

TITLE	Setting up of a Investigating and Disciplinary Committee (IDC)
FOR CONSIDERATION BY	Personnel Board on 6 September 2018
WARD	None specific
ASSISTANT DIRECTOR	Andrew Moulton, Assistant Director Governance

OUTCOME / BENEFITS TO THE COMMUNITY

That the Council has a detailed process in place for dealing with disciplinary matters relating to relevant senior Officers i.e. Head of Paid Service, Section 151 Officer and Monitoring Officer.

RECOMMENDATION

That Personnel Board agrees:

- 1) to establish an Investigating and Disciplinary Committee and delegate authority to the Committee to deal with disciplinary matters relating to relevant senior Officers i.e. Head of Paid Service, Section 151 Officer and Monitoring Officer;
- 2) that the Investigating and Disciplinary Committee consist of three Members with seats allocated, as and when the Committee is required to sit, in accordance with the proportionality rules and appointments made in accordance with the nominations received from the Group Leaders;
- 3) the Terms of Reference of the Investigating and Disciplinary Committee as set out in Appendix 1;
- 4) that training be provided to members of the Investigating and Disciplinary Committee prior to them attending their first meeting;
- 5) that in line with the changes brought about by The Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015 Officers be asked to draft detailed procedures relating to disciplinary matters involving relevant Officers for subsequent inclusion in Section 11.5 of the Constitution.

SUMMARY OF REPORT

It is proposed to set up an Investigating and Disciplinary Committee (IDC) the purpose of which will be to deal with disciplinary matters relating to the relevant Officers as defined in The Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015.

The report sets out the proposed structure and Terms of Reference of the Investigating and Disciplinary Committee.

Background

1. The Local Authority (Standing Orders)(England)(Amendment) Regulations 2015 amended the previous legislation and changed the statutory process for taking disciplinary action against “relevant Officers” i.e. the Head of Paid Service (Chief Executive), Section 151 Officer (Director of Corporate Services) and Monitoring Officer (Assistant Director Governance). The Regulations set out new arrangements for taking disciplinary action against the “relevant Officers” by replacing investigation by a Designated Independent Person of an allegation of misconduct against these Officers, with an Independent Panel process.
2. As a result of the Regulations a nationally negotiated and agreed Model Disciplinary Procedure and Guidance, which incorporated the relevant statutory requirements, was agreed by the Joint Negotiating Committee (JNC) for Local Authority Chief Executives and issued in October 2016. This was subsequently incorporated into the contractual terms and conditions of employment for Chief Executives. Additionally the August 2017 Chief Officers’ JNC contained a modified procedure for Section 151 Officers and Monitoring Officers, indicating that the relevant provisions of the Chief Executives’ Handbook could be used as a reference guide in such circumstances and this has been adopted across England. A copy of the Model Procedure Flow Diagram is attached at Appendix 2.
3. In line with statutory requirements and the Model Disciplinary Procedure and Guidance it is proposed to set up an Investigating and Disciplinary Committee to deal with disciplinary matters relating to the “relevant Officers” as defined in the regulations.

Analysis of Issues

4. It is proposed that the Investigating and Disciplinary Committee will consist of three Members with seats allocated, as and when the Committee is required to sit, in accordance with the proportionality rules and appointments made in accordance with the nominations received from the relevant Group Leaders. In line with the Guidance the IDC must include one member of the Executive.
5. The purpose of the Investigating and Disciplinary Committee will be to consider any allegations and any information related to disciplinary matters of the “relevant Officers”, taking into account any comments made by the “relevant Officer”. In line with the Model Procedure Flow Diagram (Appendix 2) the Investigating and Disciplinary Committee will then decide which of the following options to take forward:
 - Option 1 – No further action
 - Option 2 – Informal un-recorded oral warning
 - Option 3 – Case to answer/further investigation required.
6. The remaining actions as specified in the Model Procedure Flow Diagram will then be carried out by the Investigating and Disciplinary Committee.

Further Action

7. Training will be provided to members of the Investigating and Disciplinary Committee prior to them attending their first meeting.

8. In order to provide further clarification of the process Officers are asked to draft detailed procedures relating to disciplinary matters involving the “relevant Officers” for inclusion in Section 11.5 of the Constitution. Once these procedures have been agreed by Personnel Board they will be considered by the Constitution Review Working Group prior to final approval by Council.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	£0		
Next Financial Year (Year 2)	£0		
Following Financial Year (Year 3)	£0		

Other financial information relevant to the Recommendation/Decision

There are no financial implications associated with this report

Cross-Council Implications

There are no cross-Council implications associated with this report

List of Background Papers

The Local Authority (Standing Orders)(England)(Amendment) Regulations 2015
 Joint Negotiating Committee (JNC) Model Procedures and Guidance
 Joint Negotiating Committee (JNC) for Local Authority Chief Executives National Salary Framework and Conditions of Service Handbook updated 13 October 2016
 Joint Negotiating Committee (JNC) for Local Authority Chief Executives National Salary Framework and Conditions of Service Handbook updated 8 August 2017

Contact Andrew Moulton	Service Governance
Telephone No 0774 7777298	Email Andrew.moulton@wokingham.gov.uk

INVESTIGATING AND DISCIPLINARY COMMITTEE TERMS OF REFERENCE

1. Purpose

The Investigating and Disciplinary Committee (IDC) has been established by the Personnel Board to:

- a) deal with all disciplinary matters relating to “relevant Officers” as defined in The Local Authority (Standing Orders)(England)(Amendment) Regulations 2015 i.e. Head of Paid Service, Section 151 Officer and Monitoring Officer;
- b) carry out all the actions set out for the Investigating and Disciplinary Committee (IDC) in the Model Procedure Flow Diagram (as included in the Model Disciplinary Procedure and Guidance for Chief Executives) (see Appendix).

2. Composition of the Investigating and Disciplinary Committee

The Investigating and Disciplinary Committee shall consist of three Members. Seats will be allocated, as and when the Committee is required to sit, in accordance with the proportionality rules and appointments made in accordance with the nominations received from the Group Leaders. One of the members of the Committee must be an Executive Member.

The Members appointed to sit on the Committee must not have sat on any other body in respect of the matter under consideration or had any previous involvement in the matter.

3. Meetings of the Investigating and Disciplinary Committee

Meetings of the Investigating and Disciplinary Committee will be held in private as and when required and dates and times will be agreed by the members of the Committee.

4. Chairman

The Chairman of the Investigating and Disciplinary Committee will be appointed at the first meeting of the Committee.

5. Quorum

The quorum of a meeting of the Investigating and Disciplinary Committee will be three.

6. Public and Member Questions

No public or Member questions may be asked at Investigating and Disciplinary Committee meetings.