



**NOTTINGHAMSHIRE**  
**Fire & Rescue Service**  
*Creating Safer Communities*

Nottinghamshire and City of Nottingham  
Fire and Rescue Authority

# **CHANGES TO STATUTORY DISCIPLINARY AND DISMISSAL PROCEDURES FOR PROTECTED OFFICERS**

Report of the Clerk and Monitoring Officer

**Date:** 09 June 2017

**Purpose of Report:**

To propose an amendment to the Authority's Standing Orders to bring in a new procedure for the disciplining and potential dismissal of the Head of Paid Service, Monitoring Officer and Chief Finance Officer (Treasurer).

## **CONTACT OFFICER**

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## 1. BACKGROUND

- 1.1 The Local Authorities (Standing Orders) (England) Regulations 2001 (as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (the 2001 Regulations (as amended))) amended the rules which certain authorities must abide by when taking disciplinary action against the Head of Paid Service, Monitoring Officer and the Chief Finance Officer (Treasurer). Dismissals of such officers may now only be made on the basis of a decision by the full Authority. In cases where it is a disciplinary dismissal the full Authority must have regard to the advice of a Panel including 2 independent persons.
- 1.2 Although these regulations do not apply to fire authorities it is considered that there is no reason why, in principle, the same procedures should not be followed if needed.

## 2. REPORT

- 2.1 The Chief Fire Officer is employed under terms and conditions set out in the NJC Gold Book. The Gold Book recommends that where the Chief Fire Officer is designated as the Head of Paid Service that consideration be given to the adoption of a model disciplinary procedure which is applied to local authority Chief Executives. This forms part of the current contractual terms of the Chief Fire Officer.
- 2.2 With regard to the other statutory officers i.e. the Monitoring Officer and the Chief Finance Officer (Treasurer) there is currently no provision that requires their dismissal to be approved by the Authority.
- 2.3 The proposal within this report is to incorporate a procedure akin to that contained within the 2001 Regulations (as amended) by constituting a Panel from members of the Personnel Committee, containing a minimum of 3 elected members, together with 2 independent persons. Those independent persons shall be appointed in the same manner as set out in Schedule 3 of the 2001 Regulations (as amended) and in the same order.
- 2.4 It is proposed that any decision to discipline the Head of Paid Service (Chief Fire Officer), Monitoring Officer or Chief Finance Officer (Treasurer) falling short of dismissal will be taken by this Panel. Any appeal against such a decision will be to the Policy and Strategy Committee.
- 2.5 Any decision to dismiss the Head of Paid Service (Chief Fire Officer), Monitoring Officer or Chief Finance Officer for disciplinary reasons will have to be approved by the full Fire Authority having regard to:
  - (a) Any advice, views or recommendations of the Panel;
  - (b) The conclusions of any investigation into the proposed dismissal; and
  - (c) Any representations from the relevant officer.

- 2.6 Any decisions regarding the suspension of the above officers, to be taken by the Chair or Vice Chair of the Authority in consultation with the Monitoring Officer or one of the other 2 statutory officers in the event that the officer proposed to be suspended is the Monitoring Officer.

### **3. FINANCIAL IMPLICATIONS**

Any remuneration, allowances or fees paid by the Authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the Localism Act 2011.

### **4. HUMAN RESOURCES AND LEARNING AND DEVELOPMENT IMPLICATIONS**

The proposed disciplinary process will form part of the contractual conditions of the Head of Paid Service (Chief Fire Officer), Monitoring Officer and Chief Finance Officer (Treasurer) roles and be referenced in the relevant Written Statement of Terms and Conditions of Employment

### **5. EQUALITIES IMPLICATIONS**

There are no specific equality issues arising from this report.

### **6. CRIME AND DISORDER IMPLICATIONS**

There are no crime and disorder implications arising from this report.

### **7. LEGAL IMPLICATIONS**

- 7.1 As the proposals relate to disciplinary investigations and actions, including actions short of and including dismissal, legal implications could arise in relation to potential claims under the Employment Rights Act 1996.
- 7.2 The application of the ACAS Code of Practice on discipline and grievance procedures is particularly relevant in terms of establishing a fair disciplinary procedure and an employment tribunal is required to take this into account when considering whether or not an employer has acted reasonably when dealing with an unfair dismissal claim. It is considered that the proposed procedure accords with the ACAS Code of Practice.

## **8. RISK MANAGEMENT IMPLICATIONS**

Putting in place a policy for dealing with the dismissal of the Head of Paid Service (Chief Fire Officer), the Monitoring Officer and the Chief Finance Officer (Treasurer) helps to mitigate the risks associated with any claim being brought through the Courts or Tribunal.

## **9. COLLABORATION IMPLICATIONS**

There are no collaboration implications arising from this report, as the report relates solely to a proposed amendment to an internal procedural issue.

## **10. RECOMMENDATIONS**

It is recommended that:

- 10.1 The procedures set out in paragraphs 2.3 to 2.5 above be adopted in relation to disciplinary matters affecting the Head of Paid Service (Chief Fire Officer), Monitoring Officer and Chief Finance Officer (Treasurer);
- 10.2 The Standing Orders of the Authority and the terms of reference of any affected committee be amended to include these provisions and that the Clerk to the Authority be authorised to make any and all necessary amendments;
- 10.3 Any decision to suspend the Head of Paid Service (Chief Fire Officer), Monitoring Officer or Chief Finance Officer (Treasurer) be taken by the Chair or Vice Chair of the Authority in consultation with the Monitoring Officer or one of the other 2 statutory officers in the event that the officer proposed to be suspended is the Monitoring Officer.

## **11. BACKGROUND PAPERS FOR INSPECTION (OTHER THAN PUBLISHED DOCUMENTS)**

None.

Malcolm R Townroe, Solicitor  
**CLERK AND MONITORING OFFICER TO THE AUTHORITY**