

A meeting of the **STANDARDS COMMITTEE** will be held in **CIVIC SUITE, PATHFINDER HOUSE, ST MARY'S STREET, HUNTINGDON PE29 3TN** on **THURSDAY, 25 JUNE 2015 at 4:00 PM** and you are requested to attend for the transaction of the following business:-

A G E N D A

APOLOGIES

- | | Contact |
|---|---|
| <p>1. MINUTES (Pages 1 - 4)</p> <p>To approve as a correct record the Minutes of the meetings held on 26th June 2014.</p> | <p>A Roberts
388015</p> |
| <p>2. MEMBERS' INTERESTS</p> <p>To receive from Members declarations as to disclosable pecuniary or other interests in relation to any Agenda Item. See Notes below.</p> | |
| <p>3. STATUTORY DISMISSAL PROCEDURES FOR HEADS OF PAID SERVICE, MONITORING OFFICERS AND THE RESPONSIBLE FINANCIAL OFFICER (Pages 5 - 16)</p> <p>To consider a report by the LGSS HR Business Partner on changes to the statutory disciplinary and dismissal procedures applying to English local authorities' heads of paid service, monitoring officers and chief financial officers.</p> | <p>L Fulcher
01223 699777</p> |
| <p>4. UPDATE ON CODE OF CONDUCT COMPLAINTS</p> <p>To receive a verbal update on Code of Conduct complaints received by the Monitoring Officer.</p> | <p>J Slatter
388103</p> |
| <p>5. REVIEW OF COUNCIL CONSTITUTION (Pages 17 - 20)</p> <p>To consider a report by the Monitoring Officer on the review of the Council's Constitution.</p> | <p>S Tracey
388023</p> |
| <p>6. REQUEST FOR DISPENSATION (Pages 21 - 24)</p> <p>To consider a report by the Monitoring Officer seeking a dispensation for a Member of the Council.</p> | <p>A Roberts
388015</p> |

7. DATE OF NEXT MEETING

The next meeting of the Committee is scheduled to take place on 10th September 2015 at 4.00pm in the Civic Suite, Pathfinder House.

Dated this 17 day of June 2015



Head of Paid Service

Notes

1. Disclosable Pecuniary Interests

(1) *Members are required to declare any disclosable pecuniary interests and unless you have obtained dispensation, cannot discuss or vote on the matter at the meeting and must also leave the room whilst the matter is being debated or voted on.*

(2) *A Member has a disclosable pecuniary interest if it -*

- (a) relates to you, or*
- (b) is an interest of -*

- (i) your spouse or civil partner; or*
- (ii) a person with whom you are living as husband and wife; or*
- (iii) a person with whom you are living as if you were civil partners*

and you are aware that the other person has the interest.

(3) *Disclosable pecuniary interests includes -*

- (a) any employment or profession carried out for profit or gain;*
- (b) any financial benefit received by the Member in respect of expenses incurred carrying out his or her duties as a Member (except from the Council);*
- (c) any current contracts with the Council;*
- (d) any beneficial interest in land/property within the Council's area;*
- (e) any licence for a month or longer to occupy land in the Council's area;*
- (f) any tenancy where the Council is landlord and the Member (or person in (2)(b) above) has a beneficial interest; or*
- (g) a beneficial interest (above the specified level) in the shares of any body which has a place of business or land in the Council's area.*

Non-Statutory Disclosable Interests

(4) *If a Member has a non-statutory disclosable interest then you are required to declare that interest, but may remain to discuss and vote providing you do not breach the overall Nolan principles.*

(5) *A Member has a non-statutory disclosable interest where -*

- (a) a decision in relation to the business being considered might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or a person with whom you have a close association to a greater extent than it would affect the majority of the council tax payers, rate payers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area, or*
- (b) it relates to or is likely to affect a disclosable pecuniary interest, but in respect of a member of your family (other than specified in (2)(b) above) or a person with whom you have a close association, or*
- (c) it relates to or is likely to affect any body –*

- (i) exercising functions of a public nature; or
- (ii) directed to charitable purposes; or
- (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a Member or in a position of control or management.

and that interest is not a disclosable pecuniary interest.

2. Filming, Photography and Recording at Council Meetings

The District Council supports the principles of openness and transparency in its decision making and permits filming, recording and the taking of photographs at its meetings that are open to the public. It also welcomes the use of social networking and micro-blogging websites (such as Twitter and Facebook) to communicate with people about what is happening at meetings. Arrangements for these activities should operate in accordance with guidelines agreed by the Council and available via the following link [filming, photography and recording at council meetings.pdf](#) or on request from the Democratic Services Team. The Council understands that some members of the public attending its meetings may not wish to be filmed. The Chairman of the meeting will facilitate this preference by ensuring that any such request not to be recorded is respected.

Please contact Democratic Services Team, Tel No. 01480 388015/e-mail Anthony.Roberts@huntingdonshire.gov.uk if you have a general query on any Agenda Item, wish to tender your apologies for absence from the meeting, or would like information on any decision taken by the Panel.

