

SENIOR OFFICERS' INDEPENDENT DISCIPLINARY PANEL

**Venue: Town Hall, The Crofts,
Moorgate Street,
Rotherham. S60 2TH**

Date: Thursday, 10th September, 2015

**Time: a.r.o. of the Standards
Committee (approximately 4.00
p.m.)**

A G E N D A

1. Apologies for Absence.
2. To consider whether the press and public should be excluded from the meeting during consideration of any part of the agenda.
3. To determine any item which the Chairman is of the opinion should be considered as a matter of urgency.
4. Minutes of the Previous Meeting held on 28th July, 2015 (herewith) (Pages 1 - 2)
5. Procedure for Hearings of the Panel (herewith) (Pages 3 - 6)

SENIOR OFFICERS' INDEPENDENT DISCIPLINARY PANEL
Tuesday, 28th July, 2015

Present:- Councillor Beck (in the Chair); Councillor Hughes, along with Mr. P. Beavers and Mr. D. Roper-Newman (Independent Persons).

An apology for absence was received from Councillor C. Vines.

1. ESTABLISHMENT OF THE SENIOR OFFICERS INDEPENDENT DISCIPLINARY PANEL AND TERMS OF REFERENCE

Consideration was given to a report presented by Stuart Fletcher, Deputy Monitoring Officer, which explained in detail the requirement for a Senior Officers Independent Disciplinary Panel under Section 28(6) of the Localism Act 2011, as approved at the meeting of Full Council on 3rd June, 2015 and sought approval to the Terms of Reference.

The Secretary of State had now issued new regulations which have the effect of removing the requirement for a Designated Independent Person and replaced it with a requirement that the disciplinary processes for the three officers be transparent and any decision to dismiss taken by Full Council

Council must consider any advice, views or recommendations from the Independent Panel, the conclusions of any investigation into any allegations and any representations from the Officer concerned.

The Panel asked a number of questions and were advised that the regulations had only recently come into force, that there were no requirement to widen out the Panel to include other Senior Officer roles, other than those indicated, and, at this stage, the Standards Committee did not have a role to play in the disciplinary process.

The forthcoming review of the Standards Committee was noted, which would have a more prominent role in promoting standards and ethics for Members and Officers. It was suggested that the details of this Panel be submitted for information as part of the review.

The Panel turned their attention to the Terms of Reference and agreed them in principle, subject to further clarification on who had the power to suspend the Head of the Paid Service, the current membership of the Panel, taking into account political balance, and whether this could be increased for any urgent immediate decisions. It was also suggested that the Terms of Reference include the taking of representations from the officer concerned.

In the event of the Panel convening a meeting it was suggested that an officer from Human Resources and/or Legal Services be present to avoid any conflict for the Monitoring Officer for the sake of transparency.

Further clarification was sought on the role of the Panel, their investigations into any allegations, representations from the relevant officer and recommendations, advice or views to Full Council. It was noted that only the Panel's findings and recommendation would go to Full Council for a formal decision and would not be a continuation or rehearing of evidence.

Resolved:- (1) That the report be received and the contents noted.

(2) That the Terms of Reference be approved subject to revision to include the detail relating to the suspension of the Head of the Paid Service and the taking of representations from the officer concerned.

(3) That further information be provided on the membership requirements, taking into account political balance, and whether it was appropriate for the size to increase.

ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS

1.	Meeting:	Senior Officers Independent Disciplinary Panel
2.	Date:	10 th September 2015
3.	Title:	Procedure for Hearings of the Panel
4.	Directorate:	Resources and Transformation

5. Summary

- 5.1 This report clarifies some issues raised at the previous meeting of the Panel and suggests the procedure to be adopted for hearings of the Panel.

6. Recommendations

- 6.1 That the Panel notes the report and considers the suggested procedure for any hearings of the Panel.
- 6.2 That the terms of reference be amended to make clear that the Panel has the power to suspend the Head of Paid Service.

7. Proposals and Details

- 7.1 The Panel, at its last meeting, agreed the following terms reference for the Panel.
- 7.1.1 'These terms of reference apply to Disciplinary Matters relating to the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer (the Officers). When any disciplinary matters arise in relation to the Officers the matter will be referred to the Senior Officers Disciplinary Panel.
- 7.1.2 However in relation to the Chief Finance Officer and Monitoring Officer, the Head of Paid Service has the power in consultation with the chair of the Panel to suspend these officers, subject to confirmation of the decision by the Panel within twenty one days.
- 7.2 The Panel will have the following powers:-
- i. To decide whether to suspend the Officer in question in accordance with that Officer's Contractual rights.
 - ii. Where appropriate, to undertake an investigation or arrange for an investigation to be undertaken into any allegations made against the Officer.
 - iii. To consider the conclusions of any report or investigation relating to the allegations.
 - iv. To decide if any action short of dismissal should be taken against the Officer
 - v. To decide whether to recommend to Council that the Officer be dismissed.

