

## Disciplinary Procedure for Statutory Officers

To: Constitution and Ethics Committee

Meeting Date: 23 April 2024

From: Service Director: Human Resources

Outcome: To consider changes to the Council's Constitution to ensure compliance with the Local Authorities (Standing Orders) (England) Regulations 2015.

Recommendation: The Committee is asked to recommend to Full Council revisions to the Constitution set out in Appendices A and B of the report.

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# 1. Background

- 1.1 The Local Authorities (Standing Orders) (England) Regulations 2015 set out a process which councils must follow in taking disciplinary action against a Head of Paid Service, a Monitoring Officer, or a Chief Finance Officer.
- 1.2 At its meeting on 23 June 2015, the Constitution and Ethics Committee considered proposed revisions to Part 4.7 of the Constitution (Officer Employment Rules), which were subsequently approved by Full Council on 21 July 2015.

# 2. Main Issues

- 2.1 The arrangements for considering whether to dismiss the Head of Paid Service, Chief Finance Officer and Monitoring Officer have been reviewed to make sure the Council complies with the Regulations.

## Terms of Reference

- 2.2 There is a need to establish an Investigating and Disciplinary Committee (IDC) to deal with disciplinary matters relating to the “relevant officers”. The Service Appeals Sub-Committee currently has delegated authority to act as an IDC to consider any disciplinary issues in relation to the Chief Executive, Monitoring Officer or Section 151 Officer, as detailed in the Council’s Disciplinary Procedure for Statutory Officers. However, there is no provision in its terms of reference for the suspension of “the relevant officers”.
- 2.3 There is currently no Appeals Committee to deal with disciplinary matters short of dismissal relating to the relevant officers, and it is proposed that the Staffing and Appeals Committee undertake this function.
- 2.4 There is a need to establish an Independent Panel comprising two people appointed under Section 28 of the Localism Act to advise Council, in the event of a recommendation from the IDC to dismiss a “relevant officer”. It is proposed that the Staffing and Appeals Committee should undertake this function.
- 2.5 It is important that members of the Service Appeals Sub-Committee acting as the IDC, who may be members or substitute members of the Staffing and Appeals Committee, do not act as the Appeals Committee or Independent Panel referred to above. Wording has therefore been included in the terms of reference of the Service Appeals Sub-Committee to avoid this conflict.
- 2.6 Appendix 1 sets out the changes to the terms of reference of both committees to reflect the issues raised above (additions in bold).

## Officer Employment Procedure Rules

- 2.7 The need to reference the appointment of an Investigating and Disciplinary Committee (IDC) is highlighted in bold in The Officer Employment Procedure Rules, attached at Appendix 2.

## Disciplinary Procedure for Statutory Officers

- 2.8 The Disciplinary Procedure for Statutory Officers, which is not included in the Constitution, would need to be amended to reflect the changes to the Constitution, if approved by Full Council.

## 3. Source Documents

- 3.1 [Constitution and Ethics Committee Minutes – 23 June 2015](#)
- 3.2 [Council Minutes – 21 July 2015](#)
- 3.3 [The Local Authorities \(Standing Orders\) \(England\) \(Amendment\) Regulations 2015 \(legislation.gov.uk\)](#)

## 11. Staffing and Appeals Committee

### Membership

Nine members of the Council. The Chair and Vice-Chair of the Staffing and Appeals Committee shall be selected and appointed by the Staffing and Appeals Committee.

When determining the remuneration policy for Cambridgeshire County Council employees, the committee shall be advised by the Chief Executive and the **Service** Director: HR Services, or their nominees. The committee may, having sought the advice of the **Service** Director: HR Services, choose to be advised by an external independent adviser.

N.B. The Chair of the Staffing and Appeals Committee shall be authorised to approve the co-option of representatives from partner agencies onto the committee in a non-voting capacity, where this is considered relevant to the appointment being made.

### Summary of Functions

The committee has delegated authority to exercise the Council's functions in respect of all matters, save those otherwise reserved to other bodies, relating to the employment of the Council's officers and contractors including determining the terms and conditions of employment.

