

Staffing Committee

Dorset County Council



Date of Meeting	22 November 2016
Officer	Head of Human Resources and Organisational Development
Subject of Report	Statutory Officer Panel Terms of Reference (Disciplinary Investigation Process for the Chief Executive and Statutory Officers)
Executive Summary	<p>Where there is a proposal to dismiss the Chief Executive as Head of Paid Service, the council is required to follow a statutory process in accordance with the procedure set out in the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015. The procedure includes the appointment of an independent panel.</p> <p>The Regulations are silent about whether the panel should comprise a mixture of elected members and independent persons or independent persons only. When the independent panel arrangements were introduced, the council chose to establish a mixed panel comprising both independent persons (as defined in the Localism Act 2011) and elected members. This is the Statutory Officer Panel.</p> <p>Since then, the Joint Negotiating Committee for Chief Executives of Local Authorities (the JNC) have issued advice recommending that the panel contain independent persons only, and not members. The JNC has also issued an updated edition of the Chief Executives Handbook (the conditions of service for Chief Executives) which includes a revised model procedure for disciplinary dismissals. The model procedure is in line with their advice that the panel should contain independent persons only. The model procedure should apply unless alternative arrangements have been agreed locally. Whilst the model procedure applies specifically to chief executives, it can also be used as a framework for statutory chief officers (the Monitoring Officer and the Chief Finance Officer) who are subject to the same statutory restrictions on dismissal.</p>

Statutory Officer Panel Terms of Reference

	<p>The terms of reference for the Statutory Officer Panel are incorporated in the council's Constitution. Any change will therefore require approval of County Council. The recommendations of the Staffing Committee will be put forward to the County Council via the Audit and Governance Committee, with changes effective immediately following County Council approval.</p>
Impact Assessment:	<p>Equalities Impact Assessment:</p> <p>It is not considered that a full EqIA is required for this report.</p>
	<p>Use of Evidence:</p> <p>This report is based on advice provided by the JNC and a review of associated legislative requirements.</p>
	<p>Budget:</p> <p>There are no direct cost implications arising from this report.</p>
	<p>Risk Assessment:</p> <p>Having considered the risks associated with this decision using the County Council's approved risk management methodology, the level of risk has been identified as: Current Risk: LOW Residual Risk LOW</p>
	<p>Other Implications:</p> <p>None.</p>
Recommendation	<p>It is recommend that, in line with the JNC's position, the Staffing Committee recommend to the County Council:</p> <p>The terms of reference for the Statutory Officer Panel be updated so that the Panel comprises of independent persons only.</p>
Reason for Recommendation	<p>The Staffing Committee deal with issues relating to disciplinary action or capability in respect of the Chief Executive, Directors, Statutory Officers and Heads of Service. If this recommendation is accepted then independent persons would play an advisory role but any decision to dismiss would still be one for the full County Council.</p>
Appendices	<p>None</p>
Background Papers	<p>None</p>

Statutory Officer Panel Terms of Reference

Officer Contact	Name: Sarah Butcher, Principal HR & OD Adviser Tel: 01305 228505 Email: s.e.butcher@dorsetcc.gov.uk
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1. Introduction

- 1.1. In principle it is for each local authority to determine its procedures and practical arrangements for disciplinary action and dismissal. However in the case of the statutory role of Chief Executive (as Head of Paid Service), there are further legal requirements in respect of the processes that must be followed. This process includes seeking the advice of an independent panel.
- 1.2. There has been some uncertainty as to whether the panel should include elected members as well as independent persons. Advice previously available suggested that whilst the panel must include independent persons, it could also include elected members. The council adopted the independent panel arrangements last year, creating the Statutory Officer Panel as the council's panel for this purpose, which is made up of three elected members and two independent persons.
- 1.3. The JNC has since issued further advice for local authorities, recommending that the panel comprise only of independent persons – in other words, no members should sit on the panel. The JNC is the national negotiating body for the pay and conditions of service of chief executives in England and Wales. The Authorities' Side consists of elected members nominated by the Local Government Association.
- 1.4. The JNC model procedure should apply unless alternative arrangements have been agreed locally. Therefore, the council does have some discretion in how far to follow the JNC advice. Should the council continue with the current arrangements by continuing to include members on the Statutory Officers Panel, note that this would be considered as 'alternative local arrangements' which do not follow the model procedure.

2. The Council's Existing Disciplinary Dismissal Process

- 2.1. The council's existing disciplinary dismissal process for Chief Officers is designed in accordance with the steps outlined in the previous version of the JNC's model procedure.
- 2.2. In the event of any proposed disciplinary dismissal of the council's Chief Executive, Monitoring Officer or Chief Finance, the Staffing Committee would sit as a disciplinary panel. If the Staffing Committee recommend the dismissal, they would do so via the Statutory Officer Panel (currently three members and two independent persons), to the County Council.
- 2.3. Any decision to dismiss can only be made by the full County Council, although any advice, views or recommendations of the independent panel must be taken into account before taking any such decision.

3. The Proposed Approach

- 3.1. Should the council decide to follow the advice of the JNC and the model procedure, the steps in the process will remain the same – the Staffing Committee would continue to make a recommendation to the County Council via the Statutory Officer

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Panel. The only difference is that there would be no members sitting on the panel and the terms of reference for the panel will need to be updated to reflect this. Members would continue to be involved at Staffing Committee and then at full Council.

Sheralyn Huntingford
Head of Human Resources and Organisational Development

November 2016