

## Review of the Investigating and Disciplinary Committee (IDC) for CPP

### 1 What is the Investigating and Disciplinary Committee (IDC)?

The Investigating and Disciplinary Committee (IDC) is a Council body, as set out in Part 3 of the Council's constitution which outlines the remits and terms of reference for Council bodies. Specifically, Appendix A of Part 3 of the Constitution sets out the composition, functions and terms of reference for the Appointments Board/Investigating and Disciplinary Committee.

The purpose of the IDC is to provide the structure to support procedures which must be followed in the event that disciplinary action is contemplated against a statutory officer of the Council.

For the avoidance of doubt, a Local Authority's Statutory Officers are:

- The Chief Executive (Head of Paid Service)
- The Monitoring Officer
- The Chief Financial Officer (Section 151 Officer)

### 2 What are the legal requirements governing disciplinary procedures for statutory officers?

Normally each employer determines its procedures for the handling disciplinary matters for its employees, taking into account the relevant considerations in general employment law and the relevant ACAS Code of Practice. However, in the case of Local Authority Statutory Officers there are further legal requirements which need to be taken into consideration. These additional requirements are to ensure Statutory Officers, who have duties to protect the Council as a corporate body, are protected from unwarranted political interference in carrying out their duties.

There have been specific regulations in place to govern disciplinary matters relating to statutory officers since 2001 and these have been reflected in the Council's local disciplinary procedures since that time. The Local Authorities (Standing Orders) (England) Regulations 2001 (as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015) are the current regulations governing disciplinary procedures for statutory officers.

### 3 Why does the Council need an IDC?

The revisions to The Local Authorities (Standing Orders) (England) Regulations 2001 agreed in 2015 included changes to the process for dismissing a statutory officer. This prompted the need for a national review of disciplinary arrangements for statutory officers.

The Joint Negotiating Committee (JNC) for Local Authority Chief Executives is the negotiating body for the Local Government Association (LGA) representing employer local authorities. To assist authorities in implementing the revisions required by the 2015 Regulations the JNC agreed model procedures to reflect the new requirements and these procedures were incorporated into the conditions of service handbook for local authority Chief Executives.

The model procedure, and associated guidance, requires Councils across England to establish an IDC to govern any future disciplinary procedures for their statutory officers.

The model procedure is shown in Appendix A.

**NB. While the conditions of service handbook relates specifically to Chief Executives, the associated guidance is clear that the same procedures should be followed for the Monitoring Officer and Section 151 Officer.**

#### 4 How were the IDC's terms of reference determined?

The JNC produced detailed guidance to support the model disciplinary procedure. This sets out the structures which are necessary to manage the process. The guidance also sets out a number of factors which a Council must consider regarding the composition of committees and delegation of powers in relation to the model procedure to bring these into effect, including:

##### *For the IDC:*

- That the IDC must be politically balanced
- That the IDC must include at least one member of the executive
- That there may be circumstances where members of the IDC may find themselves in a position where they have a conflict of interest, so this should be taken into consideration when constructing the committee
- That the committee which performs this function may be known locally by a different name and may also fulfil other functions

##### *For the Appeals Committee:*

- That the Appeals Committee must be politically balanced
- That the Appeals Committee members must not be members of the IDC
- Where the Council operates an Executive structure the Appeals Committee must include at least one member of the Executive

##### *For the Independent Panel:*

- That the Independent Panel should comprise of independent persons (at least two) who have been appointed by the Council, or by another Council, for the purpose of the Council members' conduct regime under section 28(7) of the Localism Act 2011

As staffing issues are a non-executive function these factors were reflected in a report prepared for Full Council on 9<sup>th</sup> April 2020, which included a number of recommendations to bring the required structures into effect. This included a recommendation to revise the remit of the Council's existing Appointment Board to become the Appointment Board/Investigating and Disciplinary Committee. The full list of recommendations included in the report can be found in Appendix B. However, the Council meeting was cancelled due to the outbreak of the COVID19 pandemic and the report on the Disciplinary and Dismissal Procedures for Statutory Officers was approved by the Chief Executive under emergency powers on 16<sup>th</sup> April 2020. Members were advised of this position at the time.