Specific enquires with regard to items on the Agenda should be directed towards the Contact Officer.

Members of the public are welcome to attend this meeting as observers except during consideration of confidential or exempt items of business.

Agenda and enclosures can be viewed on the District Council's website – www.huntingdonshire.gov.uk (under Councils and Democracy).

If you would like a translation of Agenda/Minutes/Reports or would like a large text version or an audio version please contact the Elections & Democratic Services Manager and we will try to accommodate your needs.

Emergency Procedure

In the event of the fire alarm being sounded and on the instruction of the Meeting Administrator, all attendees are requested to vacate the building via the closest emergency exit.

This page is intentionally left blank

Agenda Item 1

HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the STANDARDS COMMITTEE held in the Civic Suite, Pathfinder House, St Mary's Street, Huntingdon PE29 3TN on Thursday, 26 June 2014.

PRESENT: Councillor A Hansard - Chairman
Councillors Mrs B E Boddington,
Mrs L A Duffy and G J Harlock.

IN ATTENDANCE: Mr P McCloskey and Mrs D Townsend.

APOLOGIES: Apologies for absence from the meeting were submitted on behalf of Councillors K M Baker, S M Van De Kerkhove, T D Sanderson and P K Ursell.

(The Deputy Independent Person, Mr P Baker attended the meeting as an observer.)

4. MINUTES

The Minutes of the meeting of the Committee held on 6th March and 4th June 2014 were approved as a correct record and signed by the Chairman.

5. MEMBERS' INTERESTS

Councillor Mrs L Duffy declared a non-statutory disclosable interest in Minute No. 8 as she had an acquaintance with an individual involved in the Code of Conduct case which had arisen at Stockton-on-Tees Borough Council.

6. STANDARDS - UPDATE

By way of a report by the Head of Legal and Democratic Services and Monitoring Officer (a copy of which is appended in the Minute Book) the Committee was informed of the response by the Council and the Corporate Governance Panel to the series of recommendations made at the last meeting in respect of changes to the Code of Conduct, membership of the Committee and its terms of reference. The Committee also was apprised of the nature and action taken in response to complaints recently received by the Monitoring Officer and, although very early in the process, the position thus far in respect of the adoption of the new HDC Code by Parish Councils and the return of disclosable pecuniary interest forms made necessary by the adoption of a new Code. In respect of the latter, a schedule reflecting the current position was circulated at the meeting and a copy also is appended in the Minute Book.

Since adoption of a new Code by the Council, the Committee noted that the Monitoring Officer had –

- ◆ issued a new Code of Conduct and advised all Parish

- Councils who previously had adopted the HDC Code to adopt the new Code of Conduct at its first available meeting in the new Municipal Year;
- ◆ revised the 'declaration of interest' form to include the new category of "non-statutory disclosable interests" relating to bodies exercising functions of a public nature, those directed towards charitable purposes and those whose principal purpose included the influence of public opinion or policy;
 - ◆ issued revised forms to all District and relevant Parish Councils to complete; and
 - ◆ updated the briefing note for Members and 'Frequently Asked Questions' advice and included this on the updated "Standards and Conduct" pages on the District Council's website.

Given the value of continuity, Members were pleased to note that the Independent Members and Council representatives would continue to serve on the Committee until 30th April 2016. The Committee also looked forward to managing its extended workload which now would include complaints and matters relating to elections.

Having acknowledged that Colin Meadowcroft, the current Monitoring Officer would shortly be leaving the District Council's service, the Committee noted that given the recent changes to the Council's senior officer structure and ongoing discussions on the potential for legal services to be shared with other authorities, it was still uncertain which Officer would undertake the role of Monitoring Officer in the future. As this position was likely to be resolved by September, the Committee

RESOLVED

that the report now submitted be received and noted.

7. REQUEST FOR DISPENSATION

A report by the Head of Legal and Democratic Services and Monitoring Officer was submitted (a copy of which is appended in the Minute Book) attached to which was a copy of an application received from Councillor Mrs P A Jordan requesting that a dispensation be granted with immediate effect to enable her to speak and vote at meetings of the Overview and Scrutiny Panel (Social Well-Being) when business relating to the work of the NHS, her employer, arose at Panel meetings.

Members were reminded of the provisions of the Localism Act 2011 in relation to dispensation and in particular the content of Section 31(4) of the Act which indicates that a Member with a 'Disclosable Pecuniary Interest' may not participate in discussion nor vote on a matter at a meeting unless dispensation had been granted to enable that Member to do so.

After careful consideration, the Committee

RESOLVED

that a dispensation be granted to Councillor Mrs P A Jordan for the remainder of her term of office to 30th April 2015 to speak and vote on matters coming before the Overview and Scrutiny Panel (Social Well-Being) connected with NHS issues other than those affecting her own personal terms and conditions of employment and matters associated with NHS Community Services which impact upon her directly as an employee.

