

15. OFFICER EMPLOYMENT PROCEDURE RULES

1. RECRUITMENT AND APPOINTMENT

1.1 (a) Declarations

- (i) The Council requires any candidate for appointment as an officer of the Council, to state in writing whether they are the parent, grandparent, partner, child, step-child, adopted child, grandchild, brother, sister, uncle, aunt, nephew, niece or close friend of an existing member or senior officer of the Council, or the partner of such persons.
- (ii) Any candidate who fails to make such disclosure shall be disqualified and, if appointed, shall be liable to dismissal without notice.
- (iii) Every member and senior officer of the Council shall disclose to the Council any relationship known to him to exist between himself and the candidates for an appointment of which he is aware.
- (iv) It shall be the duty of every Executive Director, Service Head or Business Manager to whom such relationship is disclosed, to record the disclosure and to notify the Monitoring Officer accordingly. The Monitoring Officer shall enter the disclosure on the Member or Employee's Register of Interests.
- (v) No candidate so related to a member or senior officer will be appointed without the authority of the Chief Executive or relevant Executive Director or an officer nominated by him/her.
- (vi) Where such relationship to a member of the Council exists, the member of the Council concerned shall not take part in the consideration, or discussion of, or vote on, any question with respect to the appointment.
- (vii) For the purpose of this paragraph 'senior officer' means the holder of any politically restricted post.

(b) Seeking support for appointment

- (i) The Council will disqualify any applicant who directly or indirectly seeks the support of any member, the Chief Executive or a Executive Director for any appointment with the Council.

- (ii) No member will seek support for any person for any appointment with the Council.

1.2 The contents of the previous paragraph will be stated in the advertisement inviting applications for appointment and/or in any form of application supplied for use by candidates.

1.3 Nothing in paragraph 1.1 (b) shall preclude a member from giving a written testimonial on a candidate's ability, experience or character for submission with or in connection with that candidate's application.

2. RECRUITMENT OF HEAD OF PAID SERVICE, EXECUTIVE DIRECTORS AND SERVICE HEADS

2.1 Where the Council proposes to appoint the Head of Paid Service, a Executive Director or a Service Head, the Council will:

- (a) Draw up a statement specifying:
 - (i) The duties of the officer concerned; and
 - (ii) Any qualifications or qualities to be sought in the person to be appointed;
- (b) Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) Make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.
- (d) Decide on any appropriate selection tests

3. APPOINTMENT OF HEAD OF PAID SERVICE

3.1 The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by the Appointments and Appeals Panel (see paragraph 5 below).

3.2 The full Council may only approve the appointment of Head of Paid Service where no well-founded objection has been made from any member of the Executive.

4. APPOINTMENT OF CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS

4.1 The Appointments and Appeals Panel will appoint Executive Directors and Service Heads.

4.2 An offer of employment as Executive Director or Service Head shall only be made where no well-founded objection from any member of the Executive has been received.

5. ARRANGEMENTS FOR APPOINTMENTS UNDER PARAGRAPHS 3 AND 4 ABOVE

5.1 Where an appointment is to be made to the post of Head of Paid Service, Executive Director or Service Head and the post has been advertised as provided for above, the Chief Executive, in consultation with the Leader, the appropriate portfolio holders and the Chairman of the Appointments Panel shall, after preliminary interview or otherwise, select a shortlist of suitably qualified applicants for interview by the Panel.

5.2 The Panel shall comprise 3 members appointed by the Council including at least one member of the Executive (NB – the Panel must be politically balanced).

5.3 The Panel shall have power, subject to paragraphs 3.1. 3.2 and 4.1 above to make the appointment.

5.4 Where:-

(a) No suitably qualified person has applied for the appointment; or

(b) No suitably qualified applicant is selected for interview, or

(c) The Panel do not make an appointment;

Then the Chief Executive shall (unless no appointment to the post is to be made) re-advertise the appointment under paragraph 2 above.

6. OTHER APPOINTMENTS

6.1 Appointments of officers below Service Head level (other than assistants to political groups) are the responsibility of the Chief Executive, the Executive Director or Service Head responsible for the service to which the appointment is to be made and may not be made by members.

6.1.2 However, where such posts are defined as Deputy Chief Officer within the meaning of the Local Government Housing Act 1989, an offer of employment shall only be made where no well-founded objection from any member of the Executive has been received.

