

## **SLOUGH BOROUGH COUNCIL**

**REPORT TO:** Employment & Appeals Committee **DATE:** 25 January 2018

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**WARD(S):** All

### **PART I** **FOR INFORMATION**

#### **ARRANGEMENTS FOR THE DISMISSAL OF THE HEAD OF PAID SERVICE, MONITORING OFFICER AND CHIEF FINANCE OFFICER – FLOW CHART OF PROCEDURE AND MEMBERSHIP OF INVESTIGATING AND DISCIPLINARY COMMITTEE, APPEALS COMMITTEE AND INDEPENDENT PANEL**

##### **1. Purpose of Report**

- To provide the Committee with a flow chart evidencing the new procedure for the dismissal of the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer.
- To advise the Committee of the appointment and membership of the Investigating and Disciplinary Committee (IDC), the Appeals Committee (AC) and Independent Panel (IP).

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

The Committee is requested to note flowchart attached at Appendix 1 and the appointment of the Investigating and Disciplinary Committee, Appeals Committee and Independent Panel as set out in the report.

##### **3. Supporting Information**

- 3.1 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 amended the Local Authorities (Standing (Orders) (England) Regulations 2001 by changing the statutory process for dismissing the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer (“the relevant officers”).
- 3.2 Previously no disciplinary action could be taken against a relevant officer other than in accordance with a recommendation in a report made by a Designated Independent Person (DIP). The 2015 Regulations abolished the role of the DIP and outlined a new process to be followed and to be incorporated into Council constitutions at the first Council meeting following the 2015 annual Council meeting.
- 3.3 The new process was approved by the Council on 18<sup>th</sup> May 2017. At its meeting on 24<sup>th</sup> October 2017 the Employment and Appeals Committee felt that it would be useful if the new procedure was set out in a flowchart and requested information on the appointment of the IDC, AC and IP.

## **Flowchart**

- 3.4 The flowchart is attached at Appendix 1. It is based on the JNC Procedure but is adapted slightly to reflect the Council's processes.

## **Statutory Officers - Appointment of Panels/Committees**

### **Investigating and Disciplinary Committee (IDC)**

- 3.5 The IDC to deal with disciplinary matters relating to the relevant officers was appointed by the Council at its meeting on 18<sup>th</sup> May 2017. The Committee comprises five elected members and

- Must be Politically balanced (4 Labour, 1 Conservative).
- Have only one member of the Executive appointed to it – not Leader, HR or Finance lead
- Members must be different from the Appeals Committee.

- 3.6 Members will be appointed to the Committee by the Council on 30<sup>th</sup> January 2018.

### **Appeals Committee (AC)**

- 3.7 The AC which deals with disciplinary matters short of dismissal relating to the relevant officers was appointed by the Council at its meeting on 18<sup>th</sup> May 2017. The Committee comprises five elected members and

- Must be Politically balanced (4 Labour, 1 Conservative).
- Have only one member of the Executive appointed to it – not Leader, HR or Finance Lead
- Members must be different from the Investigating and Disciplinary Committee.

- 3.8 Members will be appointed to the Committee by the Council on 30<sup>th</sup> January 2018.

### **Independent Panel (IP)**

- 3.9 In accordance with the decision of the Council, that the Independent Persons appointed to the Statutory Officers' Disciplinary panel in 2016 be invited to be appointed to the IP, the Panel has been appointed by the Monitoring Officer and comprises 3 Independent Persons appointed under S28(7) of the Localism Act 2011. Appointments are Louis Lee, David Comben and Murray Litvak. The Panel is appointed to advise Council in the event of a recommendation from the IDC to dismiss a relevant Officer.