8. STANDARDS CASES

For information and partly for training purposes, the Committee noted the outcome and methodology used in the three cases involving alleged breaches of the Code of Conduct which had occurred in various authorities nationwide (a copy of the cases referred to are appended in the Minute Book).

9. DATE OF NEXT MEETING

Members noted that the next meeting of the Committee was scheduled to take place on Thursday 11th September 2014 at 4.00pm in the Civic Suite, Pathfinder House, Huntingdon.

10. COLIN MEADOWCROFT, HEAD OF LEGAL AND DEMOCRATIC SERVICES AND MONITORING OFFICER

Having been made aware that this was the last meeting at which Colin Meadowcroft would be acting as the Committee's advisor and Monitoring Officer, Members took the opportunity to extend their appreciation to him for his help and support to them and for his contribution to maintaining and monitoring ethical standards over recent years.

Chairman

This page is intentionally left blank

Agenda Item 3

Public
Key Decision - Yes

HUNTINGDONSHIRE DISTRICT COUNCIL

Title/Subject Matter: Statutory Dismissal Procedures for Heads of Paid Service, Monitoring Officers and the Responsible Financial Officer

Meeting/Date: Employment Panel: 17 June 2015
Corporate Governance Panel: 15 July 2015
Council: 29 July 2015

Executive Portfolio: Councillor Ablewhite

Report by: Lynsey Fulcher LGSS HR Business Partner

Executive Summary:

1. INTRODUCTION

This report sets out the changes to the statutory disciplinary and dismissal procedures applying to English local authorities' heads of paid service, monitoring officers and chief financial officers, under which a new process will replace the current statutory Designated Independent Person (DIP) process, outlined in the current Local Authorities (Standing Orders) (England) regulations 2001.

The new regulations require authorities to put in place the necessary standing orders in respect of the new process "no later than the first ordinary meeting of the authority falling after 11th May 2015". This report will therefore be presented to the Huntingdonshire District Council Employment Panel in June, followed by the Corporate Governance Panel on 15th July and finally Council on the 29th July 2015.

2. BACKGROUND

The key feature of the new process is that the requirement for a Designated Independent Person is removed, and instead protected officers will not, in most cases, be able to be dismissed unless the dismissal has been approved by full Council by way of a vote. The previous rules are revoked entirely. The new rules do the following:

- They remove the role of the designated independent person.
- They apply only to the dismissal of the head of paid service, responsible financial officer and monitoring officer and not to disciplinary action short of dismissal.
- They remove the restriction on suspension of these officers during investigation of misconduct.
- They extend the provision that only full Council can dismiss the head of paid service to include the dismissal of the head of paid service and

monitoring officer.

- They state that, before Council considers whether to dismiss these officers, it must convene a panel made up of councillors and at least two “independent persons”. These are the same independent persons appointed under the Localism Act to advise on standards issues. If the Council cannot recruit two independent persons to the panel it has appointed, it may invite independent persons appointed by another council.
- The Council can appoint more than two independent persons to a panel and there are no rules on the number of councillors on the panel.

In accordance with the new regulations, and to incorporate the requirements of the new Local Authorities (Standing Orders) (England) (Amendment) regulations 2015, changes to the relevant section of the Constitution have been amended and shown in Appendix 1.

The Disciplinary Procedures have also been amended and these are attached at Appendix 2.

3. OPTIONS CONSIDERED/IMPLICATIONS

- 3.1 The changes to the Council’s Employment Procedure Rules are mandatory. The Council has a power to require attendance by more than two “independent persons” at meetings.
- 3.2 The rules still provide greater protection for the three “statutory officers” than for other employees. The justification for this (as set out in the Explanatory Memorandum) is that these officers have statutory duties that they must discharge personally but within a political environment. The intention is to ensure that these officers can discharge their duties without any fear of being influenced by elected members and being dismissed without good reason.

4. RECOMMENDATION

The Panels are invited to consider the amendments to the statutory dismissal procedures and Disciplinary Policy and to formally recommend their adoption by the Council with any amendments that the Panel’s may wish to make.

Contact Officer: LYNSEY FULCHER, HR BUSINESS PARTNER (LGSS)
(01223 699777

PART FOUR – RULES OF PROCEDURE
OFFICER EMPLOYMENT PROCEDURE RULES

A. RECRUITMENT AND APPOINTMENT – no changes proposed.

B. DISCIPLINARY ACTION

1. Head of Paid Service, Monitoring Officer and Chief Finance Officer

Disciplinary action in respect of the Head of Paid Service, Monitoring Officer and Responsible Finance Officer may be taken only by the full Council or a panel of the Council appointed for that purpose in accordance with the Council's disciplinary policy and procedure and their terms and conditions of employment. No disciplinary action, other than suspension, may be taken except after consideration of a recommendation in a report made by a designated independent *panel* under Regulation 7 of the Local Authorities (Standing Orders) (England) (*Amendment*) Regulations *2015* (investigation of alleged misconduct).

