

London Borough of Tower Hamlets

Disciplinary Procedure for Statutory Officers

- **Head of Paid Service (Chief Executive)**
- **Monitoring Officer (Director of Legal Services)**
- **Section 151 Officer (Chief Finance Officer)**

Policy Name:	Disciplinary Procedure for Statutory Officers
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1. Background

The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 made changes to the matters relating to the dismissal of the three statutory officers, the Head of Paid Service, Monitoring Officer and Section 151 Officer. This disciplinary procedure is based on that set out in the Joint Negotiating Committee for Local Authority Chief Executives National Salary Framework and Conditions of Service Handbook (the JNC Handbook) as updated in September 2022. It applies to Tower Hamlets' (the Council) Chief Executive, Monitoring Officer and Chief Finance Officer (the Relevant Officers).

2. Informal Resolution

In accordance with the procedure in the JNC Handbook the Council and the Relevant Officer will seek an informal resolution before formal disciplinary proceedings are commenced. The Director of Workforce, OD and Business Support will be responsible for seeking an informal resolution with the Relevant Officer. If informal resolution is not possible, the complaint/allegation will be referred to an Investigating and Disciplinary Sub-Committee (IDSC). All the posts in this section (2.1) are collectively referred to as Chief Officer in accordance with the Localism Act 2011 and the Local Government and Housing Act 1989.

3. The Investigating and Disciplinary Sub-Committee

The Investigating and Disciplinary Sub-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.

3.1 Composition

The Investigating and Disciplinary Sub Committee shall comprise of five members of the Council as follows:

- Chair of the Human Resources Committee
- One Member of the Executive (nominated by the Mayor but who is not the Mayor)
- Three other Members appointed by the Leaders of the Political Groups on the Council from all Councillors within their Groups such that the overall composition of the Sub-Committee shall be politically balanced.

All members will have appropriate training before they can be part of the IDSC.

3.2 Quorum

The quorum of the IDSC shall be three members.

3.3 Terms of Reference

3.3.1 To consider any allegations made against the Relevant Officer.

3.3.2 To consider the responses from the Relevant Officer in relation to the allegations and determine the following outcomes:

- that no further action is required;
- that there is some minor fault or error on behalf of the Relevant Officer, but the matter can be resolved with an informal un-recorded warning;
- that there are grounds for an independent disciplinary investigation to be conducted.

3.3.3 If the IDSC determines that an independent disciplinary investigation should be conducted it will:

- 3.3.3.1 appoint an Independent Investigator from the list provided by the Joint Secretaries of the Joint Negotiating Committee for Chief Executives of Local Authorities;
 - 3.3.3.2 determine the scope of, and set out the terms of reference for the investigation to be conducted by the Independent Investigator;
 - 3.3.3.3 determine whether the Relevant Officer should be suspended, subject to cases of urgency where the Director of Workforce, OD and Business Support following consultation with the Chair of the IDSC will have the power to suspend;
 - 3.3.3.4 review the continuance of the suspension of the Relevant Officer should it exceed 2 months;
 - 3.3.3.5 receive the report and consider any recommendations of the Independent Investigator;
 - 3.3.3.6 convene a hearing at which the report and any recommendations of the Independent Investigator are considered in accordance with the ACAS Code of Practice;
 - 3.3.3.7 ensure that the Independent Investigator and the Relevant Officer are able to attend the meeting and are provided with an opportunity to submit evidence, call and question witnesses and summarise their case;
- 3.3.4 Following consideration of the Independent Investigator's report, representations from the Independent Investigator, the Relevant Officer, relevant witnesses the IDSC will determine either:
- that there is no case to answer
 - that disciplinary action short of dismissal should be taken against the statutory post holder by the IDSC
 - a recommendation to dismiss the Relevant Officer

3.3.5 If the IDSC proposes to recommend dismissal it will:

- 3.3.5.1 notify the Mayor and the Executive that it is proposing to dismiss the Relevant Officer and ask if there are any objections to the proposal.

