

Bath & North East Somerset Council

MEETING:	Restructuring Implementation Committee	AGENDA ITEM NUMBER
DATE:	7 February 2023	
TITLE:	New JNC Disciplinary Procedure for Relevant Officers	
WARD:	ALL	
List of attachments to this report: Annex 1 – Disciplinary Procedure and Guidance for Relevant Officers Annex 2 – Detailed constitutional changes required as a result of new procedure Annex 3 - Amendments to the RIC Terms of Reference and the Scheme of Delegation to Officers		
AN OPEN PUBLIC ITEM		
REPORT OF DIRECTOR OF PEOPLE & POLICY		

1 THE ISSUE

1.1 To seek the Committee's agreement to adopt the proposed new Joint Negotiating Committee (JNC) Disciplinary Procedure for Relevant Officers (Chief Executive, Monitoring Officer and Section 151 Officer).

2 RECOMMENDATION

2.1 That the proposed procedure is approved, that the RIC recommends the necessary constitutional and scheme of delegations changes to Council for approval and that the Director of People & Policy be given delegated authority to take all steps necessary to implement it.

3 FINANCIAL IMPLICATIONS

3.1 There are no direct financial implications from this report. It is a procedural change.

4 THE REPORT

4.1 Following the introduction of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and the independent investigator process, the Joint Negotiating Committee (JNC) has recently taken stock and reviewed how the process has been working in practice. On 7 September 2022, the JNC shared detailed information including a model procedure and new Chief Executive's handbook to ensure that the process is clear.

4.2 Under the Council's Constitution recently approved by full Council in July 2022, there is already delegated authority to the RIC under section 2.27 to "recommend to the Council the appointment or dismissal of the Head of Paid Service, the Monitoring Officer and the Chief Financial Officer."

- 4.3 The attached proposed model disciplinary procedure (Annex 1) is very detailed and sets out the steps to be followed in the case of allegations of misconduct by the Council's Relevant Officers (the Chief Executive, Monitoring Officer and Section 151 Officer).
- 4.4 The guidance outlines the key elements of procedures for disciplining a Relevant Officer. It is arranged to present each element of the model procedure, immediately followed by the relevant part of the guidance, for ease of reference.
- 4.5 The Director of People & Policy with support from Democratic Services is responsible for the management of these procedures.
- 4.6 Where an allegation is made relating to the conduct or capability of a Relevant Officer or there is some other substantial issue that requires investigation, the matter will be considered by the Restructuring Implementation Committee ("RIC"). The Director of People & Policy and the Chair of the Council would oversee referrals to the RIC. When an issue comes before the RIC it, with advice from the Director of People & Policy, needs to make a judgement (see paragraph 6.2.1) as to whether the allegation can be dismissed or whether it requires more detailed investigation, in which case this will be undertaken by an Independent Investigator.
- 4.7 Other structures necessary to manage the process are in place, including an Independent Person Panel should there be a proposal for the dismissal of a Relevant Officer. This is comprised of the Council's Independent Persons, appointed in accordance with section 28(7) Localism Act 2011 and Part 2.21 of the Council's Constitution.
- 4.8 The RIC is asked to recommend to the Council that it approves the constitutional changes required for the effective management of these procedures as set out in Annex 2 and highlighted in yellow. The constitutional changes are related to the suspension of a Relevant Officer, the power to negotiate and for the RIC to agree a financial settlement, taking independent advice and on action short of dismissal.
- 4.9 The RIC is also asked to recommend to the Council that it approves the amendments to RIC terms of reference and the scheme of delegation to officers as set out in Annex 3 and highlighted in yellow.
- 4.10 The above recommendations would be made to Council as part of the second update on the Constitution refresh in March 2023.

4 EQUALITIES AND RISK MANAGEMENT

- 5.1 The proposal takes account of equalities issues and complies with the requirements of the LGPS regulations.

5 CONSULTATION

- 6.1 The Council's Relevant Officers have all been consulted on the model procedure and new Chief Executive's handbook.

6 ADVICE SOUGHT

7.1 The Chief Executive, Council's Monitoring Officer and Chief Finance Officer (in Section 151 Officer role) have had the opportunity to input to this report and have cleared it for circulation.

Contact person	<i>Cherry Bennett, Director of People & Policy (Tel: 01225 477203)</i>
Background papers	Chief Executive Handbook
Please contact the report author if you need to access this report in an alternative format	