An officer may be suspended by the Council or panel for the purpose of investigating alleged misconduct but the suspension must be on full pay and of no more than two months duration.

2. Other Chief Officers and Heads of Service

Disciplinary action against other Chief Officers and Heads of Service (with the exception of those to which paragraph B1 applies) shall be dealt with under the Council's disciplinary policy and procedures and their terms and conditions of service. In the case of suspension, such action may be taken by the Senior Officers Panel.

3. Other Employees

Disciplinary action in respect of other employees may be taken in accordance with the Council's disciplinary procedure and rules adopted by the Employment Panel but such action may not involve councillors, other than as a member of an Appeals Sub-Group as provided for in the disciplinary procedure rules.

C. DISMISSAL

1. Head of Paid Service *Monitoring Officer and Responsible Finance Officer*

The full Council must approve the dismissal of the Head of Paid Service, *Monitoring Officer and Responsible Finance Officer* following the recommendation of such a dismissal by *the independent panel* of the Council appointed for that purpose. That panel must include at least one member of the Cabinet.

2. Other Chief Officers and Heads of Service

A panel of the Council appointed for that purpose may approve the dismissal of a Chief Officer or Head of Service (*not included in section C1 above*) or their equivalent. That panel must include at least one member of the Cabinet.

3. Other Employees

The dismissal of other employees below heads of service level is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Councillors.

4. Cabinet Notification

A notice of the dismissal of a Chief Officer, **Monitoring Officer, Responsible Finance Officer** or head of service shall not be made by the Council or panel (as appropriate) until –

- (i) the Council or panel has supplied the Head of Paid Service with details of the proposed dismissal;
- (ii) the Head of Paid Service has supplied members of the Cabinet with details of the proposed dismissal and allowed a period for objection to the dismissal by the Executive Leader on behalf of the Cabinet; and
- (iii) the Executive Leader has informed the Head of Paid Service that there is no objection to the dismissal, such objection has not been received within the requisite period or the Council or panel (as appropriate) is satisfied that any objection is not material or well-founded.

D. APPEALS

An appeal by any employee against any disciplinary action or dismissal by the Council, a panel or the Head of Paid Service or his/her nominee may be heard by an Appeals Panel comprising the Managing Director, the Corporate Director or Head of Service excluding the Corporate Director or Head of Service in whose Service the employee was employed at the time of his/her dismissal and a representative of the Staff Council but not from the Division from which the employee is employed convened by the Elections and Democratic Services Manager under the Council's disciplinary procedure rules.

E. SUPPLEMENTARY

In the event of the above Rules applying to a case involving an appointment or dismissal in relation to the Head of Paid Service, the references relating to the action to be taken in these Rules by the Head of Paid Service shall be undertaken by the Corporate Director (Services) & Monitoring Officer, **paying regard to the recommendations made by the independent panel.**

F. THE INDEPENDENT PANEL

The panel as described in the above Rules should be comprised of at least two independent persons and must include at least one member of the Cabinet. The panel membership must be agreed 20 working days prior to a meeting and will be arranged by the Corporate Director (Services) or in the case of any action against that officer, by the Deputy Monitoring Officer.

Terms of reference for the Panel

- i) **To investigate proposed disciplinary action against a Chief Officer, Monitoring Officer or Responsible Finance Officer.**
- ii) **To offer advice, views or recommendations to Council on the proposed course of action, including any proposal for dismissal.**

Disciplinary Policy and Procedure

1.0 Introduction

- 1.1 The Council strives to create and maintain a working environment which is conducive to the achievement of organisational, team and individual objectives and which promotes effective and harmonious working conditions. Huntingdonshire District Council (HDC) believes that all employees should be treated equitably and with respect.
- 1.2 The aim of this policy is to provide a solution for those occasions when standards of conduct or performance are unacceptable and to encourage an improvement in behaviour and prevent future shortcomings in conduct or performance.

2.0 References

Please read this Disciplinary Policy in conjunction with the following:

- ⇒ Attendance Policy.
- ⇒ Capability Policy.
- ⇒ Dignity at Work Policy.
- ⇒ Drugs & Alcohol Policy
- ⇒ Equality of Opportunity Policy.
- ⇒ Grievance Policy and Procedure.
- ⇒ HDC's Key Values and Behaviours
- ⇒ Whistleblowing Policy and Procedure.

- ⇒ Employment Act 2002.
- ⇒ Employment Relations Act 1999.
- ⇒ Data Protection Act 1998.

3.0 Definition

- 3.1 In accordance with the ACAS Code of Practice on disciplinary procedures the Council defines disciplinary as "a situation which may include misconduct and / or poor performance".
- 3.2 This policy does not apply in the following situations:
- ⇒ termination of a fixed term contract of employment, where the term of that contract expires without being renewed,
 - ⇒ termination of a fixed term contract where the reason for termination is that the need for the employee's service has or is about to expire,
 - ⇒ where dismissal arises through organisational and efficiency requirements e.g. redundancy,
 - ⇒ where an employee has resigned from their position, or other termination by mutual agreement.
- 3.3 Where an employee is deemed incompetent, incapable or their performance at work is considered no longer effective or efficient due to a lack of skill or aptitude, or due to health or any other physical or mental quality, these issues should be dealt with under the Capability Policy.