Delegated Authority	Delegation/ Condition
<p>Authority to determine the policy regarding the remuneration of statutory and non-statutory chief officers (including deputies) of Cambridgeshire County Council; and to implement and make decisions pursuant to and in accordance with that policy.</p> <p>For the avoidance of doubt the term statutory and non-statutory chief /deputy chief officers has the same meaning as that contained in S.2 (6), (7) and (8) of the Local Government and Housing Act 1989.</p>	Subject to the approval of Full Council where required
Authority to undertake the selection of and to appoint statutory officers and executive directors in accordance with the Council's Officer Employment Procedure Rules.	Subject to the approval of Full Council where required
<b>Authority to consider appeals against disciplinary sanctions short of dismissal in relation to the Chief Executive, Monitoring Officer or Section 151 Officer as detailed in the Disciplinary Procedure for Statutory Officers.</b>	
<b>Authority to act as an Independent Panel to advise Council in the event of a recommendation from the Service Appeals Sub-Committee acting as the Investigating and Disciplinary Committee (IDC) to dismiss a relevant officer.</b>	

Delegated Authority	Delegation/ Condition
<b>Authority to co-opt two Independent Persons, including if appropriate appointed by other local authorities, to the Independent Panel to advise Council in the event of a recommendation from the Service Appeals Sub-Committee acting as the Investigating and Disciplinary Committee (IDC) to dismiss a relevant officer.</b>	
Authority for making arrangements with other authorities for the placing of staff at the disposal of those authorities.  (Section 113 of the Local Government Act 1972).	Chief Executive and executive directors
Authority for the approval of pay, terms and conditions of service and training of employees except for approving the Annual Senior Officer Pay Policy Statement which is reserved to the Full Council.	Chief Executive
Authority to recommend to Council the Chief Officer Pay Policy Statement.	
Authority for oversight of the Council's functions in connection with employee relations including arrangements for consultation/ negotiation with trades unions.	
Authority to approve proposals from the Head of Paid Service in relation to the overall staffing structure/restructure of the Council.	Chief Executive
Authority to oversee the work of service appeals sub-committees and consider any matters put to them by the service appeals sub-committee.	

## 11.1 Service Appeals Sub-Committee

The Staffing and Appeals Committee shall establish service appeals sub-committees as required with the following membership and powers:

### Membership

Any three members (including substitutes) of the Staffing and Appeals Committee, subject to political proportionality.

The Monitoring Officer, in consultation with the Chair of the Staffing and Appeals Committee, shall make arrangements for convening the sub-committee including invitation of members to form a service appeals sub-committee as and when required.

### Summary of Functions

A service appeals sub-committee has delegated authority to hear and determine all appeals arising in relation to decisions made by the County Council in the course of its activities other than those undertaken by another body. The remit of the sub-committee includes appeals by service users.

Delegated Authority	Delegation/ Condition
Authority to determine appeals against the non-payment of discretionary awards to students.	
Authority to determine complaints about curriculum and related matters. under the terms of Section 409 of the Education Act 1996.	
Authority to determine appeals against decisions not to provide free or subsidised home to school or college transport.	
Authority to consider appeals in relation to the licensing of approved premises for marriages and other civil ceremonies.	
Authority to determine appeals against decisions of the authority to remove a person from acting as the local authority's representative on the governing body of a school or other educational establishment.	
Authority to act as Investigating and Disciplinary Committee (IDC) to consider any disciplinary issues in relation to the Chief Executive, Monitoring Officer or Section 151 Officer as detailed in the Disciplinary	

Procedure for Statutory Officers, including <b>responsibility for the suspension of “the relevant officers” where deemed appropriate or necessary. No member of a Service Appeals Sub-Committee acting as an IDC may be a member of the Staffing and Appeals Committee acting as an Appeals Committee or Independent Panel.</b>	
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## Officer Employment Procedure Rules

### 1. Recruitment and Appointment

#### 1.1 Declarations

- (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing the name and job title of any relative, friend or acquaintance employed by Cambridgeshire County Council.
- (ii) No candidate so related to a councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by them.

#### 1.2 Seeking support for appointment

- (i) Subject to paragraph 1.2(iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) Subject to paragraph 1.2(iii), no councillor will seek support for any person for any appointment with the Council.
- (iii) Nothing in paragraphs 1.2(i) and 1.2(ii) above will preclude a councillor from giving a written reference for a candidate for submission with an application for appointment.

### 2. Recruitment of Chief Executive, Executive Directors, and Statutory Roles

#### 2.1 Where the Council proposes to appoint a Chief Executive, executive director, or any other statutory role and it is not proposed that the appointment be made exclusively from among their existing officers, the Staffing and Appeals Committee will:

- (a) Draw up a statement specifying:
  - (i) The duties of the officer concerned;
  - (ii) Any qualifications or qualities to be sought in the person to be appointed;
  - (iii) The terms and conditions; and
  - (iv) The remuneration package.
- (b) 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.
- (c) Make arrangements for a copy of the statement mentioned in paragraph 2.1(a) to be sent to any person on request.

