

REPORT TO:	APPOINTMENTS COMMITTEE 19 February 2021
SUBJECT:	Statutory Chief Officer Disciplinary Procedure
LEAD OFFICER:	Katherine Kerswell, Interim Chief Executive
WARDS:	All
FINANCIAL IMPACT:	
<p>There are no financial implications arising directly from the recommendations in this report, however any disciplinary matters that proceed to formal investigation will incur significant additional costs relating to the remuneration of independent investigators (at a daily rate set by the JNC), external advice to Members and any necessary training for Members.</p>	

1. RECOMMENDATIONS

The Committee is asked to:

- 1.1 Note and receive the Statutory Chief Officer Disciplinary Procedure agreed by the Ethics Committee that is appended to this report and agree that that Procedure will apply to the Committee's functions in paragraph 2.1(6) of Part 3 of the Constitution and as set out in this report;
- 1.2 Agree that an Appointments (Investigating and Disciplinary) Sub-Committee be constituted in line with the Procedure, which Sub-Committee is to have the Terms of Reference appended to this report; and
- 1.3 Agree that an Appointments (Appeals) Sub-Committee shall be constituted in line with the Procedure.

2. EXECUTIVE SUMMARY

- 2.1 This report asks the Committee to note and receive a Statutory Chief Officer Disciplinary Procedure that has recently been considered by the Ethics Committee. That procedure is the JNC Model Disciplinary Procedure. It provides for the procedure that must be followed in relation to disciplinary matters relating to statutory chief officers. The Committee is asked to note that Ethics Committee was recommended to approve that Procedure for use in relation to such matters and to disciplinary matters against non-statutory chief

officers that are referred to the Appointments (Investigating and Disciplinary) Sub-Committee by the Head of Paid Service, as outlined in the Procedure..

- 2.2 The report further asks the Committee to constitute an Appointments (Investigating and Disciplinary) Sub-Committee, which Sub-Committee is to have the Terms of Reference as appended to this report, and an Appointments (Appeals) Sub-Committee in line with the Procedure.

3. STATUTORY CHIEF OFFICER DISCIPLINARY PROCEDURE

- 3.1 The Constitution currently makes provision for the Appointments Committee to consider disciplinary matters above a defined threshold that relate to the Head of Paid Service, Monitoring Officer and the Section 151 Officer, collectively known as the Statutory Chief Officers and to consider staffing matters that are referred to it by the Head of Paid Service.
- 3.2 At its Annual Meeting on 21 May 2015, Council agreed that consideration of such issues should be in keeping with processes and procedures agreed by the Ethics Committee. At that meeting, Council also delegated responsibility to the Ethics Committee to agree those processes and procedures.
- 3.3 At a meeting due to be held on the morning of 19 February 2021, the Ethics Committee will be considering a report that details the draft Statutory Chief Officer Disciplinary Procedure, a copy of which is attached to this report at appendix 1.
- 3.4 Given the time of the meeting of the Ethics Committee, any amendments or comments that it makes on the draft procedure will be relayed verbally to the meeting.
- 3.5 The Committee is asked to adopt the procedure from the Ethics Committee and agree that this is the procedure that will be followed in relation to any Statutory Chief Officer disciplinary matters and to disciplinary matters against non-statutory chief officers that are referred to the Appointments (Investigating and Disciplinary) Sub-Committee by the Head of Paid Service, as outlined in the Procedure..

4. CONSTITUTING AN APPOINTMENTS (INVESTIGATING AND DISCIPLINARY) SUB-COMMITTEE

- 4.1 Subject to the Ethics Committee agreeing the procedure detailed above, the Committee will be required to consider constituting an Appointments (Investigating and Disciplinary) Sub-Committee, proposed terms of reference for which are attached to this report as Appendix Two, and to constitute an Appointments (Appeals) Sub-Committee.
- 4.3 Should a referral be made to the Appointments (Investigating and Disciplinary) Sub-Committee pursuant to the matters considered by Appointments Committee at its meeting on 17 February 2021, this Committee is asked to note

that it will be convened and i hold its first meeting on a date, subject to Member availability, during the week commencing 15 March 2021.

- 4.5 The Committee should also note that any Members chosen to sit on the Appointments (Investigating and Disciplinary) Sub-Committee will be provided with relevant training by the LGA before the Sub-Committee first sits.

6. CONSULTATION

- 6.1 While this report has not been the subject of consultation in its own right, the draft procedure being considered by the Ethics Committee reflects the Model Disciplinary Procedure detailed in the JNC for Chief Executives Handbook 2015 which has been subject to its own consultation.
- 6.2 The procedure also reflects the Council's duties under the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended), which have also been subject to their own consultation.

7. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 7.1 There are no financial implications arising directly from the recommendations in this report, however any disciplinary matters that proceed to formal investigation will incur significant additional costs relating to the remuneration of independent investigators (at a daily rate set by the JNC), external advice to Members and any necessary training for Members.

8. LEGAL CONSIDERATIONS

- 8.1 The Interim Director of Law & Governance comments that external legal advice has been sought on the content of this report and that advice is as follows:
- 8.2 The report to the Ethics Committee asked Ethics Committee to note that the procedure that it was recommended to approve was the Model Disciplinary Procedure (detailed in Appendix 5 of the Joint Negotiating Committee (JNC) for Chief Executives Handbook 2015).

9. HUMAN RESOURCES IMPACT

- 9.1 There are no direct additional Human Resources impacts beyond those detailed in the main body of this report.

Approved by: Sue Moorman

10. DATA PROTECTION IMPLICATIONS

- 10.1 **WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?**

Should the Committee resolve to establish an Investigating and Disciplinary Sub-Committee, any officers involved have rights of privacy and the information shared as part of that procedure will only be shared:

- for the purposes of any actions required under the procedure;
- with those necessary to comply with the procedure; and
- with those bodies and persons detailed in the procedure where it is necessary to do so.

The council would ordinarily consider this information to be exempt from any requests submitted under the Freedom of Information Act by reason of the exemption under section 40 of that Act.

Any information shared will be processed in accordance with the Workforce Data Protection Policy.

Approved by Elaine Jackson, Interim Assistant Chief Executive

CONTACT OFFICER: Katherine Kerswell, Interim Chief Executive

APPENDICES TO THIS REPORT

Appendix 1 – Report to the Ethics Committee, 19 February 2020 “Statutory Chief Officer Disciplinary Procedure”

Appendix 2 – Terms of Reference for the Appointments (Investigating and Disciplinary) Sub-Committee

BACKGROUND DOCUMENTS: There are no unpublished documents on which this report has been based.