~~Chief Officers are employed under the terms of the JNC for Chief Officers' conditions of service which contain provisions relating to discipline, capability and redundancy. This policy replaces the model procedure for disciplinary arrangements contained in the JNC terms and conditions, subject to the provisions contained in Appendix 7 of this policy.~~

3.4 ***The Officer Employment Procedure Rules within the Huntingdonshire District Council Constitution outlines the disciplinary procedure applicable to the Head of Paid Service, Monitoring Officer and Responsible Financial Officer the holders of these posts are therefore excluded from this policy. Appendix 7 outlines the procedure to be followed for this group of employees.***

~~3.5 The head of paid service (Chief Executive) is employed under the terms of the Joint Negotiating Committee for Chief Executives' conditions of service which contain a model procedure that has been adopted by the Council and the holder of that post is therefore excluded from this policy.~~

4.0 Special Cases

4.1 If an employee raises a grievance during the disciplinary process, the disciplinary procedure may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related, it may be appropriate to deal with both issues concurrently.

4.2 Where disciplinary action is being taken against a Trade Union representative the normal disciplinary procedure will apply. However, depending on the circumstances it is advisable to discuss the matter with an official employed by the union, after obtaining the employee's agreement.

4.3 The Council requires the highest standards of integrity from its employees at all times, and for this reason, it will regard any criminal offence committed by an employee whilst at work or otherwise, as an extremely serious matter. If an employee is charged with, or convicted of a criminal offence this is not normally in itself reason for disciplinary action. Consideration will be given to what effect the charge or conviction may have on an employee's suitability to do their job and their relationship with the Council, work colleagues and customers.

5.0 Aims

5.1 This policy aims to:

- ⇒ promote orderly employment relations as well as equity in the treatment of employees,
- ⇒ ensure fairness and consistency in dealing with disciplinary matters,
- ⇒ ensure disciplinary matters are dealt with promptly,
- ⇒ ensure employees are aware of the standards of conduct at work expected of them,
- ⇒ ensure that the necessary investigation is carried out to establish the factual information,
- ⇒ help and encourage employees to improve, dealing with any apparent shortcomings in conduct or performance,

- ⇒ ensure standards are adhered to whilst providing equitable methods in dealing with alleged failures.

6.0 Guiding Principles

- 6.1 This policy is designed to enable facts to be established quickly and ensure consistency in dealing with disciplinary matters.
- 6.2 No disciplinary action will be taken until the matter has been investigated.
- 6.3 At each stage of the procedure an employee will be advised of the nature of the disciplinary and be given the opportunity to state their case.
- 6.4 Disciplinary matters will be heard in a calm and objective manner with the outcome being both fair and equitable.
- 6.5 An employee will not ordinarily be dismissed for a first breach of discipline except in the case of gross misconduct, when the penalty will normally be dismissal without notice and without pay in lieu of notice.
- 6.6 Throughout a disciplinary matter everyone will be treated equitably, with dignity and respect regardless of their gender, race, religion or beliefs, sexuality, age or disability.

7.0 Advice and Support

- 7.1 Advice, support and guidance from Human Resources is always available at all stages of the procedure (informal and formal).
- 7.2 To help ensure the procedure is applied equitably, a representative of Human Resources will be present at all formal disciplinary hearings.
- 7.3 The Council employs a confidential First Contact Listening service, a small team of employee volunteers who have received training in basic listening skills. Whilst they are not trained counsellors, they are able to listen to employees who may feel they need to talk through either a work related or personal problem.
- 7.4 The Council provides counselling and support as appropriate for individual employee's needs to ensure the welfare and performance of an employee is dealt with in a supportive and positive manner.
- 7.5 It may be appropriate for the matter to be dealt with by way of mediation, depending of the nature of the disciplinary. This involves the appointment of a third-party mediator arranged by Human Resources, who will discuss the disciplinary matter with all those involved and seek to facilitate an outcome. Mediation will only be used if all parties involved in the disciplinary agree.
- 7.6 Should any aspect of the disciplinary process cause difficulty because of a disability, language barriers or other difficulties, the Council has trade union representatives, Staff Council representatives, work colleagues and Human Resources who are available to provide necessary help or assistance.

8.0 Disciplinary Rules for all employees

8.1 Rules are set out in Appendix 1 which apply to all employees in terms of standards of conduct and performance expected of them during employment. Any breaches of these rules will render an employee liable to disciplinary action.

9.0 Disciplinary Procedure

9.1 The Council has a two phase disciplinary procedure, comprising of both informal and formal processes.

In the cases of minor misconduct or unsatisfactory performance the aim will be to find a solution using the first phase of the procedure – the informal process (See Appendix 2, section 2.0).