- 3.3.5.2 consider any objections and satisfy itself as to whether any of the objections are both material and well founded. If they are, the IDSC will consider the impact of the executive objections and commission further investigation and reports by the Independent Investigator if these are required.
 - 3.3.5.3 notify the Relevant Officer if there are no material or well-founded objections to the proposal to dismiss and that the recommendation will be considered by an Independent Panel along with the Independent Investigator's report and any oral or written representation from the Relevant Officer.
 - 3.3.5.4 consider subsequent advice, views and/or recommendations given by the Independent Panel
 - 3.3.5.5 make a recommendation to full Council that the Relevant Officer be dismissed, which takes into consideration and includes the views of the Independent Panel, the conclusions of the investigation and any representations from the Relevant Officer
- 3.3.6 Where the IDSC has made a recommendation to Council to dismiss, a meeting of Full Council will review all available evidence and all views/recommendations expressed and consider oral and/or written submissions by the IDSC before reaching a final decision. The representations made by the Relevant Officer to Council constitute the appeal process.
 - 3.3.7 Where the IDSC has made a recommendation for disciplinary action short of dismissal, the Relevant Officer may appeal to the Disciplinary Appeals Sub Committee.

4. Disciplinary Appeals 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.

4.1 Composition

- 4.1.1 The Disciplinary Appeal Sub Committee shall comprise of five members, as follows:
 - Vice-Chair of the Human Resources Committee (Chair)
 - One Member of the Executive (nominated by the Mayor but who is not the Mayor)
 - Three other Members appointed by the Leaders of the Political Groups on the Council from within their Groups such that the overall composition of the Sub-Committee shall be politically balanced.
- 4.1.2 Members of the Disciplinary Appeal Sub Committee may not be members of the IDSC.

4.2 Quorum

The quorum of the DASC shall be three members.

4.3 Terms of Reference

4.3.1 To receive and consider appeals made by the Relevant Officer following a decision by the IDSC to recommend that disciplinary action other than dismissal is taken against the Relevant Officer.

4.3.2 The Appeals Sub Committee will:

4.3.2.1 consider the report of the Independent Investigator and any other relevant information considered by the IDSC;

4.3.2.2 conduct any further investigation the Sub Committee considers necessary to reach a decision;

4.3.2.3 permit the Relevant Officer to appear at the meeting and state their case;

4.3.2.4 consider newly available relevant information and the outcome of any further investigation, noting that there is no further appeal stage beyond the considerations of this Sub Committee;

4.3.2.5 determine if the appeal should be upheld or dismissed;

4.3.2.6 inform the Relevant Officer, if an appeal is dismissed, that there is no further appeal, that the decision of the IDSC stands and the matter is regarded as being concluded;

4.3.2.7 report back to the IDSC when an appeal is upheld, advising of the reasons for this decision.

5. The Independent Panel

The Independent Panel should comprise of independent persons (at least two in number) who have been appointed by the council, or by another council, for the purposes of the council members' conduct regime under section 28(7) of the Localism Act 2011.

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

5.1 Terms of Reference

5.1.1 Where the IDSC is recommending dismissal, this recommendation will be considered by the Independent Panel.

5.1.2 This is not a full re-hearing of the case and will not involve the calling of witnesses.

5.1.3 Both parties should be present or represented (the IDSC might be represented by the Chair or other nominated person) at the Panel meeting. The Panel should hear the reasons for the IDSC's recommendation and also receive any

oral representations from the Relevant Officer. It may ask questions of either party.

- 5.1.4 The Independent Panel should review the IDSC's recommendation for dismissal and prepare a report for Council. This report should contain a clear rationale if the Panel disagrees with the recommendation to dismiss.

6. Full Council

- 6.1 Where there is a proposal to dismiss the Relevant Officer, the council must approve the dismissal before notice of dismissal is issued. The Council must therefore consider the proposal from the IDSC and reach a decision before the Relevant Officer can be dismissed.
- 6.2 The Council will consider the recommendation that the Relevant Officer should be dismissed, and must take into account:
- Any advice, views or recommendations of the Independent Panel
 - The conclusions of the investigations into the proposed dismissal
 - Any representations from the Relevant Officer
- 6.3 Where the Independent Panel does not endorse the recommendation of the IDSC, the Chair of the Independent Panel should be invited to attend and present the report of the Panel and to answer questions.
- 6.4 The Relevant Officer will have the opportunity to appear before the council and put their case to the council before a decision is taken.