#### 5 How and when was the IDC introduced?

The changes detailed in 2015 Regulations necessitated an immediate revision of all Council's Constitution's and in the case of BCKLWN this was implemented in June 2015 by the then Monitoring Officer.

The model procedure, and associated guidance, was not finalised by the JNC until late 2016. In 2019 the JNC identified that many Council's had not updated their procedures in full to reflect the required changes. Work to progress the required changes was undertaken leading to the submission of a report being prepared for Full Council in April 2020. The recommendations from this report were agreed on 16<sup>th</sup> April 2020.

Following approval the required changes have been incorporated into Part 3, Appendix A of the Council's Constitution.

## 6 What are the agreed Terms of Reference for the IDC?

In line with the recommendations from the report to Council agreed in April 2020, the Council has revised the terms of reference for the Appointment Board to expand the remit of this council body to become the Appointment Board/Investigating and Disciplinary Committee. This is consistent with the relevant guidance, which states that the Committee may also fulfil other functions.

The terms of reference of the Appointment Board/Investigating and Disciplinary Committee which relate specifically to the role of the IDC are provided in Appendix C.

## 7 What discretion does the Council have regarding the implementation of the Model Procedure and IDC?

As already mentioned, all Councils are required to adhere to the model procedures as outlined in the conditions of service handbook for Chief Executives and the associated guidance. The guidance is very prescriptive and specifically highlights the need for all Councils to establish:

- An Investigating and Disciplinary Committee (IDC)
- An Appeals Committee
- An Independent Panel
- An elected member with the designated power to suspend the Chief Executive immediately in an emergency

These requirements were addressed in the April 2020 Council report.

The recommendations to Council in April 2020 delegated authority to the relevant Executive Director to “develop a procedure, based on the NJC Model Disciplinary Procedure but adapted to reflect the specific details outlined in this report, to be followed in the case of a complaint against a statutory officer”. This procedure reflects the specifics with regards to BCKLWN, namely:

- specific panel/committee names, job titles etc
- the JNC guidance documents recommendation that Council’s determine their own method for filtering complaints, by using a sub-committee of the IDC as a filter to; a) facilitate the redirection of complains to the appropriate Council procedure or b) to filter out that which have not merit
- local arrangements for supporting the IDC process

