PART 3 – RESPONSIBILITY AND FUNCTIONS

TERMS OF REFERENCE – INVESTIGATING AND DISCIPLINARY COMMITTEE

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COMMITTEE	**INVESTIGATING AND DISCIPLINARY**
MEMBERSHIP	Five Members of the Council appointed annually and politically balanced
LEAD OFFICER	Head of Paid Service / Monitoring Officer / Section 151 / Chief Officers as appropriate
OFFICERS / UNITS PRIMARILY REPORTING	As above
SUB-COMMITTEE	None

1. TERMS OF REFERENCE

1. Consider any allegation of misconduct, capability or breakdown of trust against the Head of Paid Service, the Section 151, the Monitoring Officer or any Chief Officer and to suspend (under the Officer Employment Procedure Rules) the Officer concerned for the purpose of investigating the allegation.

2. Authorise an investigation in relation to matters referred to in paragraph 1 above in accordance with the Council's statutory obligations.

3. Decide whether the matter can be dealt with by informal resolution or other appropriate procedures or that there is no case to answer.

4. Report to the Council on any issues, including disciplinary action, arising from steps taken above, in accordance with the Council's statutory obligations.

5. Hear and decide appeals arising from Human Resources (HR) Policies.

NOTE:

1 See role of Investigating and Disciplinary Panel in relation to dismissal.

2 The exercise of the Committee's duties under paragraph 5 above will have regard to relevant HR Policies / Procedures and related employment advice and is not subject to the Operating Protocol set out below.

PART 3 – RESPONSIBILITY AND FUNCTIONS

2. OPERATING PROTOCOL

1 The Committee will meet as and when required, subject to compliance with Access to Information requirements.

2 The Committee shall be advised by the Head of Paid Service, Monitoring Officer, Section 151 Officer or Chief Officer as appropriate and suitably experienced Human Resources Officer, provided that they did not prepare the report to the Committee.

3 Allegations or complaints falling within the remit of the Committee will normally be sent or passed to the Chairperson of the Committee who will ensure circulation to other Members of the Committee as required. Allegations or complaints may in the first instance be received by the Leader of the Council or one of the Council's Statutory Officers.

4 It is for the Committee expeditiously to undertake an initial, but not detailed, investigation having regard to the facts and, if necessary, to seek further information/ clarification from the complainant including an indication of how the matter might be resolved.

5 As soon as practicable the Committee will inform the Officer the subject of the allegation, seek a response, and provide an opportunity to appear in person and call witnesses and be represented.

6 It is for the Committee to consider and decide whether:

a. the matter requires any further formal action, or

b. the matter is suitable for informal resolution or other action/procedure and therefore resolved, or

c. the matter should be the subject of a formal investigation and appoint a Designated Independent Person (DIP),and advise the Officer accordingly.

7 An allegation or complaint must be considered by the Committee, meetings of which are subject to the normal rules around notice, summons and publication of the agenda. For the most part, it is likely that the business of the Committee will be conducted in private session due to the confidentiality and sensitivity of the subject matter.

8 In the light of the above, and the potential for further consideration, investigation, and report to the Council, and also potential conflicts of interest, arrangements for meetings of the Committee need to remain flexible with the appointment of substitutes. The fairness and integrity of the process must be maintained at all times.

9 It is essential that the Committee's work is confined to the Members of the Committee only at the time, and circulation of papers will be restricted accordingly. Notwithstanding Procedure Rule 19 and the general acceptance of the practice which enables Members to attend meetings of other Committees, private sessions of meetings of this Committee should proceed only with the appointed Members and required support Officers present (e.g. Human Resources, Committee / Governance). A quorum shall be three Members.

10 The appointment of a DIP must be agreed between the Committee and the Officer the subject of the complaint. In the event of failure to agree, the Council will ask the Secretary of State to make an appointment. It is essential that this stage is

progressed expeditiously particularly if the Officer has been suspended, as there is a two month time limit on suspension.

11 The Committee will provide terms of reference to the appointed DIP and may consider and recommend to the Council on appropriate remuneration. The timescale for an investigation should be agreed between the Committee and the Officer in question.

12 The DIP has the power to direct the Council to terminate any suspension of the Officer, to extend the suspension beyond the two month limit, or to vary the terms of the suspension.

13 The DIP reports to the Council, but in reality, this will be Committee. The Officer in question will be given a further opportunity to state his / her case before a decision is made. The Committee is required to report to the Council on any issues arising from the process it has operated, including disciplinary action, in accordance with the Council's statutory obligations. The Committee will notify the Officer and keep him / her advised at all relevant stages.

14 In all other respects and as appropriate, the Council and Committee Procedure Rules will apply.

NB: The Council has agreed to adopt in its entirety the procedures laid down within the Joint Negotiating Committee for Local Authority Chief Executives model for use in connection with the exercise by this Committee of its remit in relation to the posts of Head of Paid Service, Section 151 Officer or Monitoring Officer.