9.2 On occasions where disciplinary matters cannot be resolved informally or where matters are of a more serious nature therefore require moving directly to formal action, the disciplinary matter will be dealt with at the second phase (formal) of the disciplinary procedure (See Appendix 2, section 3.0).

The formal disciplinary phase comprises of three stages and includes a provision for individuals to appeal if they are not content with the outcome of the formal disciplinary hearing.

9.3 Please see attached Appendices for further guidance:

- Appendix 1 - Disciplinary Rules
- Appendix 2 - Disciplinary Procedure
- Appendix 3 - Employee Guidelines and Flowchart
- Appendix 4 - Manager Guidelines and Flowchart
- Appendix 5 - Appeals Panel – Terms of Reference
- Appendix 6 - Appeals Sub Group – Terms of Reference
- Appendix 7 - Special provisions for Chief Officers

10.0 The right to be accompanied at Disciplinary investigations and hearing

10.1 The Employment Relations Act 1999 gives a statutory right to be accompanied by a companion at a disciplinary hearing (See Appendix 2, section 11.0).

10.2 HDC allows an employee being investigated and any witnesses that are interviewed, where a statement is required to be signed, the right to have a representative present at the meeting. The chosen companion may be a Staff Council, Union representative or work colleague.

11.0 Keeping written records

11.1 Human Resources keeps a written record of all disciplinary cases dealt with.

These records include:

1. the nature of the disciplinary;
2. all findings made from investigatory meetings;
3. all interviews and documentation in relation to the disciplinary;
4. what was decided and the action taken;
5. the reason for the actions;

6. whether an appeal was lodged;
7. the outcome of the appeal; and
8. any subsequent developments.

It is a Managers responsibility to complete a file note for disciplinary matters dealt with at the informal stage, this is to include the first five points above and be forwarded to Human Resources for the employee's personal file.

- 11.2 All records are treated as confidential and kept in accordance with the Data Protection Act 1998 on an employee's personal file held by Human Resources.
- 11.3 Copies of meeting records will be supplied on request from the employee including copies of any formal minutes that have been taken. In certain circumstances (for example to protect a witness) the Council may withhold some information.
- 11.4 The Council monitors disciplinary statistics for reporting purposes on gender, race, age and disability. All reporting is anonymous.

1.0 Application

- 1.1 This disciplinary policy and procedure applies to chief officers, subject to the provisions of this appendix. This appendix also applies to heads of service who have been appointed as chief finance officer or monitoring officer.
- 1.2 In the case of chief officers, this policy replaces the model disciplinary procedure contained in the JNC for Chief Officers for Local Authorities terms and conditions. All other aspects of part 4 of those terms and conditions relating to discipline, capability and redundancy remain unaltered.

2.0 Chief Finance Officer and Monitoring Officer

- 2.1 No disciplinary action in respect of the responsible finance officer or monitoring officer, except suspension, may be taken by the Council ~~or a panel of the Council~~ ***except after consideration of a recommendation in a report made by a designated independent panel under Regulation 7 of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (investigation of alleged misconduct)*** ~~than in accordance with a recommendation in a report made by a designated independent person under regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001 (investigation of alleged misconduct).~~
- 2.2 ***The panel as described in the above Rules should be comprised of at least two independent persons and must include at least one member of the Cabinet. The panel membership must be agreed 20 working days prior to a meeting and will be arranged by the Corporate Director (Services) or in the case of any action against that officer, by the Deputy Monitoring Officer.***

The designated independent ***panel*** –

- (i) may ~~direct~~ ***recommend***–
- (a) that the Council terminates any suspension of the relevant officer;
 - (b) that any such suspension must continue after the expiry of the period of two months;
 - (c) that the terms on which any such suspension has taken place must be varied in accordance with the direction; or
 - (d) that no steps (whether by the Council or a panel of the Council) towards disciplinary action or further disciplinary action against the relevant officer, other than steps taken in the presence or with the agreement of the designated independent ***panel***, are to be taken before a report is made by the designated independent person;
- (ii) may inspect any documents relating to the conduct of the relevant officer which are in the possession of the Council, or which the Council has power to authorise ***them*** to inspect;
- (iii) may require any member of staff of the Council to answer questions concerning the conduct of the relevant officer;
- (iv) must make a report to the Council –

- (a) stating *their* opinion as to whether (and, if so, the extent to which) the evidence he has obtained supports any allegation of misconduct against the relevant officer; and
 - (b) recommending any disciplinary action which appears to be appropriate for the Council to take against the relevant officer; and
- (v) must, no later than the time at which he makes his report, send a copy to the relevant officer.

3.0 Suspension

3.1 A chief officer or a head of service appointed as chief finance officer or monitoring officer may be suspended for the purpose of investigating the alleged misconduct occasioning the action. Any such suspension must be on full pay and terminate no later than 2 months later than the day on which the suspension takes effect.