- vi. To arrange for a report to be submitted to Council outlining the reasons for the recommendation.

7.3 However certain issues were outstanding and this report provides further clarity.

7.3.1 The Panel queried who had the power to suspend the Head of Paid Service and it was agreed that the Panel be responsible for his/her suspension if appropriate.

7.3.2 The Panel is constituted as a committee of the Council and as such is subject to rules of political proportionality. In practice this means that the Panel will have a total membership of 7 comprising 2 Independent Persons, 4 Labour and UKIP.

7.3.3 As the Independent Persons have voting rights they are considered to be co-opted members of the Council and will be required to complete the register of members interests and abide by the members code of conduct.

7.3.4 The Panel, at its previous meeting raised the issue of when the statutory officers would be able to make representations and it is suggested that the Panel should hear the representations before making any recommendations to Council. This is reflected in the suggested procedure at **Appendix A**.

8. Finance

8.1 If an external investigation is commissioned, this would incur expenditure for the investigator. If an internal investigation is appropriate the cost would be in officer time.

9. Risks and Uncertainties.

9.1 These are new regulations and may be tested in the Courts in due course. They may also be in conflict with the relevant officers contractual rights. The officers affected are being consulted in relation to any necessary changes to their contracts of employment.

10. Policy and Performance Agenda Implications

10.1 The Regulations are statutory and therefore the Council is legally obliged to introduce the provisions.

11. Background Papers and consultation

11.1 The legislative framework documents and guidance.

11.2 Consultation is being undertaken with the officers concerned.

Contact Name: *Angela Harwood, Legal Adviser Legal and Democratic Services, telephone 01709 254466 or e-mail angela.harwood@rotherham.gov.uk*

Before the Senior Officers Disciplinary Panel Hearing

Preliminary points.

1. At least ten calendar days' notice of a disciplinary panel should be given.
2. The statutory officer must be informed, in writing, of the complaint(s) against them. The letter conveying this information must give sufficient details of the allegations in order to give the statutory Officer the opportunity to respond adequately at the formal hearing. Copies of documentary evidence to be used at the hearing must be included. Failure to give full information may in reality deprive them of the ability to mount a defence to the charges and result in a request for the disciplinary panel to be deferred.
3. The Statutory Officer must be advised in the letter inviting them to the hearing of their right to be represented by a recognised trade union representative or work colleague, to call witnesses and present other evidence. The matter of representation is a matter for the Statutory Officer to organise and they should be advised of this in the letter.

Senior Officers Disciplinary Panel

Procedure for Disciplinary Hearings

1. The purpose of the hearing should be to establish all the facts in order to determine the validity, or otherwise, of the alleged misconduct. The hearing is important to allow the panel to make its recommendations to full council.
2. Human Resources Consultants may attend to advise the panel on process and consistency. A colleague or trade union representative may attend to support the officer and they should ensure a note of the proceedings is taken for their purposes.
3. Where statements by witnesses form part of a case the witnesses should be available for questioning, unless there are valid reasons which would make their presence inappropriate
4. The Investigator will outline the alleged offence, where necessary supported by witnesses, if necessary.
5. The Statutory Officer shall have the opportunity to ask questions of the Investigator on the evidence given by them and any witnesses whom they may call
6. The Panel may ask questions of the Local Authority's representative and witnesses.
7. The Statutory Officer shall put their case in the presence of the Investigator and shall call such witnesses as they wish.

8. The Investigator shall have the opportunity to ask questions of the Statutory Officer and her/his witnesses.
9. The Panel may ask questions of the Statutory Officer and her/his witnesses
10. The investigator will then summarise their case. At this stage no new evidence should be introduced.
11. The Statutory Officer or their representative will then summarise their case. At this stage no new evidence should be introduced.
12. An adjournment will then usually be called to enable the panel to deliberate and consider all the circumstances of the case. The Human Resource consultant will remain to advise the panel. At this stage the employee and their representative, all witnesses and other officers will withdraw.
13. The statutory officer and their representative will then be recalled informed verbally of the decision of the panel. If the decision is to be recommending dismissal to the council meeting the Statutory Officer will be informed of the time and date of the Council meeting.

Council meeting - procedure.

1. The Council will meet in private to decide upon the recommendations of the Senior Officer Disciplinary Panel. The meeting will be exempt under the provisions of paragraphs 1 and 2 of Part 1 of Schedule 12A of the Local Government Act 1972 and therefore the meeting will not be open to the press or public.
2. The Investigator will outline the alleged offence. No witnesses shall be called.
3. At the Council meeting the Statutory Officer or his/her representative will be permitted to make representations to the Council,
4. The Statutory Officer and his/her representative will leave the Council meeting in order for the Council to deliberate and make its decision.
5. The decision of the Council will be communicated to the Statutory Officer and his/her representative in writing within five days of the Council meeting.