

# **Disciplinary Procedure**

**For Chief Officers and Deputy Chief Officers**



**ORGANISATIONAL DEVELOPMENT DIVISION**

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# Version Control

This document is intended for:

- Council staff only    School-based staff only    Council & School-based staff

Version	Key Changes	Approved By

This document may be reviewed and amended at any time and without consultation in response to legal requirements or in response to an organisational requirement and where the changes do not reflect a fundamental change or affect the spirit or intent of the document.

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# 1. Scope of Procedure

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1.1 This Disciplinary Procedure (**Procedure**) applies to the following officers who are the Council's Chief Officers and Deputy Chief Officers, with the exception of the Chief Executive and Specific Statutory Officers for whom separate procedures apply:

- *Corporate Director of Regeneration & Community Services*
- *Corporate Director Social Services*
- *Corporate Director of Education*
- *Chief Officer – Commercial & Customer*
- *Head of Children's Services*
- *Head of Adults Services*
- *Head of School Improvement & Inclusion*
- *Head of Community Services*
- *Head of Regeneration & Development*
- *Head of Organisational Development*
- *Service Manager Public Protection*
- *Service Manager Performance & Democratic Services*
- *Service Manager Policy & Partnerships*
- *Service Manager Commercial & Procurement*
- *Service Manager Accountancy*
- *Service Manager Customer Experience & Transformation*
- *Service Manager Revenues & Charging Assessments*
- *Service Manager Education Transformation & Business Change*
- *Service Manager Young People Partnerships*

This is an indicative list and is accurate at the time of the policy development and/or review however, this does not preclude other roles which may fall within the definition of a Chief Officer or Deputy Chief Officer.

These officers are referred to in this Procedure as the **Chief Officer** or **Deputy Chief Officers**. Where reference is made to Chief Officer below, unless otherwise stated, this will be deemed to also be a reference to a Deputy Chief Officer.

1.2 Separate disciplinary procedures apply to the Chief Executive, the Monitoring Officer, the Section 151 Officer and the Head of Democratic Services.

1.3 This Procedure has been adopted by the Council for the purpose of dealing with alleged misconduct (**conduct**) and/or under-performance (**capability**), or where there is some other substantial issue that requires investigation and which, in each case, if upheld, would be recorded on the Chief Officer's personnel file. It does not apply where there is any proposal for dismissal of the Chief Officer by reason of redundancy, expiry of a fixed term contract or retirement or termination on ill health grounds.

1.4 Save where alternative arrangements have been agreed between the Chief Executive (or their nominee) and the Chief Officer, the steps set out in this Procedure should be followed. The parties recognise it may be necessary to depart from the Procedure, from time to time, according to particular circumstances of a case. In

such circumstances, both parties agree to give their consideration to reasonable proposals to modify the Procedure accordingly.

- 1.5 Where appropriate an informal resolution will be sought where there are allegations relating to the conduct or capability of or similar issues in relation to the Chief Officer. Where this is not appropriate or where informal resolution is not possible, this Procedure will apply.
- 1.6 This Procedure does not form part of the Chief Officer's contract of employment and it may be amended from time to time.

## **2.Responsibilities**

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- 2.1 All those involved in the disciplinary process have the following responsibilities in line with this Procedure:
  - Ensuring they familiarise themselves with this Procedure.
  - Ensuring the Procedure is applied fairly and consistently.
  - Ensuring all individuals involved in this process are treated with dignity and respect.
  - Maintaining confidentiality at all times in relation to this Procedure.
  - Cooperating fully in investigations and all meetings relating to this Procedure.
  - Making every effort to attend scheduled meetings in line with the Procedure.

## **3.Issues requiring Investigation**

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- 3.1 Where an allegation is made relating to the conduct or capability of the Chief Officer or there is some other substantial issue that requires investigation, the matter will be considered by the Chief Executive.

## **4.Timescale**

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- 4.1 It is in the interests of all parties that proceedings be conducted expeditiously. It is recognised that it would be inappropriate to impose timescales that could in practical terms be difficult to achieve but recommend that proceedings be subject to regular review.

## 5.Suspension

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- 5.1 The Chief Executive will consider whether it is appropriate to suspend the Chief Officer. Suspension is not regarded as disciplinary action under this Procedure but as a neutral act which may be implemented where, in the opinion of the Chief Executive:
- 5.1.1 the Chief Officer's continuing presence at work might compromise the investigation; or
  - 5.1.2 the Chief Officer's continuing presence at work might impair the efficient exercise of the Council's functions; or
  - 5.1.3 an allegation is such that, if substantiated, it would amount to gross misconduct.
- 5.2 The Chief Officer shall be informed of the reason for the proposed suspension and shall have the right to present information to the Chief Executive before such a decision is taken. While suspended the Chief Officer must not visit the Council's premises or contact any service users, members, suppliers, contractors or staff unless authorised to do so by the Chief Executive.
- 5.3 The necessity for the Chief Officer to remain suspended shall be reviewed at regular intervals and reasonable efforts shall be made to conclude the investigation within a reasonable time. Consideration will be given as to whether alternative working arrangements might be implemented which could avoid the need for the Chief Officer's suspension, whilst avoiding any compromise to the investigation or the efficient exercise of the Council's functions.
- 5.4 Absence from duty during any period of suspension shall be on full pay. In the event that the Chief Officer reports sick during a period of suspension, the Council's occupational sick pay scheme will be applied and upon production of the appropriate medical certificates, the Chief Officer will be paid in line with their sick pay entitlements as set out in the Chief Officer's terms and conditions of employment.