4.0 Chief Officers

4.1 A chief officer will receive not less than 10 working days written notice of the meeting of the Senior Officers Panel. Before the meeting the chief officer has the right, if so requested, within a reasonable time (i) to receive further details of the complaint made and/or (ii) to a postponement of the meeting for a jointly agreed period not exceeding 14 days. The chief officer may circulate a written statement to the Senior Officers Panel before the meeting.

4.2 As a result of a hearing, the Senior Officers Panel can –

- (i) exonerate the chief officer;
- (ii) state its opinion as to whether (and if so the extent to which) the evidence it has obtained supports any allegation of misconduct against the chief officer;
- (iii) determine the disciplinary action (if any) or range of actions which appear appropriate to take against the chief officer. The appropriate course of action will be drawn from the following list:-
 - (a) recorded verbal warning;
 - (b) written warning;
 - (c) final written warning;
 - (d) suspension on half pay or no pay for a specified period;
 - (e) relegation (i.e. a reduction in salary) for a specified period;
 - (f) an invitation to resign or accept retirement;
 - (g) dismissal with notice.

4.3 The final decision will be given to the chief officer in writing at the earliest opportunity.

4.4 In the event of a decision to dismiss a chief officer, such action will be subject to the provisions of Part II of Schedule I of the Local Authorities (Standing Orders) (England) Regulations 2001.

4.5 If a warning is given, it should tell the chief officer –

- (i) the level of improvement required;
- (ii) the date by which it is to be achieved;
- (iii) what will happen if it is not;
- (iv) how to appeal.

4.6 Alternatively, the Panel may explore other alternatives, e.g.

- (i) early retirement;
- (ii) secondment;
- (iii) redeployment to a more junior post where there are issues relating to capability.

4.7 In the case of a chief officer submitting an appeal against a decision of the Senior Officers Panel, the appeal will be dealt with by the Appeals Sub Group in accordance with the terms of reference of that Sub-Group set out in Appendix 6 of the disciplinary policy and procedure.

4.8 The decision of the Appeals Sub Group shall be final.

Public
Key Decision - No

HUNTINGDONSHIRE DISTRICT COUNCIL

Title/Subject Matter: Review of the Constitution
Meeting/Date: Standards Committee: 25th June 2015
Executive Portfolio: Councillor Roger Harrison
Report by: Shirley Tracey

Executive Summary

Bevan Brittan has been instructed to carry out a review the Council's Constitution. They have been asked to provide advice about the rewriting of the Constitution and provide an initial assessment at this stage of their views in relation to the Constitution and how matters should progress. It is considered that the Constitution at present is not fit for purpose. It is very verbose and Bevan Brittan have commented that it is probably one of the longest which they have seen due mainly to the very lengthy scheme of delegations and to the use of lists of examples, neither of which in their view assist the Council to effectively carry out its functions .

Recommendations:

This report is for information only at present.

This page is intentionally left blank

1. WHAT IS THIS REPORT ABOUT/PURPOSE?

- 1.1 This report is for information only at this stage. The Councils Constitution should enable it to carry out its business effectively. It sets down the necessary procedure about decision making which should be followed, and the council must abide by it, unless it is in conflict with legislation, which will then prevail. The current Constitution is extremely verbose and unnecessarily complex and unclear which at times makes it unworkable.

2. THE REASONS FOR THE CHANGES

The Constitution should be not only be compliant with existing legislation and case law, but will also provide an effective and efficient framework within which decisions can be taken in an appropriate way, and by ensuring that members, officer and the public are clear about the procedures and the decision making, and scrutiny process which the Council follows.

Recent case law has emphasised the importance of Councils observing their Constitution when making decisions. The Constitution is owned by the Council and so it is important that members are involved in discussing the options which there are about how the Constitution is developed and in the recommendations to Council as to the most effective result.

It is suggested that the principles that should be adopted are as follows. The constitution should:

- Focus on how the Council carries out its business;
- Be more streamlined and so less wordy;
- Make it easier for the Council to do its business in not only a legal, but in an efficient and timely manner;
- Contain a revised and much simpler scheme of delegation which will not need constant revisions as statutes change and so which will minimise the risk of challenge. This will involve the development of a scheme of delegation for executive functions, and a scheme of delegation for Council functions, but in terms of role rather than statute;
- Provide clarity about the roles of officers and members, including the role of the portfolio holders and chairmen of Council Committees;
- Use the Local Choice functions in a way which facilitates quick and effective decision making;
- Be accessible to the public of the area.

If applied correctly and through discussion with members and officers, the review of the Constitution should result in a document which facilitates the Council's decision making. It should be a readable document which sets out principles with guidance as to, for example how it is expected that these principles should be applied; and with examples covered in separate guidance notes.

3. WHAT ACTIONS WILL BE TAKEN/TIMETABLE FOR IMPLEMENTATION

- 3.1 It is anticipated that there will be a first a meeting with the member group who will ultimately recommend the constitutional changes to full Council, probably in

November. At this point, Bevan Brittan will attend to discuss the principles and the implications of these.