## 8 How are Members appointed to the Investigating and Disciplinary Committee?

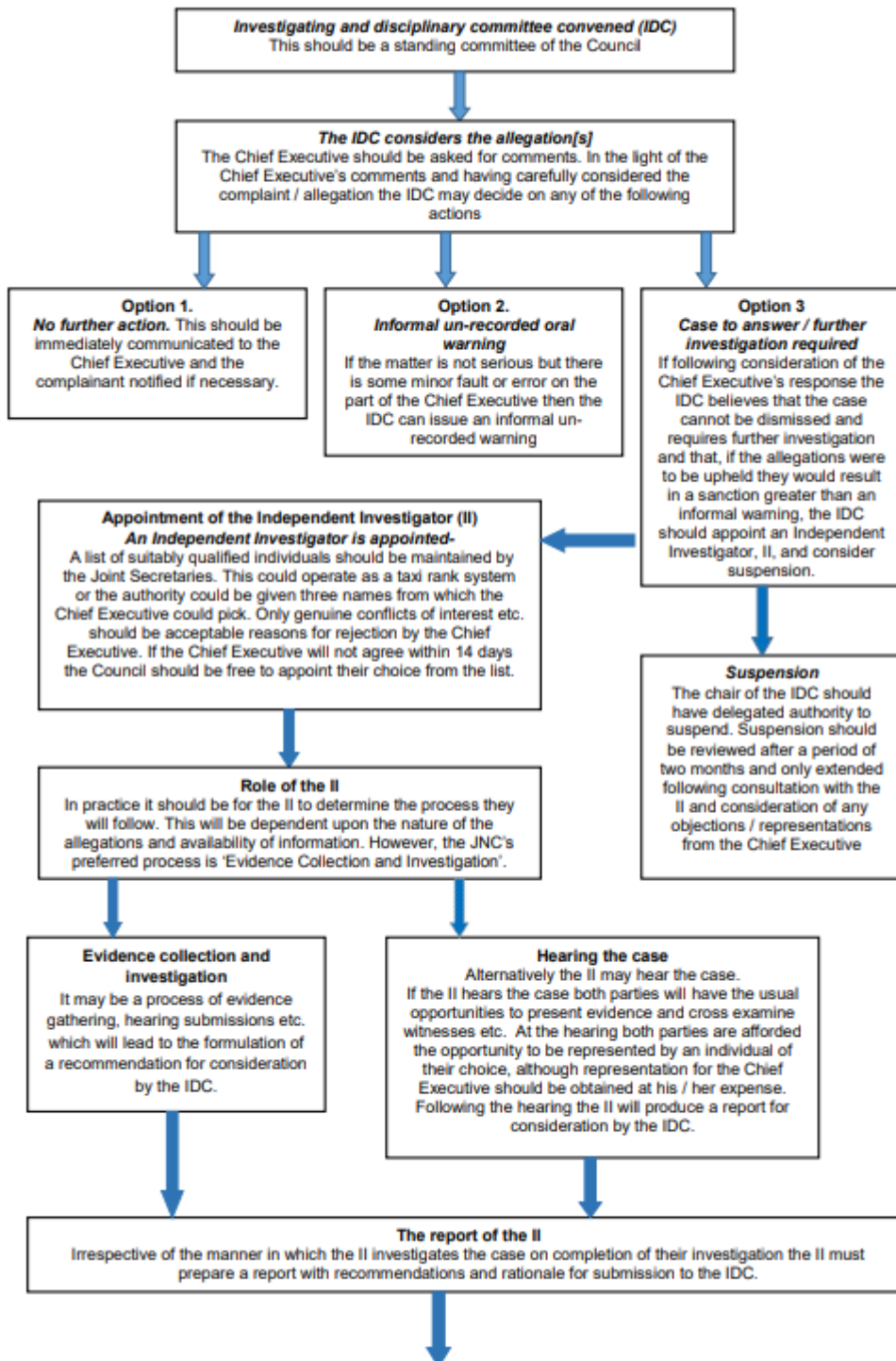
Prior to Annual Council each year Group Leaders are asked to nominate their required number of representatives for all Council bodies, including the Appointment Board/IDC. These nominations are then submitted for approval at the Annual Council meeting.

