

North East Derbyshire District Council

Annual Council

26 May 2015

Disciplinary Process for Chief Officers and Deputy Chief Officers
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Report No MO/03/15-16/SS of the Monitoring Officer

This report is public

Purpose of the Report

- To provide a process for the consideration of capability and conduct issues for the Joint Chief Executive Officer, Directors and Assistant Directors, including processes for the Statutory Officers.

1 Report Details

Background

- 1.1 The two Councils have in place processes for dealing with capability and conduct (disciplinary) issues in relation to employees. However in relation to senior Joint employees such as Assistant Directors, Directors and the Chief Executive Officer there is nothing in place. This report sets out a mechanism for providing such a process. It is also recommended that the process is used for the final stages of grievances for these posts.
- 1.2 By law [the Local Authorities (Standing Orders) (England) Regulations 2001] decisions as to the appointment or dismissal of officers at Assistant Director level or above cannot be made by the Head of Paid Service and must be made by Members. Arrangements must be in place therefore to allow Members to deal with these issues.
- 1.3 The contracts of employment for existing Assistant Directors and Directors refer to such matters being dealt with under the processes of the originating employer. Where an officer was originally an NEDDC employee, for example, the processes to be followed would be NEDDC's. This employment is also subject to the Joint Negotiating Committee (JNC) terms and conditions.
- 1.4 This, however, creates a problem as in future we move towards external appointments where there is no originating employing Council. It is necessary to have a Joint process applicable to all such posts.
- 1.5 At the same time, it seems sensible to establish permanently the arrangements for joint appointments in both Councils. The Councils have always appointed the joint posts through a Joint Appointments Panel, made up of 3 members from each Council. The Panel has to be and has been politically balanced where an

appointment (as opposed to a recommendation) has been made. This arrangement has always been included in the relevant report to members and approved by them, but has not formed a permanent part of the Constitution in both Councils.

- 1.6 The proposal is to have a Joint Employment Committee (JEC) and a Joint Appeals Committee. This will ensure that the initial stage of hearing the capability/conduct issue and any appeal against the JEC's decision will be heard by different members as is required by natural justice.
- 1.7 Some suggested Terms of Reference are attached in the Appendix.
- 1.8 In terms of membership, the past appointment panels have consisted of 3 members from each Council and it is suggested that this is the case with both these Committees.

2 Conclusions and Reasons for Recommendation

- 2.1 That formally setting up these two Committees is the most efficient way to set up a process for the fair hearing of issues relating to the discipline of Statutory and non Statutory Chief and Deputy Chief Officers as outlined in the report.

3 Consultation and Equality Impact

- 3.1 No consultation or equality impact assessment is required as this is about the Constitutional side of the process. However it is intended that the Unions will be informed of the report before members consider it.

4 Alternative Options and Reasons for Rejection

- 4.1 To establish the relevant Committees as and when needed. As well as adding delay to the process, it runs the risk of the Councils being accused of not treating all Chief Officers equally.

5 Implications

5.1 Finance and Risk Implications

- 5.1.1 None

5.2 Legal Implications including Data Protection

- 5.2.1 As in the report.

5.3 Human Resources Implications

- 5.3.1 As in the report.

6 Recommendations

- 6.1 To establish a Joint Employment Committee and a Joint Appeals Committee with the attached Terms of reference.
- 6.2 That the membership be chosen by the two Leaders under the proportionality rules

7 Decision Information

Is the decision a Key Decision? (A Key Decision is one which results in income or expenditure to the Council of £50,000 or more or which has a significant impact on two or more District wards)	No
District Wards Affected	None directly
Links to Corporate Plan priorities or Policy Framework	All

8 Document Information

Appendix No	Title
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
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Appendix A

Joint Employment Committee

1. To interview candidates to posts within the Strategic Alliance Management Team.
2. To appoint candidates to posts within the Strategic Alliance Management, with the exception of the Head of Paid Service, Chief Finance Officer and Monitoring Officer.
3. To recommend to the Councils the appointment of the Head of Paid Service, Chief Finance Officer and Monitoring Officer.
4. To deal with all matters of discipline and capability (performance and sickness) relating to Statutory Officers and other Chief Officers/ Deputy Chief Officers (employed by the Council under Joint Negotiating Committee (JNC) terms and conditions).
5. In respect of the dismissal of any of the Statutory Officers, namely the Head of Paid Service, the Monitoring Officer and the Section 151 Officer, the Joint Employment Committee make a recommendation to the Councils (following the conclusion of any appeal) which will be supported via a report from two of the Councils' Standards Committee Independent Persons.

Joint Appeals Committee

1. To deal with the final stages of the grievance and harassment procedures for all Statutory Officers and other Chief Officers/ Deputy Chief Officers (employed by the Council under Joint Negotiating Committee (JNC) terms and conditions).
2. To deal with appeals from the Chief Executive Officer and Chief Officers/ Deputy Chief Officers (employed by the Council under Joint Negotiating Committee (JNC) terms and conditions), excepting the Statutory Officers, against dismissal.
3. To deal with appeals from the Chief Executive Officer and Chief Officers/ Deputy Chief Officers (employed by the Council under Joint Negotiating Committee (JNC) terms and conditions), excepting the Statutory Officers, against disciplinary action taken against them.
4. To deal with appeals from Statutory Officers (employed by the Council under Joint Negotiating Committee (JNC) terms and conditions) arising out of disciplinary action taken against them by the Councils' Joint Employment Committee.
5. To deal with appeals against dismissal from Statutory Officers (employed by the Council under Joint Negotiating Committee (JNC) terms and conditions) arising out of disciplinary or capability proceedings conducted by the Councils' Joint Employment Committee.

Note - The Committees are required to have regard to any changes to the model procedures, contained in the JNC Conditions of Service for Chief Executives and the JNC Conditions of Service for Chief Officers respectively, which may be implemented from time to time.