CONTACT OFFICER

Shirley Tracey
Legal Services Manager
01480 388023

Public
Key Decision - No

HUNTINGDONSHIRE DISTRICT COUNCIL

Title/Subject Matter: Request For Dispensation

Meeting/Date: Standards Committee – 25th June 2015

Executive Portfolio: Councillor R Harrison
Executive Councillor For Strategic Economic Development and
Legal

Report by: Monitoring Officer

Ward(s) affected: All

Executive Summary:

Section 33(1) of the Localism Act 2011 states that 'a relevant authority may, on a written request made to the proper officer of the authority by a member or co opted member of the authority, grant a dispensation relieving the member or co opted member from either or both of the restrictions in section 31(4) in cases described in the dispensation'. Section 31(4) of the Act indicates that a Member with a DPI may not participate in discussion nor vote on a matter at a meeting unless a dispensation has been granted to enable that Member to do so.

Councillor Mrs P A Jordan is a Member of the Overview & Scrutiny Panel (Social Well Being) and, when business relating to her employer arises at meetings, she is required to declare a Disclosable Pecuniary Interest by virtue of her employment with the National Health Service and is precluded from taking part in discussion. The Monitoring Officer received a request for a dispensation from Councillor Mrs Jordan in 2014. That request was granted for the remainder of her term of office to 30th April 2015 and enabled her to speak and vote on matters coming before the Overview & Scrutiny Panel (Social Well-Being) connected with NHS issues other than those affecting her own personal terms and conditions of employment and matters associated with NHS Community Services which impact upon her directly as an employee.

Councillor Mrs Jordan has been re-appointed to Overview & Scrutiny Panel (Social Well Being) and has requested that her dispensation is renewed.

Recommendation:

That a dispensation be granted to Councillor Mrs P A Jordan with immediate effect, and for the period ending 30th April 2019, to enable her to speak and vote at meetings of the Overview & Scrutiny Panel (Social Well Being) when business relating to the work/services of the NHS arise at Panel meetings other than those affecting her own personal terms and conditions of employment and matters, which impact upon her directly as an employee.

This page is intentionally left blank

1. WHAT IS THIS REPORT ABOUT/PURPOSE?

- 1.1 The circumstances in which a Standards Committee (or Monitoring Officer) may grant dispensations to a District Councillor are prescribed in Section 33(2) of the Localism Act 2011. The Act provides that a member with a Disclosable Pecuniary Interest in a matter, which is coming before the Authority can apply to the Standards Committee (or in certain circumstances, the Monitoring Officer) for a dispensation to allow the member to speak and vote on the matter at meetings.
- 1.2 'A relevant authority may grant a dispensation under this section only if, after having had regard to all relevant circumstances, the authority -
- a. considers that without the dispensation the number of persons prohibited by section 31(4) from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
 - b. considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
 - c. considers that granting the dispensation is in the interests of persons living in the authority's area;
 - d. if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without the dispensation each member of the authority's executive would be prohibited by section 31(4) from participating in any particular business to be transacted by the authority's executive; or
 - e. considers that it is otherwise appropriate to grant a dispensation'.
- 1.3 A dispensation under this section must specify the period for which it has effect and the period specified may not exceed four years.

2. WHY IS THIS REPORT NECESSARY/BACKGROUND/REASONS FOR RECOMMENDATION

- 2.1 Councillor Mrs Jordan is employed in the Children's and Young Person's Unit of Cambridgeshire Community Services under the umbrella of the NHS Trust. The services care for and support children aged up to 19 and include routine care delivered by health visitors, child health services and school nursing, through to specialist care in hospitals and community.
- 2.2 Councillor Mrs Jordan is an experienced and valuable member of the Overview & Scrutiny Panel (Social Well Being) and lends her expertise on health issues to the deliberations of the Panel generally and in particular to study groups on which she has been appointed during her term of office. For example, the Panel has previously responded to consultation on proposals published by the Cambridgeshire and Peterborough Clinical Commissioning Group, on ways to improve older peoples healthcare and adult community services. To allow Councillor Mrs Jordan to participate fully in discussion on matters such as these and to continue to bring her expertise on the Health Service to meetings, the Committee may consider that it is appropriate to

grant dispensation to Councillor Mrs Jordan to enable her to participate and vote at meetings of the Overview & Scrutiny Panel (Social Well Being).

2.3 Looking at the specific criteria and should the Committee feel minded to support the request, it could contended that the following grounds are relevant –

- that the dispensation is in the interests of persons living in the authority's area; and
- It is otherwise appropriate to grant a dispensation.

2.4 Councillor Mrs Jordan was re-elected in May and has again been appointed to the Overview & Scrutiny Panel (Social Well Being). The Panel continues to have an interest in health matters and it is suggested, therefore, that a dispensation is granted for the period ending 30th April 2019. This is the maximum period allowed.

CONTACT OFFICER

Tony Roberts, Democratic Services Officer
Tel No. 01480 388015