

SLOUGH BOROUGH COUNCIL

REPORT TO: Employment and Appeals Committee

DATE: 24th October 2017

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WARD(S): All

PART I **FOR DECISION**

ARRANGEMENTS FOR THE DISMISSAL OF THE HEAD OF PAID SERVICE, MONITORING OFFICER AND CHIEF FINANCE OFFICER

1. **Purpose of Report**

To seek approval of a proposed new Disciplinary Policy and Procedure for the Head of Paid Service, Section 151 Officer and Monitoring Officer.

2. **Recommendation(s)/Proposed Action**

The Committee is requested to resolve that the disciplinary procedure attached at Appendix A is approved.

3. **Implications**

(a) **Financial**

There are no financial implications of the proposed action.

(b) **Risk Management**

The new procedure is compliant with the relevant regulations and the model procedures agreed by the JNC for Chief Executives. This mitigates any risk arising from not following a lawful procedure.

(c) **Human Rights Act and Other Legal Implications**

The recommendation takes into account the Human Rights Act and the relevant legislation which is referred to under Supporting Information below. The model procedure provides that the hearing at full Council to determine whether to dismiss a relevant officer is in effect a right of appeal. This is on the basis that the relevant officer has previously had the opportunity to put their case to the Investigating and Disciplinary Committee and the Independent Panel. The procedure has not, however, been tested in the courts.

In terms of contractual issues, a new monitoring officer and head of paid service (chief executive) are to be appointed shortly and therefore their statement of particulars can refer to the new procedure. The model contract for chief officers

refers to 'local arrangements' for disciplinary procedures so it is debatable whether the existing procedure is contractual in any case.

(d) Equalities Impact Assessment

No impact assessment has been carried out but all relevant officers will be treated in accordance with equalities principles.

(e) Workforce

The relevant officers in post have been consulted on the proposed new procedure.

5. **Supporting Information**

- 5.1 It was agreed at the meeting of Council on 18 May 2017 that the Monitoring Officer should be tasked with producing a revised disciplinary procedure for the relevant officers based on the model produced by the Joint Negotiating Committee for Local Authority Chief Executives. It was agreed that the procedure should be approved by the Employment and Appeals Committee. Council's decision was in accordance with a recommendation of the Employment and Appeals Committee made at its meeting on 12 April 2017.
- 5.2 The procedure attached at Appendix A is based on the model procedure and incorporates specific aspects which were agreed by Council on 18 May on the recommendation of the Employment and Appeals Committee. An extract of the Council minutes are attached at Appendix B.
- 5.3 Council also agreed to set up the new bodies required by the procedure, namely the Investigating and Disciplinary Committee, the Appeals Panel and the Independent Panel.
- 5.4 Although described as a disciplinary procedure, the new procedure covers dismissals for misconduct, capability (performance or ill health other than permanent ill health) and some other substantial reason. It does not cover redundancy, permanent ill health or the expiry of a fixed term contract where there has been no commitment to renew it. This reflects the legal requirements contained in the Local Authorities (Standing Orders) (England) Regulations 2001 as amended in 2015.
- 5.5 The model procedure does not deal with exactly how it should link with capability procedures for performance and ill health. However, it is envisaged that some local procedure would be followed in the first instance before such an issue is referred to the Investigating and Disciplinary Committee. It is suggested that this procedure links with the relevant policies applying for all staff until dismissal becomes a possibility when the issue should be referred to the Investigating and Disciplinary Committee.
- 5.6 In relation to the right to be accompanied to meetings, the model procedure refers to the chief executive being accompanied by a person of their choice at their own cost. This implies that the officer could be represented by a lawyer. Council decided that Slough's procedure should reflect the situation for other staff i.e. they can only be accompanied by a work colleague or trade union representative.

5.7 The model procedure allows the IDC to take action short of dismissal. However, it is not defined what such action should be. It is suggested that in the case of misconduct or capability such action should be a first or final written warning. It is also suggested that if any other action is taken in relation to another sort of issue, any action taken must be consistent with the contract of employment. This is because if this was not the case the authority could face action for breach of contract.

6. **Comments of Other Committees**

None.

8. **Appendices Attached**

'A' - Proposed dismissal procedure

'B' - Extract of minutes from meeting of Council, 18 May 2017

9. **Background Papers**

JNC Model Disciplinary Procedure and Guidance.