## 6.Right to be Accompanied

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- 6.1 The Chief Officer will be entitled to be accompanied at all formal meetings/hearings under this Procedure by a Trade Union Representative or Workplace Companion (hereafter referred to as a '**Companion**').
- 6.2 If the Companion is unable to attend any formal meeting/hearing the Chief Officer may propose an alternative date provided it is no more than five working days after the original date proposed for the meeting. If the Companion is unable to attend such meeting/hearing within that period the meeting/hearing may proceed and a decision may be taken if the Chief Officer fails to attend. The Chief Officer may not request the postponement of any meeting where their suspension is being considered under paragraph 5.2.

## 7. Considering the Allegations or Other Issues under Investigation

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- 7.1 The Chief Executive will, as soon as is practicable, inform the Chief Officer in writing of the allegations or other issues under investigation.
- 7.2 The purpose of an investigation is for the Council to establish a fair and balanced view of the facts relating to any disciplinary allegation, before deciding whether to proceed to a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. Where the allegations relate to a criminal investigation, the Council will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. An Investigating Officer will be appointed who will look into the issue(s) in question, interview and take statements from relevant individuals and/or review relevant documents. Witnesses may be requested to attend relevant meetings in relation to the process. The Chief Officer must co-operate fully with any investigation. In appropriate circumstances the Chief Executive may act as Investigating Officer in which case paragraph 7.4 will apply after the Chief Executive has completed their investigation and prepared a report as specified in paragraph 7.3.
- 7.3 At the conclusion of the investigation the Investigating Officer will prepare a report (**Investigation Report**) and provide this to the Chief Executive.
- 7.4 The Chief Executive will decide whether:
- 7.4.1 the issue requires no further formal action under the Procedure (in which case they will consider what other steps, if any, should be taken); or
  - 7.4.2 the issue should be referred to the Investigating and Disciplinary Committee (**IDC**).

## 8. Receipt and Consideration of the Investigation Report by the IDC

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- 8.1 The IDC will be a standing committee appointed by the Council which shall be politically balanced. It shall include no fewer than three elected members and should not include any member who has a conflict of interest or who has had a prior involvement in the matter.
- 8.2 The IDC will consider the Investigation Report and will provide a copy to the Chief Officer, together with any supporting documentation including witness statements where relevant and accompanied by written notice of the specific allegations to be considered by the IDC at a disciplinary hearing.
- 8.3 The Chief Officer will be given a reasonable opportunity to consider the information referred to in paragraph 8.2 and shall be invited to put forward written representations

and any evidence including evidence from witnesses that they wish the IDC to consider.

- 8.4 The Chief Officer must make every effort to attend the disciplinary hearing.
- 8.5 The IDC shall give the Chief Officer the opportunity to state their case at the disciplinary hearing before making a decision. The Chief Officer may be accompanied to the hearing by a Companion.
- 8.6 Having considered the evidence and any other associated factors the IDC may:
  - 8.6.1 take no further action;
  - 8.6.2 recommend informal resolution or other appropriate procedures;
  - 8.6.3 refer back to the Investigating Officer for further investigation and report;
  - 8.6.4 take disciplinary action.
- 8.7 In the case of disciplinary action, this may include (but is not limited to) the following:
  - 8.7.1 a first written warning;
  - 8.7.2 a final written warning;
  - 8.7.3 dismissal;
  - 8.7.4 demotion and/or redeployment.
- 8.8 Where the Chief Officer is issued with a written warning, it will set out the nature of the misconduct, the change in behaviour required, the period the warning will remain active and the likely consequences of further misconduct in that active period. A first written warning will normally remain active for nine months; a final written warning will normally remain active for 12 months. Records of all proceedings in line with this Procedure will be kept on the employee's personal file. All records will be kept confidential and will be retained in accordance with the Disciplinary Policy & Procedure, the Council's Retention Guidelines and statutory requirements.
- 8.9 The dismissal of the Chief Officer may, in appropriate circumstances, be without notice or payment in lieu of notice.
- 8.10 Where practicable, the decision of the IDC will be delivered orally after an adjournment. The IDC will in any event confirm its decision to the Chief Officer in writing, normally within five working days of the disciplinary hearing (**Decision Letter**).

## 9. Appeals

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- 9.1 The Chief Officer may appeal to the Appeals Committee within five working days of the date of the Decision Letter, setting out the grounds of appeal. The Appeals Committee will be a standing committee appointed by the Council. It shall include no fewer than three elected members and should not include any member who is a member of the IDC or who has had a prior involvement in the matter. All reasonable effort should be made for the appeal to be heard at the earliest opportunity and as far as possible should be no longer than 6 weeks from the date of the written appeal being received.
- 9.2 The Appeals Committee will consider the Investigation Report and any other relevant information considered by the IDC. The Chief Officer will have the opportunity to put their case at a hearing before the Appeals Committee, which will take the form of a review of the decision taken by the IDC, before a decision is taken and they may be accompanied to that hearing by a Companion.
- 9.3 The Appeals Committee will give careful consideration to the Investigation Report and any other relevant information and may conduct any further investigation it considers necessary to reach a decision.
- 9.4 The Appeals Committee may decide to uphold or dismiss the decision of the IDC or to impose a different sanction.
- 9.5 Where practicable, the decision of the Appeals Committee will be delivered orally after an adjournment. The Appeals Committee will in any event confirm its decision to the Chief Officer in writing, normally within five working days of the hearing.
- 9.6 The decision of the Appeals Committee will be final.