6.2 Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

7. DISCIPLINARY ACTION – STATUTORY OFFICERS

Investigating and Disciplinary Committee (IDC)

- 7.1. This Committee considers allegations of conduct or capability in relation to the Chief Executive, Section 151 Officer (Executive Director - Transformation) and the Monitoring Officer (Executive Director - People) and to consider if suspension is appropriate in cases of alleged gross misconduct. The IDC may also be required to meet at short notice to consider allegations. The chair of this committee has the delegated power to suspend the Chief Executive/Statutory Officers in an emergency. The IDC also has an important role to consider the report of an independent investigator.
- 7.2 This committee will consist of an equal number of elected members from HPBC and SMDC. This is due to the Chief Executive and the officers with statutory roles being contractually employed by both councils. The IDC must be politically balanced reflecting the respective political representation and shall consist of not more than five members from each council. As the authorities operate a leader/cabinet structure there must be at least one member from each authority's executive.
- 7.3 It will be the IDC's responsibility to hear disciplinary cases.

Appeals Committee (AC)

- 7.4 This committee will also consist of an equal number of elected members from HPBC and SMDC. The AC must be politically balanced reflecting the respective political representation and shall consist of not more than five members from each council.
- 7.5 The purpose of the AC is to hear appeals against action taken short of dismissal and to take a decision either to confirm the action taken, or to impose no sanction or a lesser sanction.
- 7.6 It should be noted that both Councils' currently have separately established Appeal Panels in place in accordance with both constitutions to consider appeals.

Independent Panel (IP)

- 7.7 It should be noted the IP is only required if there is a proposal to dismiss the Chief Executive or statutory officers which would require decision by full Council. The IP will be made up of two independent persons (appointed by the Council for the purpose of the council members' conduct regime under Section 28 (7) of the Localism Act 2011) from each Council.
- 7.8 Appointments to the panel are required to be in accordance with the following priority order:

- 1) An independent person who has been appointed by the council and who is a local government elector in the authority area;
- 2) Any other independent person who has been appointed by the Council and;
- 3) An independent person who has been appointed by another council or councils.

7.9 The purpose of the IP is to consider any oral representation of the Chief Executive and invite the IDC to respond of the points made by the Chief Executive. The IP may ask questions of both the IDC and the Chief Executive. The (IP) is required to review the decision of the IDC and prepare a report to Council containing clear rationale if the IP disagrees with the recommendation to Council to dismiss.

Independent Investigator

7.10 Should there be a requirement for any disciplinary process to carry out an investigation of allegations in order to establish the facts of the case and to collate evidence for the use in a disciplinary hearing it will normally be necessary to engage an independent investigator to carry out the investigation. In order to ensure this part of the process is carried out quickly the joint secretaries at the LGA have appointed competent and experienced independent investigators to perform this role. A list of these is held with the LGA.

7.11 The role of the independent investigator will be to determine the process they will follow. This will depend on the nature of the allegation and availability of information. However, the JNC preferred process is based on evidence collection and investigation (i.e. evidence gathering and hearing submissions) which will lead to the formation of a report for consideration by the IDC at the disciplinary hearing.

Disciplinary Procedure and Guidance

7.12 The disciplinary procedure is summarised at Appendix A.

8. DISCIPLINARY ACTION – NON-STATUTORY OFFICERS

8.1 No other disciplinary action may be taken in respect of any of those officers except in accordance with a resolution of Council.

8.2 Members will not be involved in disciplinary action against any officer below Service Head level except where such involvement is necessary to assist any investigation or inquiry into alleged misconduct.

8.3 Note: Disciplinary action means any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the Council, be recorded on the member of staff's personal file, and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not

include failure to renew a contract of employment for a fixed term unless the authority has undertaken to renew such a contract.

8.4 Procedure

- (i) In the following paragraphs:
 - a) the 2011 Act means the Localism Act 2011;
 - b) “chief finance officer”, “disciplinary action”, “head of the authority’s paid service” and “monitoring officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;
 - c) “independent person” means a person appointed under section 28(7) of the 2011 Act;
 - d) “local government elector” means a person registered as a local government elector in the register of electors in the authority’s area in accordance with the Representation of the People Acts;
 - e) “the Panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;
 - f) “relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and
 - g) “relevant officer” means the chief finance officer, head of the authority’s paid service or monitoring officer, as the case may be.
 - (h) A relevant officer may not be dismissed by the Council unless the procedure set out in the following paragraphs is complied with.
 - (i) The Council must convene the Statutory Officers Disciplinary Panel and must invite relevant Independent Persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.
 - (j) In paragraph (iii), “relevant Independent Person” means any Independent Person who has been appointed in accordance with Section 28(7) of the Localism Act 2011.
 - ¹(k) The Council must appoint to the Panel at least two such relevant Independent Persons who have accepted an invitation issued in

¹ In the event of any potential dismissal impacting upon both the Council and Staffordshire Moorlands District Council then the Panel will consist of at least two relevant Independent Persons from each Council.

accordance with paragraph (iii) in accordance with the following priority order:

- (a) a relevant Independent Person who has been appointed by the Council and who lives within the Council's area
 - (b) any other relevant Independent Person who has been appointed by the Council but lives outside the authority's area
 - (c) a relevant Independent Person who has been appointed by another authority or authorities
- (l) The Council must appoint any Panel at least 20 working days before the relevant meeting.
- (m) Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal (which decision must be made by the Council itself), the Council must take into account, in particular:
- (a) any advice, views or recommendations of the Panel;
 - (b) the conclusions of any investigations into the proposed dismissal; and
 - (c) any representations from the officer subject to the disciplinary proceedings.