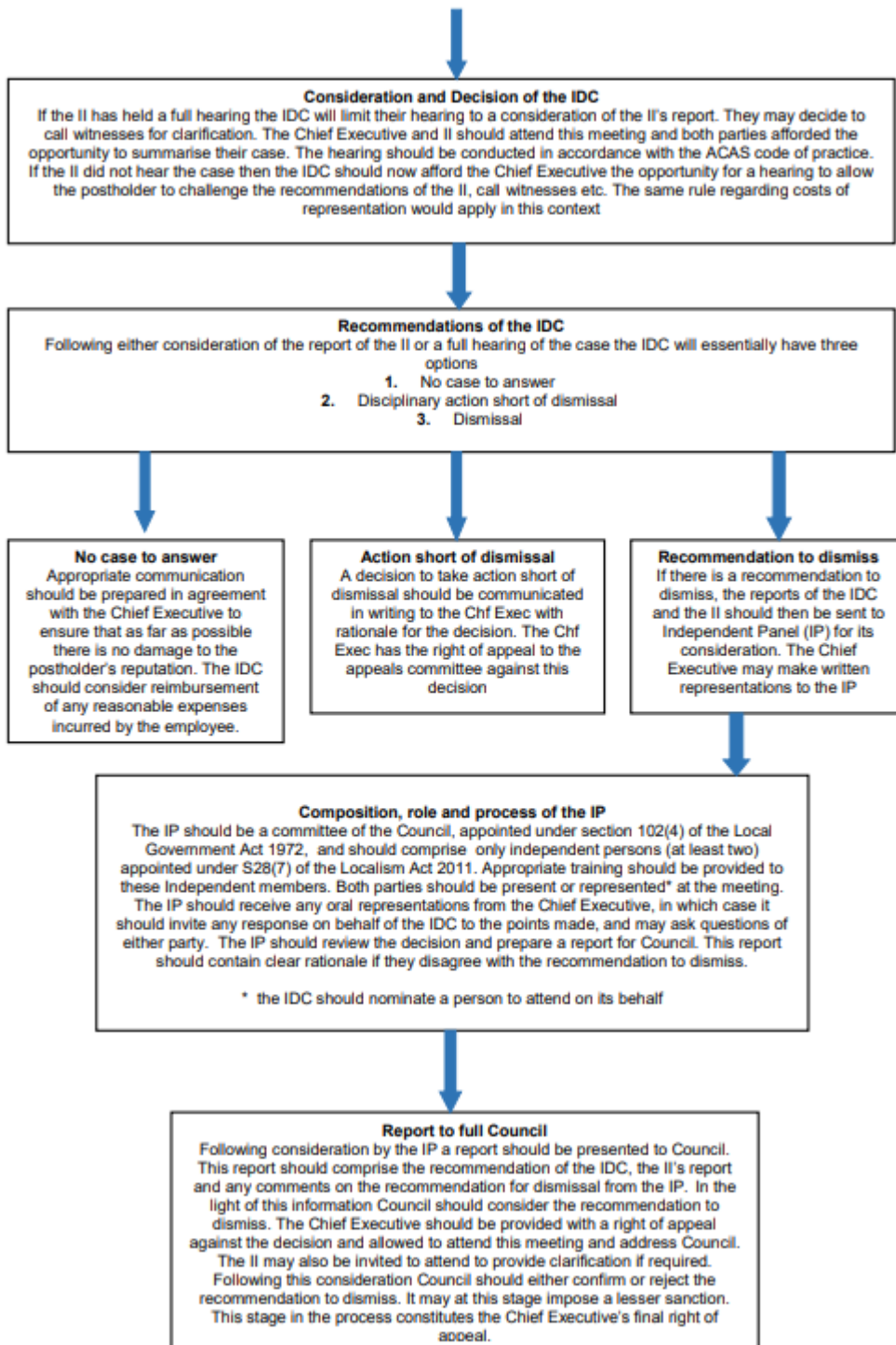
The guidance issued by the JNC recommends training for elected members involved in the IDC process. As the training for IDC members is delivered by an external trainer nominated members and deputies have been trained, to facilitate timely meetings as required.

