

REPORT TO CABINET

Open		Would any decisions proposed :			
Any especially affected Wards	Mandatory/	Be entirely within Cabinet's powers to decide		NO	
	Discretionary /	Need to be recommendations to Council		YES	
	Operational	Is it a Key Decision		NO	
Lead Member: Cllr Alistair Beales E-mail: cllr.alistair.beales@west-norfolk.gov.uk			Other Cabinet Members consulted:		
			Other Members consulted:		
Lead Officer: James Arrandale E-mail: james.arrandale@west-norfolk.gov.uk			Other Officers consulted: Becky Box		
Financial Implications NO	Policy/ Personnel Implications YES	Statutory Implications YES	Equal Impact: Pre-screening	Risk Management Implications YES	Environmental Considerations NO
If not for publication, the paragraph(s) of Schedule 12A of the 1972 Local Government Act considered to justify that is (are) paragraph(s) - N/A					

Date of meeting: 4 March 2025

REVISIONS TO CONSTITUTION REGARDING DISCIPLINE, DISMISSAL AND GRIEVANCE INVOLVING STATUTORY OFFICERS

Summary

This Paper invites Cabinet to consider minor revisions to the procedures that are operated within the Investigations and Disciplinary Committee. These revisions are proposed following a recent review of Council's adopted IDC complaints procedure, and also updates that have subsequently been made to national best-practice code and guidance.

Recommendation

Recommendations to Full Council:

1. That the IDC Terms of Reference should be amended as follows:
 - i. Paragraph A.5 should be deleted.
 - ii. Insert new A.12: *"The Monitoring Officer is nominated to assess the allegation to determine whether it falls within the remit of the procedure, or whether it is clearly unfounded or trivial or can best be dealt with under some other procedure (the **Initial Filter Exercise**). Either of the Deputy Monitoring Officer or the Head of Personnel is delegated authority to carry out this role if it is not possible or appropriate for the Monitoring Officer to do so. The Monitoring Officer (or substitute officer above) shall report to the Chair of the IDC if they determine that an allegation does not fall within the remit of this procedure."*

iii. Insert new A.13: *“For the purposes of the Initial Filter Exercise above, the Monitoring Officer is delegated authority to carry out any preliminary inquiries that are needed. Either of the Deputy Monitoring Officer or the Head of Personnel is delegated authority to carry out this role if it is not possible or appropriate for the Monitoring Officer to do so.”*

2. That the Standards Committee Terms of Reference should be amended as follows:

Insert new E.17: “Act as Grievance Committee where required in grievance matters concerning the Chief Executive, in accordance with the JNC Model Code. For this purpose, five Standards Committee members shall be convened with political proportionality (or three members if this is not possible), none of whom shall be members of the IDC or the Appeal Committee.

For the purposes of fulfilling the Council’s adopted grievance procedures in accordance with the JNC Model Code, Standards Committee nominates the Monitoring Officer to act as Receiving Officer. Where the Monitoring Officer cannot so act, qualifying members of the Standards Committee (i.e. non-members of the IDC and Appeals Committee) shall nominate a Monitoring Officer from a neighbouring authority to act as the Receiving Officer.”

Reason for Decision

To clarify the relevant arrangements and to maintain consistency with national best practice.

1 Background

The Council’s procedures for disciplinary matters involving the Chief Executive, Monitoring Officer and s.151 Officer (**Statutory Officers**) were revised in April 2020. The purpose of these revisions was to implement the Model Disciplinary Procedure and Guidance agreed by the Joint Negotiating Committee for Local Authority Chief Executives (the **JNC Model Procedure and Guidance**, together the **Model Code**). The revisions included:

- Expanding the terms of reference for Appointments Board to deal with disciplinary matters for Statutory Officers (i.e. becoming the Appointments Board/IDC),
- Revising the terms of reference of Licensing & Appeals Panel to deal with appeals by Statutory Officers against certain disciplinary sanctions; and
- Delegating powers to the IDC to appoint investigators and to suspend a Statutory Officer

These revisions are found in Part 3 of the Constitution.

The 2020 decisions also provided that:

- The IDC would form a sub-committee which would carry out a preliminary assessment and decide whether to refer to the full committee for further consideration.
- The Executive Director for Central Services would develop a bespoke procedure for handling complaints against Relevant Officers, adapted from the JNC Model Code.

In 2021, an IDC complaint was handled under these procedures. The complaint was made by Cllr Nash against Alexa Baker as Monitoring Officer (the **2021 Complaint**).

In September 2022, the Model Code was updated with a number of relevant changes.

In 2024, officers undertook a review of the current IDC processes and the conduct of the 2021 Complaint, and identified the points which are now raised in this paper.