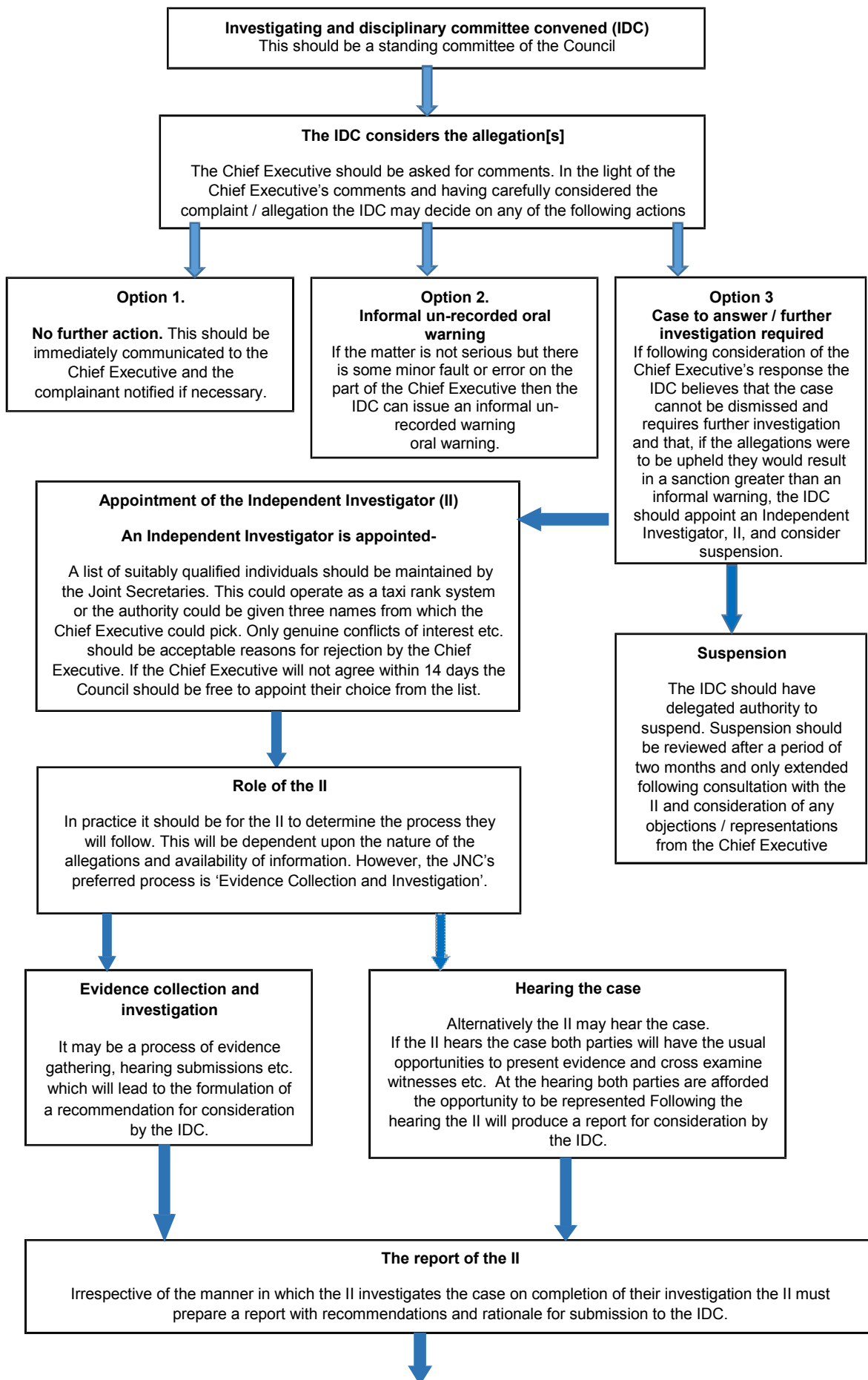
## **4. Appendices Attached**

Appendix 1 – Procedure flowchart

## **5. Background Papers**

JNC Model Disciplinary Procedure and Guidance

## Disciplinary Procedure for Local Authority Chief Executives



### Consideration and Decision of the IDC

If the II has held a full hearing the IDC will limit their hearing to a consideration of the II's report. They may decide to call witnesses for clarification. The Chief Executive and II should attend this meeting and both parties afforded the opportunity to summarise their case. The hearing should be conducted in accordance with the ACAS code of practice.

If the II did not hear the case then the IDC should now afford the Chief Executive the opportunity for a hearing to allow the postholder to challenge the recommendations of the II, call witnesses etc. The same rule regarding costs of representation would apply in this context

### Recommendations of the IDC

Following either consideration of the report of the II or a full hearing of the case the IDC will essentially have three options

1. No case to answer
2. Disciplinary action short of dismissal
3. Dismissal

**No case to answer** Appropriate communication should be prepared in agreement with the Chief Executive to ensure that as far as possible there is no damage to the postholder's reputation.

**Action short of dismissal**  
A decision to take action short of dismissal should be communicated in writing to the Chf Exec with rationale for the decision. The Chf Exec has the right of appeal to the appeals committee against this decision

**Recommendation to dismiss**  
If there is a recommendation to dismiss, the reports of the IDC and the II should then be sent to Independent Panel (IP) for its consideration. The Chief Executive may make written representations to the IP

### Composition, role and process of the IP

The IP should be a committee of the Council, appointed under section 102(4) of the Local Government Act 1972, and should comprise only independent persons (at least two) appointed under S28(7) of the Localism Act 2011. Appropriate training should be provided to these Independent members. Both parties should be present or represented\* at the meeting. The IP should receive any oral representations from the Chief Executive, in which case it should invite any response on behalf of the IDC to the points made, and may ask questions of either party. The IP should review the decision and prepare a report for Council. This report should contain clear rationale if they disagree with the recommendation to dismiss.

\* the IDC should nominate a person to attend on its behalf

### Report to full Council

Following consideration by the IP a report should be presented to Council. This report should comprise the recommendation of the IDC, the II's report and any comments on the recommendation for dismissal from the IP. In the light of this information Council should consider the recommendation to dismiss. The Chief Executive should be provided with a right of appeal against the decision and allowed to attend this meeting and address Council. The II may also be invited to attend to provide clarification if required. Following this consideration Council should either confirm or reject the recommendation to dismiss. It may at this stage impose a lesser sanction. This stage in the process constitutes the Chief Executive's final right of appeal.