlined in appendix A is approved for any disciplinary action taken in respect of Divisional Managers (proposed under the senior management restructure that these posts be retitled Heads of Service), Directors or the Head of Paid Service.
- 1.2 That the existing practice of delegating disciplinary action below this level i.e. Heads of Service (see above), to officers should continue.
- 1.3 That Council is recommended to amend the Constitution to reflect the procedure by extending the Terms of Reference – FM05 to include reference to the posts of Heads of Service.
- 1.4 That a further report be brought to Committee in relation to providing an appeal process within the disciplinary procedure for the Head of Paid Service when further advice from the Employers Organisation is received.

## 2.0 Purpose of Report

2.1 The purpose of this report is to

- outline the roles of Members who maybe involved with the discipline of Senior Officers
- provide a procedure that reflects the Council's existing Policy
- take into account The Local Authorities (Standing Orders) (England) Regulations 2001
- promote best practice and consistency
- enable adherence to the Council's Equal Opportunity Policy
- suggest amendments to the Council's Constitution
- clarify the role of the Independent Designated Person in matters relating to the Head of Paid Service and Statutory Officers namely Director – Corporate Services (Section 151 Officer) and Head of Legal and Democratic Services (Monitoring Officer).
- Detail the right of appeal

### 3.0 Detail

- 3.1 The Local Authorities (Standing Orders) (England) Regulations came into force in November 2001 ("the Regulations"). They were designed to achieve a number of policy aims and provide clarity on the involvement of Elected Members in the appointment and dismissal of Senior Officers.
- 3.2 Under the Regulations, Elected Members may take part in the appointment, dismissal or disciplinary action in respect of;
- The Head of Paid Service
  - Statutory Officers (Section 151 Officer and Monitoring Officer)
  - Non-statutory Chief Officers (who report directly to the Head of Paid Service or to the Full Council) – Members of Corporate Management Team for the Council.
  - Deputy Chief Officers (Officers who report directly to a Chief Officer) – Heads Of Service (see above)
  - Political assistants – none
  - Mayor's Assistant – none
- 3.3 The Regulations provide that the disciplinary action should be undertaken by a Council Committee currently Finance and Management or appointed Sub-Committee. For the Head of Paid Service this should be undertaken by Full Council or appointed Sub-Committee.
- 3.4 The Regulations enable Members of the Finance and Management Committee to raise objections against disciplinary sanctions imposed only on the grounds that they are material and well founded. Following the action, every Member of the Committee will be notified and given 3 days to respond.
- 3.5 Formal notification of the action taken will then only be made where the Chair of the Committee has confirmed that no objections have been raised or where objections have been raised, the Chair is satisfied that they are not material or well founded. It is advised that the Committee's right under these Regulations are merely to make representations. It does not provide a right to change a decision to take disciplinary action, including dismissal.
- 3.6 For an objection to be valid it must be both material and well founded. This is intended to apply such that any matter raised is based clearly on facts and not suspicion or hearsay. It must also be material to the process followed and the post involved and duties required to be undertaken.
- 3.7 The appropriate Council Committee – Finance and Management at present or Full Council for the Head of Paid Service, should formally record decisions taken against Officers. It should include a note to confirm the existence or not of any objections raised and the decision taken.
- 3.8 It is noted that different arrangements would apply for disciplinary action taken against the post of Head of Paid Service.

## **4.0 Appeals**

- 4.1 It is held as best practice to enable an appeal against any decision taken in disciplinary matters. In relation to action relating to the Head of Paid Service, it could be viewed that having to seek approval by Full Council would then prevent any further internal appeal as all Elected Members would have been involved. Advice on this matter has been sought from the Employers Organisation who is currently reviewing the practical implications of these Regulations. Initially it is viewed seeking the approval of Full Council enables an appeal in lieu. Therefore any further action would need to be taken outside of the Council.
- 4.2 Further to this the statutory disciplinary procedure that is effective from 1<sup>st</sup> October 2004, will provide for an appeal to be included as part of any disciplinary procedure for employees. Clearly this would create procedural difficulties in matters relating to the Head of Paid Service
- 4.3 For other Senior Officers, including Statutory Officers, it is proposed for an appeal Panel to be comprised of Members from Full Council, subject to the Panel Members having no previous involvement in the matter.
- 4.4 In this situation consideration would need to be given in respect of who will present the case on behalf of the Council. The options could be the Chair of the Committee who made the original decision, any independent person used or the Head of Personnel.

## **5.0 Financial Implications**

- 5.1 None arising directly from the report

## **6.0 Corporate Implications**

- 6.1 The revised procedure will form part of the Councils disciplinary procedure and the Officer Employment Procedure Rules for Senior Officers.

## **7.0 Community Implications**

- 7.1 None

## **8.0 Conclusions**

- 8.1 Compliance with the Regulations will ensure consistency and transparency with the discipline of Senior Officers.
- 8.2 This procedure will also clarify the role of Elected Members and their rights of representations.

## **9.0 Background Papers**

9.1 Councils Disciplinary Procedure

9.2 The Local Authorities (Standing Orders) (England) Regulations 2001.

9.3 National Terms and Conditions of Employment covering Chief Executive's and Senior Officers.