

<p>Non-Executive Report of the:</p> <p><b>Human Resources Committee</b></p> <p><b>7 March 2024</b></p>	 <p><b>TOWER HAMLETS</b></p>
<p><b>Report of Pat Chen, Acting Director of Workforce, OD and Business Support</b></p>	<p><b>Classification:</b> Unrestricted</p>
<p><b>Disciplinary Procedure for Statutory Officers</b></p>	

<b>Originating Officer(s)</b>	Pat Chen
<b>Wards affected</b>	All Wards

### **Special Circumstances Justifying Urgent Consideration**

This report was not available for publication alongside the rest of the agenda due to the length of time required to consult with relevant stakeholders. The report should be considered at this meeting because it is important to make sure that Council procedures are up to date. There are also no alternatives to consider as the Council needs to ensure procedures match up with agreed national arrangements.

### **Executive Summary**

This report sets out the new procedures that need to be followed in relation to the disciplinary procedure for the Council's three Statutory Officers following the introduction of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and the Model Disciplinary Procedure for Chief Executives agreed by the JNC for Chief Executives of Local Authorities as updated in September 2022.

### **Recommendations**

The Human Resources Committee is recommended to:

1. Agree the new procedures as set out in Appendix 1 to this report.
2. Delegate to the Director of Workforce, OD and Business Support in consultation with the Chair of the Investigation and Disciplinary Sub Committee the power to suspend a Relevant Officer in cases of urgency.
3. Agree that a report be presented to Council setting out consequent amendments to the Constitution to address the changes agreed in Recommendations 1 and 2.
4. Agree that the Director of Workforce, OD and Business Support is delegated authority to make minor non-material changes to the procedures set out in Appendix 1, following consultation with the Chair of the Human Resources Committee before the final version is presented to Council for agreement.

## **1. REASONS FOR THE DECISIONS**

- 1.1 The current procedures are out of date and do not reflect the statutory provisions and the JNC Model Disciplinary Procedures

## **2. ALTERNATIVE OPTIONS**

- 2.1 There are no alternative options as this is a statutory requirement.

## **3. DETAILS OF THE REPORT**

### **3.1 Background**

3.1.1 Every Council is required to appoint a Head of Paid Service, a Monitoring Officer, and a Chief Finance (Section 151) Officer. (Relevant Officers). Each of these posts carries specific statutory responsibilities. As these post holders operate in a sensitive environment, Councils have been required to follow special procedures to investigate disciplinary matters regarding officers holding these positions.

3.1.2 Prior to the 2015 Regulations, procedures were governed by statutory Designated Independent Person (DIP) provisions. The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 replaced the statutory DIP provisions with an Independent Panel process.

3.1.3 The Chief Executives' Conditions of Service Handbook (the Handbook) was updated to reflect the changes made to the regulations in which a revised (disciplinary) model procedure was set out. The Chief Officers' handbook was originally, published in August 2017, and was further updated in September 2022 to reflect the changes made by the regulations, and refers officers to the model set out in the Chief Executive's handbook as a reference guide for the dismissal process.

### **3.2 Main Changes**

The 2015 Regulations amended the dismissal process for the Relevant Officers by removing the requirements for a Council to appoint a Designated Independent Person and act in accordance with any recommendations made by them. The new regulations provide that a Council must appoint an Independent Panel (the Panel) made up of a minimum of two independent persons (IPs) appointed under section 28 of the Localism Act 2011 (in relation to standards complaints against members), whose advice, views and recommendations should be considered before any decision by the Council to dismiss a Relevant Officer can be made.

### **3.3 Disciplinary Procedure for Relevant Officers**

After consideration of the model set out in the Chief Executives' Handbook, we have adapted the model to be applied to all Relevant Officers of the Council. The resulting procedure clarifies which Committees and Officers would be responsible at the various stages and are set out in Appendix 1.

Human Resources Committee is recommended to approve the draft procedure attached at Appendix 1. The key Committees/Panels are:

3.3.1 The Investigating and Disciplinary Committee

The Investigating and Disciplinary Committee of the Council will be a sub-committee of the Human Resources Committee established to deal with formal disciplinary matters in respect of the Relevant Officers. The Investigating and Disciplinary Sub Committee (IDSC) will be a standing Committee of the Council.

3.3.2 Disciplinary Appeal 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 hearing appeals against decisions by the IDSC in relation to the Relevant Officer

3.3.3 The Independent Panel

The Independent Panel must be appointed at least 20 days before the Council meeting at which dismissal is considered.

3.3.4 Delegation of Powers to Suspend

Ordinarily the Investigating and Disciplinary Sub-Committee (IDSC) of the Human Resources Committee will consider whether it is appropriate to suspend a Relevant Officer. The Chief Executive's Handbook however recommends that an officer should hold the delegated power to suspend a Relevant Officer in an emergency. It is recommended that the Director, Workforce, OD and Business Support be given that delegated authority in consultation with the Chair of the IDSC.

3.4 **Constitution**

Should the above proposed changes be agreed, these will require amendments to be made to the Constitution. The General Purposes Committee is often asked to agree consequent Constitutional changes but given that these changes relate to the three Statutory Officers it is proposed that a report is instead presented to Council to agree those changes.

4. **EQUALITIES IMPLICATIONS**

- 4.1 All relevant Officers must be treated fairly under these procedures irrespective of any protected characteristics.

5. **OTHER STATUTORY IMPLICATIONS**

- 5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are

required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:

- Best Value Implications,
- Consultations,
- Environmental (including air quality),
- Risk Management,
- Crime Reduction,
- Safeguarding.
- Data Protection / Privacy Impact Assessment.

5.2 None specific to the statutory implications listed above. The Council must maintain up-to-date and effective procedures in relation to Statutory Officer Employment Arrangements.

## **6. COMMENTS OF THE CHIEF FINANCE OFFICER**

6.1 There are no financial implications from this specific report.

## **7. COMMENTS OF LEGAL SERVICES**

7.1 There are no direct legal implications arising from this report which proposes the required statutory changes to the disciplinary process except for a failure to agree the new procedure may have contractual implications for any affected chief officer if action is taken against them using the obsolete, non-statutory process currently in place which could leave the Council at risk of a claim for breach of contract.

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## **Linked Reports, Appendices and Background Documents**

### **Linked Report**

- None

### **Appendices**

- Appendix 1 – Disciplinary Procedure for Statutory Officers - Head of Paid Service (Chief Executive), Monitoring Officer (Head of Legal Services) and the Section 151 Officer (Chief Finance Officer).

### **Local Government Act, 1972 Section 100D (As amended)**

#### **List of “Background Papers” used in the preparation of this report**

List any background documents not already in the public domain including officer contact information.

- JNC for Chief Executives Model Disciplinary Procedure

#### **Officer contact details for documents:**

Pat Chen, Acting Director of Workforce, OD and Business Support