

## **APPOINTMENTS (INVESTIGATING AND DISCIPLINARY) SUB-COMMITTEE**

The Sub-Committee is a requirement of the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015). The Sub-Committee's duties relate to the following statutory officer posts; Chief Executive, Monitoring Officer and Section 151 Officer and to any staffing matters referred to it in accordance with the JNC Model Disciplinary Procedure.

### **Composition**

The Appointments (Investigating and Disciplinary) Sub-Committee ("IDSC") shall comprise of three members, one of whom must be a Member of the Cabinet.

All Members must undertake the relevant training before sitting on an IDSC.

Members of the IDSC may not be members of the Appointments (Appeals) Sub-Committee.

### **Quorum**

The quorum of the IDSC shall be three members.

### **Terms of Reference**

- 1 To consider allegations made against the statutory post holders above.
- 2 To consider all matters referred to it in accordance with the JNC Model Disciplinary Procedure.
- 3 To consider the comments of any officer subject to allegations in relation to those allegations and to determine one of the following outcomes:
  - 3.1 That no further action is required.
  - 3.2 That there is some minor fault or error on behalf of the officer, but the matter can be resolved with an informal un-recorded warning.
  - 3.3 That there are grounds for an independent disciplinary investigation to be conducted.

### **Independent Investigation**

- 4 If the IDSC determines that an independent disciplinary investigation should be conducted:
  - 4.1 To appoint an Independent Investigator, from the list provided by the Joint Secretaries of the Joint Negotiating Committee for Chief Executives of Local Authorities.
  - 4.2 To determine the scope of the investigation to be conducted by the Independent Investigator.

- 4.3 To note that the Independent Investigator may choose to undertake either a full hearing or an evidence gathering process.
- 4.4 To determine if the officer should be suspended.
- 4.5 To review the continuance of the suspension of the officer should it exceed two months, and conduct further reviews of the suspension at least every two months from the date of the previous review.
- 4.6 It is the responsibility of the Independent Investigator to determine the approach to the investigation, as referenced in the JNC Model Code and this will have been notified in advance to all parties:-
  - 4.6.1 If the Independent Investigator has proceeded by way of an evidence –gathering process the IDSC should convene a meeting:-
    - (a) To receive the report and consider any recommendations of the Independent Investigator; and
    - (b) Conduct a hearing, at which both the Independent Investigator and the officer will be provided with an opportunity to submit evidence and call and question each other’s witnesses.
  - 4.6.2 If the Independent Investigator has proceeded via a formal hearing process, the IDSC should convene a meeting:-
    - (a) To receive the report and consider any recommendations of the Independent Investigator, and determine whether to limit the meeting to the consideration of the report or to call witnesses;
    - (b) To conduct the meeting at which the report and any recommendations by the Independent Investigator are considered in accordance with the ACAS Code of Practice.
    - (c) To consider any documentation and/or the evidence of any witnesses it chooses to call, to clarify the content of the Independent Investigator’s report.
    - (d) To invite the Independent Investigator and the officer to attend the meeting and provide both parties with an opportunity to summarise their case

- 4.7 If at this stage there is new evidence produced which is material to the allegation/issue and may alter the outcome, the IDSC may:
- (a) Take this into account in making their decision or
  - (b) Request that the Independent Investigator undertake some further investigation and incorporate the impact of the new evidence into an amended report.
- 4.8 Following consideration of the Independent Investigator's report, representations from the Independent Investigator, the officer and relevant witnesses:
- 4.8.1 To determine either:
- (a) That there is no case to answer.
  - (b) That disciplinary action short of dismissal should be taken against the officer.
  - (c) That a recommendation be made to dismiss the officer.
- 4.9 If the IDSC determines to recommend dismissal
- 4.9.1 To instruct that an Independent Panel is convened to consider the Independent Investigator's report and receive any oral or written representation from the officer.
- 4.9.2 To inform the Proper Officer that it is proposing to the Council that the officer be dismissed and that the Executive objections procedure should commence. The Proper Officer will notify all members of the Executive of the fact that the IDSC is proposing to the Council that it dismisses the officer, providing any other particulars relevant to the dismissal and specifying the period by which any objection to the dismissal is to be made by the Leader on behalf of the Executive, to the Proper Officer.
- 4.9.3 At the end of this period the Proper Officer will inform the IDSC either that the Leader has notified them that neither he / she nor any member of the Executive has any objection to the dismissal, that no objections have been received from the Leader in the period or that an objection or objections have been received and provide details of those objections.
- 4.10 The IDSC will consider any objections and satisfy itself as to whether any of the objections are both material and well founded. If they are, then the IDSC will act accordingly, i.e. it will consider the impact of the Executive objections on its proposal for dismissal and may commission further investigation by the Independent Investigator and report if required.

- 4.11 In the event that the IDSC is satisfied that there are no material and well-founded objections to the proposal to dismiss, the IDSC will inform the officer of the decision and put that proposal to the Independent Panel along with the Independent Investigator's report and any other necessary material.
- 4.12 To consider subsequent advice, views and/or recommendations given by the Independent Panel.
- 4.13 To decide whether to make a recommendation to Council that the officer be dismissed, which takes into consideration and includes the views of the Independent Panel, the conclusions and recommendations of the Independent Investigator and any representations from the officer.

### **Recommendations to dismiss**

- 5 Where the IDSC has made a recommendation to Council to dismiss, the Council will review all available evidence and all views / recommendations expressed and consider oral and/or written submissions by the officer before reaching a final decision. The representations made by the officer to Council constitute the appeal process.

Where the IDSC decides not to make a recommendation to Council to dismiss it must instead decide whether to take no further action or to take disciplinary action short of dismissal.

### **Right of appeal**

- 6 Where the IDSC decides to take disciplinary action short of dismissal the officer may appeal to the Appointments (Appeals) Sub-Committee.