Discussion

The JNC Model Code envisages the following stages at the start of an IDC complaint:

- Stage 1: to “*filter out and deal with allegations against the [Statutory Officer] which are clearly unfounded, or trivial, or can best be dealt with under some other procedure*” (the **Filter Stage**)
- Stage 2: to consider whether the allegation can be dismissed or whether it requires more detailed investigation (for current purposes, **Initial Assessment**).
- Stage 3: if the allegation does warrant investigation, to appoint an independent investigator, and to take a decision based on the outcome of that investigation.
- Further stages may follow depending on the decision taken.

The Model Code recommends that the Monitoring Officer should carry out the Filter Stage. All of the subsequent stages will then be carried out by the IDC and other member bodies.

Following the 2020 decisions, paragraph A.5 within the IDC’s Terms of Reference (Part 3 of the Constitution) currently provides:

“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.”

In the 2021 Complaint process, officers carried out the Filter Stage, consistent with the Model Code (the MO was not involved as she was the object of the complaint). They relied on the support of an external investigator to assist with the Filter review. However, there was some uncertainty around how this fitted in with the paragraph A.5 arrangements.

As regards the recommendation that the Monitoring Officer should be nominated to carry out any preliminary inquiries, this is again consistent with the Model Code.

In the 2021 Complaint process officers instructed an external JNC-listed investigator to make preliminary inquiries for the purposes of the Filter Stage. However, this is not explicit in the current procedures, which led to confusion from the subject Councillor that the investigator was carrying out the full investigation (i.e. stage 3), without the proper involvement of the IDC.

It is recommended that the lack of clarity on these points should be removed.

Grievance Committee

The revised Model Code makes further arrangements regarding a Grievance Committee, and recommends that this is a standing body within the Council.

The Council already operates a Standards Committee, with a membership that largely does not overlap with either the IDC or the Licensing and Appeals Board. A straightforward way to address the need for a Grievance Committee would be to expand its Terms of Reference.

Consequential Amendments

Included as an Appendix to this Report is a proposed revised version of the Council's operational procedures that were created in accordance with the 2020. The proposed revision is consistent with the recommendations in this report.

Consequential changes would also be made to the Scheme of Delegations to record the officer roles.

2 Options Considered

Do not make the proposed changes.

This presents a risk that confusion may arise in any future IDC procedure, jeopardising the robustness of the procedure.

As regards recommendation 1, in principle, the IDC sub-committee could be made responsible for the Filter Stage. However, this is contrary to the recommendations of the Model Code. It is also arguably disproportionate to convene a panel of members to make this assessment, given the filter

exercise is extremely high-level and limited to weeding out complaints which are “clearly unfounded or trivial”.

In addition, the requirement that the sub-committee members “*will then be excluded from participating in any process arising from their decision*” could risk the political balance of the remainder of the IDC, or create problems where there may be other members who are conflicted.

Alternatively, the IDC sub-committee could be retained with the specific remit of carrying out Initial Assessments. Again however, the requirement that the sub-committee members “*will then be excluded from participating in any process arising from their decision*” could risk the political balance of the remainder of the IDC, or create problems where there may be other members who are conflicted.

3 Policy Implications

The proposed revisions bring the Council’s arrangements into closer alignment with the JNC Model Code.

4 Financial Implications

None.

5 Personnel Implications

The proposed revisions affect the personnel arrangements for the Statutory Officers, but in a way that is consistent with national best practice.

6 Environmental Considerations

None.

7 Statutory Considerations

None.

8 Equality Impact Assessment (EIA)

Pre-Screening Assessment attached

9 Risk Management Implications

Failure to maintain the Council’s employment arrangements clear and consistent with national best practice risks potential consequences in terms of the Council’s liability to employment claims.

10 Declarations of Interest / Dispensations Granted

N/A

11 Background Papers

Draft revised operational procedures

Pre-Screening Equality Impact Assessment

Borough Council of
King's Lynn & West Norfolk



Name of policy/service/function	Personnel				
Is this a new or existing policy/service/function?	Existing				
<p>Brief summary/description of the main aims of the policy/service/function being screened.</p> <p>Please state if this policy/service is rigidly constrained by statutory obligations</p>	<p>HR arrangements relating to the Chief Executive, Monitoring Officer and s.151 Officer.</p> <p>Statutory obligations apply, supplemented by national best practice.</p>				
Question	Answer				
<p>1. Is there any reason to believe that the policy/service/function could have a specific impact on people from one or more of the following groups according to their different protected characteristic, for example, because they have particular needs, experiences, issues or priorities or in terms of ability to access the service?</p> <p>Please tick the relevant box for each group.</p> <p>NB. Equality neutral means no negative impact on any group.</p>		Positive	Negative	Neutral	Unsure
	Age			x	
	Disability			x	
	Gender			x	
	Gender Re-assignment			x	
	Marriage/civil partnership			x	
	Pregnancy & maternity			x	
	Race			x	
	Religion or belief			x	
	Sexual orientation			x	
	Other (eg low income)			x	

