

# HR Committee

3<sup>rd</sup> August 2016



**Report of:** Service Director HR & Workplace

**Title:** Protected Officer disciplinary investigation process

**Ward:** N/A

**Officer Presenting Report:** Richard Billingham

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## Recommendation

That the Committee either re-affirms or changes the decision made at its previous meeting as to elected members sitting on the proposed Statutory Officer Panel.

## Summary

In light of national guidance (from the Joint Negotiating Committee for Chief Executives of Local Authorities) this report invites the committee to look again at its decision to include elected members on the Statutory Officer Panel. The guidance says that the Panel may comprise independent persons only, which is how the national model process (part of the Chief Executives' Handbook) will be framed.

## The significant issues in the report are:

- National guidance suggests that the Statutory Officer Panel may comprise independent persons only.



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## Policy

1. At its previous meeting, the Committee endorsed the proposals in the report at Appendix A. This included the creation of a Statutory Officer Panel, on which elected members were represented, as well as Independent Persons. This was drafted following consultation with the Local Government Association in January 2016 at which point there was no clarity from the government on whether Panels could only contain Independent Persons and the LGA remained in discussion with the Association of Local Authority Chief Executives on this point. This has only recently been resolved. The guidance now confirms it is possible for the Panel to be constituted with Independent Persons only.
2. Should members be minded to alter its previous recommendation then a further report will be brought to a future meeting reviewing the process and recommending any necessary changes to the Constitution.

## Consultation

3. **Internal**  
Not applicable.
4. **External**  
Not applicable.

## Context

5. Since the Committee's previous meeting, national guidance has been received from the Joint Negotiating Committee for Chief Executives of Local Authorities that requires the Committee to re-examine the issue of whether the proposed Statutory Officer Panel should include elected members. The full advice is attached at Appendix B.

## Proposal

5. That the Committee either re-affirms or changes the decision made at its previous meeting as to elected members sitting on the proposed Statutory Officer Panel.

## Other Options Considered

6. None.

## Risk Assessment

7. Though the advice attached at Appendix B has the status of guidance, it is important that the Council decides whether it wishes to adopt the suggested approach because opting to include elected members in the Statutory Officer Panel will mean that the Council is not following the national model process.

## Public Sector Equality Duties

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- 8a) Before making a decision, section 149 Equality Act 2010 requires that each decision-maker considers the need to promote equality for persons with the following “protected characteristics”: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. Each decision-maker must, therefore, have due regard to the need to:
- i) Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010.
  - ii) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to --
    - remove or minimise disadvantage suffered by persons who share a relevant protected characteristic;
    - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it (in relation to disabled people, this includes, in particular, steps to take account of disabled persons' disabilities);
    - encourage persons who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
  - iii) Foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to –
    - tackle prejudice; and
    - promote understanding.
- 8b) No equality impact assessment has been undertaken because this report is a request for reconsideration of a matter that has previously been before the Committee.

## **Legal and Resource Implications**

### **Legal**

The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 came into force in May 2015 and introduced a new procedure for the disciplining and potential dismissal of the Head of Paid Service, Monitoring Officer and S151 Officer. The process now requires the Council to establish a Panel which must include at least two Independent Persons, appointed under section 28(7) of the Localism Act 2011 (which relates to the procedure for the investigation of complaints under the member code of conduct regime) and provides that any decision to dismiss must be made by the Full Council. Guidance from the LGA states that it is possible for the Panel to consist of Independent Persons only provided the authority resolves to do so.

**(Advice provided by Caroline Elwood, Interim Service Manager Statutory Services)**

### **Financial**

#### **(a) Revenue**

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None.

**(b) Capital**

None.

**Land**

Not applicable.

**Personnel**

Not applicable.

**Appendices:**

A – HR Committee report for meeting on 21<sup>st</sup> April 2016: Changes to statutory disciplinary and dismissal procedures for protected officers

B – Joint Negotiating Committee for Chief Executives of Local Authorities: Chief Executives' Handbook

**LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

**Background Papers:**

None.