Becky Box  
Assistant Director Central Services  
January 2023

**Appendix A – Model Procedure for Local Authority Statutory Officers**

**ENGLAND ONLY: Disciplinary Procedure for Local Authority Chief Executives**





## **Appendix B - Recommendations to Council April 2020**

- 1) To revise the terms of reference of the Appointments Board to deal with disciplinary matters relating to the relevant officers. This committee is to be a politically balanced committee, at least one of whom is to be a member of the Cabinet.
- 2) To revise the terms of reference of the Licensing and Appeals Panel to deal with appeals against disciplinary sanctions short of dismissal relating to the relevant officers. This committee is to be a politically balanced committee, at least one of whom is to be a member of the Cabinet.
- 3) That in the case of a complaint being received against a relevant officer, the decision whether to refer the matter to the Investigating and Disciplinary Committee (IDC) will be delegated to a sub-committee of the IDC consisting of three members, and which will be politically balanced as far as is practicable. All decisions made by the sub-committee will be made in consultation with the Executive Director and Chief Executive/Monitoring Officer as appropriate. The three members forming the sub-committee will then be excluded from participating in any process arising from their decision.
- 4) That the IDC will have delegated responsibility for the appointment of an Independent Investigator to undertake an investigation into any matter it considers warrants investigation. Such investigator to be appointed from the list provided by the National Joint Secretaries, and co-ordinated by the Executive Director.
- 5) That the Investigating and Disciplinary Committee (IDC) will have delegated responsibility for the suspension of "the relevant officers." In the event of the need for urgency, this function to be delegated to the Chief Executive, should there be a need to suspend the Monitoring Officer or Section 151 Officer, or the Monitoring Officer should there be a need to suspend the Chief Executive, in all cases the decision to be made in consultation with the Chair of the IDC and the Executive Director.
- 6) To establish an Independent Panel comprising at least two people appointed under section 28 Localism Act 2011 to advise Council in the event of a recommendation from the Independent Disciplinary Committee to dismiss a relevant officer.
- 7) That the Executive Director be authorised to develop a procedure, based on the NJC Model Disciplinary Procedure but adapted to reflect the specific details outlined in this report, to be followed in the case of a complaint against a statutory officer.
- 8) That the Monitoring Officer be authorised to make all necessary and consequential amendments to the constitution to give effect to these recommendations.
- 9) That the Executive Director be authorised to arrange appropriate mandatory training for members serving on the Investigating and Disciplinary Committee and Appeals Committee and the Independent Persons serving on the Independent Panel.
- 10) That the Investigation and Disciplinary Committee and Appeals Committee be appointed and seats thereon allocated to political groups in accordance with the rules of proportionality and that appointments be made to Committees in accordance with the nominations received from political groups.

## **Appendix C - Terms of Reference for the IDC**

The terms of reference of the Appointment Board/Investigating and Disciplinary Committee which relate specifically to the role of the IDC are as follows:

### **Composition**

- A1 The Appointments Board/Investigating and Disciplinary Committee shall consist of up to nine members and no councillor shall be disqualified from appointment by membership of any other Council body.
- A.2 To comply with the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015) an Investigating and Disciplinary Committee must be politically balanced and must include at least one member of the executive.
- A.5 In the case of a complaint being received against a statutory officer, the decision whether to refer the matter to the Investigating and Disciplinary Committee will be delegated to a sub-committee of the IDC consisting of three members, and which will be politically balanced as far as is practicable. The three members forming the sub-committee will then be excluded from participating in any process arising from their decision.
- A.6 In designating the members to form Appointments Panels or sub-committees of the Investigating and Disciplinary Committee, and in advising on it, the Chairman and the Chief Executive (or where appropriate, the Monitoring Officer) respectively shall have regard to political proportionality, to the responsibilities of members in relation to the duties attaching to the post to be filled, and to the need for any substitution of members.

### **Functions Referred to the Board and the Terms of their Reference**

- A.8 Within the procedures established by the Council, the Investigating and Disciplinary Committee will have delegated responsibility for the appointment of an Independent Investigator to undertake an investigation into any matter it considers warrants investigation. Such investigator to be appointed from the list provided by the National Joint Secretaries, and co-ordinated by the relevant Executive Director.
- A9 The Investigating and Disciplinary Committee will have delegated responsibility for the suspension of “the relevant officer(s)”. In the event of the need for urgency, this function will be delegated to the Chief Executive, should there be a need to suspend the Monitoring Officer or Section 151 Officer, or the Monitoring Officer should there be a need to suspend the Chief Executive. In all cases the decision will be made in consultation with the Chair of the IDC and the relevant Executive Director.