### 3. Appointment of Chief Executive, Monitoring Officer and Section 151 Officer

3.1 The Full Council will approve the appointment of the Chief Executive, Monitoring Officer and Section 151 Officer following the recommendation of such an appointment by the Staffing and Appeals Committee.

3.2 The Full Council may only make or approve the appointment of the Chief Executive, the Monitoring Officer or the Section 151 Officer where no well-founded objection has been made by any member of the Staffing and Appeals Committee.

### 4. Appointment of Executive Directors and Statutory Roles

4.1 The Staffing and Appeals Committee of the Council will appoint executive directors and statutory roles, excluding the Chief Executive, Monitoring Officer and Section 151 Officer.

4.2 An offer of employment as an executive director or any other statutory role shall only be made subject to satisfactory references and pre-employment checks.

4.3 For the purposes of these Procedure Rules, executive directors are those named in Article 11 of the Constitution. Statutory roles, other than the Chief Executive, Section 151 Officer and Monitoring Officer, include:

(i) Director of Adult Social Services;

(ii) Director of Children's Services;

(iii) Director of Public Health; and

(iv) Chief Education Officer.

4.4 Where a reorganisation affects the structure/numbers of executive directors and/or statutory posts, posts in the new structure will be filled in line with the enabling process agreed at the time. Any competitive interviews will be carried out by the Staffing and Appeals Committee in accordance with the enabling process.

### 5. Other Appointments

5.1 Officers below executive director level.

The appointment of officers below executive director level (other than the identified statutory roles and assistants to political groups) is the responsibility of the Chief Executive as the Head of Paid Service or their nominee, and may not be made by councillors.

5.2 Assistants to Political Groups

Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group and in line with legislative requirements.

## 6. Dismissal and Disciplinary Action

- 6.1 In the case of dismissals, the Staffing and Appeals Committee will hear the case against the Chief Executive as Head of Paid Service, Monitoring Officer and Section 151 Officer concerned, and the hearing will be conducted in accordance with the Council's Disciplinary Procedure.
- 6.2 In the following paragraphs:
- (i) "the 2011 Act" means the Localism Act 2011;
  - (ii) "Section 151 Officer", "disciplinary action", "head of the authority's paid service" and "monitoring officer" have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;
  - (iii) "independent person" means a person appointed under section 28(7) of the 2011 Act;
  - (iv) "local government elector" means a person registered as a local government elector in the register of electors in the authority's area in accordance with the Representation of the People Acts;
  - (v) "the panel" means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;
  - (vi) "relevant meeting" means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and
  - (vii) "relevant officer" means the Section 151 Officer, head of the authority's paid service or monitoring officer, as the case may be.
- 6.3 A relevant officer may not be dismissed should the authority not comply with the procedure set out in the following paragraphs.
- 6.4 The authority must invite relevant independent persons to be considered for appointment to the panel, with a view to appointing at least two such persons onto the panel.
- 6.5 In paragraph 6.4, "relevant independent persons" means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.

- 6.6 Subject to paragraph 6.7, the authority must appoint to the panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 6.4 in accordance with the following priority order:
- (i) A relevant independent person who has been appointed by the authority and who is a local government elector;
  - (ii) Any other relevant independent person who has been appointed by the authority;
  - (iii) A relevant independent person who has been appointed by another authority or authorities.
- 6.7 An authority is not required to appoint more than two relevant independent persons in accordance with paragraph 6.6 but may do so.
- 6.8 The authority must appoint any panel at least twenty working days before the relevant meeting.
- 6.9 Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular—
- (i) Any advice, views or recommendations of the panel;
  - (ii) The conclusions of any investigation into the proposed dismissal **considered by the Service Appeals Sub-Committee acting as the Investigating and Disciplinary Committee (IDC)**; and
  - (iii) Any representations from the relevant officer.
- 6.10 Any remuneration, allowances or fees paid by the authority to an independent person appointed to the panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the 2011 Act.

## 7. Appointment, Dismissal and Management of all other Employees

- 7.1 The appointment, dismissal and management of employees (except the Head of Paid Services, Monitoring Officer and Section 151 Officer) including disciplinary action will be carried out by properly authorised officers of the Council in line with the Recruitment and Selection Policy, other employment policies and procedures agreed by the Council and in compliance with statutory obligations.
- 7.2 Councillors will not be involved in the disciplinary or dismissal of any officer below executive director level except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.