9. DISMISSAL

- 9.1 Members will not be involved in the dismissal (nor appeals against disciplinary action, including dismissal) of any officer below Service Head level except where such involvement is necessary to assist any investigation or inquiry into alleged misconduct.
- 9.2 Member involvement in disciplinary issues involving Heads of Service and above will be in accordance with the principles set out in the appropriate national conditions of service (subject to the additional provisions contained in these procedure rules relating to Statutory Officers).
- 9.3 Before any dismissal (excluding Statutory Officers) the Executive's views must be sought in accordance with the following procedure:
- i) Dismissing officer to notify the Organisational Development Manager of the proposed dismissal and the reasons for it

- ii) The Organisational Development Manager to notify Executive accordingly
- iii) On behalf of the Executive, Leader to respond with any comments within 1 week of notification
- iv) The Organisational Development Manager to notify dismissing officer accordingly
- v) The dismissing officer must take into account any comments made by the Executive but this procedure does not give a right of veto nor does it constitute an appeal.

10. POWERS OF EXECUTIVE DIRECTORS IN RELATION TO EMPLOYMENT MATTERS

- 10.1 Subject to the preceding paragraphs, Executive Directors have the delegated authority to take decisions relating to staffing and personnel matters as set out in Table 5 Part 3 of this Constitution.

11. HEALTH AND SAFETY AT WORK

- 11.1 The Council has a corporate Health and Safety at Work Policy, a copy of which is set out below.

SPECIFIC RESPONSIBILITIES FOR HEALTH AND SAFETY WITHIN HIGH PEAK BOROUGH COUNCIL

1. The Executive Member (Corporate Services & Finance)

- (a) will take the lead role in ensuring that the Council has an adequate strategy and the necessary mechanisms to manage effectively the health and safety of employees, and all who come into contact with it, or act on its behalf. (This will include ensuring that contractors and others in a similar capacity, observe safe working practices and act in keeping with the principles of this policy).
- (b) will be the key contact between the Executive and the Council's Trade Unions and Health & Safety Representatives.
- (c) will report annually to the Corporate Select Committee for scrutiny and then to the Executive, on the implementation of this policy, and ensure that the effectiveness of the policy is reviewed regularly; any major incident will be reported as appropriate.

2. The Chief Executive

- (a) as Head of the Paid Service has overall responsibility for health and safety within High Peak Borough Council.

- (b) will make arrangements for the implementation of the Council's Health and Safety Policies and accordingly will support all persons carrying them out.
- (c) will ensure that the health & safety function is adequately resourced, and that the Council has sufficient access to competent advice.

3. The Health and Safety Committee

- (a) will monitor the application and effectiveness of this policy.
- (b) will formally review the policy on an annual basis
- (c) will critically examine regular reports from the Head of Personnel and Payroll on action being taken to implement the policy.
- (d) will act as a forum for health and safety representatives and trade unions to register their suggestions and concerns and to agree actions arising from them with Councillors and managers as appropriate.

4. Corporate Management Team

- (a) will ensure that responsibilities under the Health and Safety at Work Act, and other legislation, are properly assigned and accepted at all levels. This will include, in the event of serious incidents within or outside the Council, roles identified in the Emergency Plan / Business Continuity Plan(s).
- (b) will monitor the achievement of corporate standards for health and safety using performance management systems, including the appraisal of Business Managers.
- (c) will undergo regular health & safety awareness training (and ensure that Business Managers and others accountable to them do likewise)
- (d) will receive and consider all Health & Safety Committee agendas and minutes
- (e) will participate in key safety audits and risk assessments
- (f) will devote one day each year exclusively to a review of health and safety matters.

5. The Assistant Chief Executive

- (a) will, on behalf of the Chief Executive and the Executive Member (Corporate Services), ensure that the Council's health and safety policy is implemented properly by:
 - i) servicing the Health & Safety Committee
 - ii) providing a framework for risk assessments to be undertaken and maintained
 - iii) maintaining a programme of safety audits and inspections
 - iv) ensuring the provision of suitable and sufficient health and safety training
 - v) ensuring health and safety responsibilities are accurately defined in the recruitment process and that due regard is had to performance appraisal
 - vi) providing a framework for the induction of all new employees, including temporary and casual staff
 - vii) overseeing the Council's sickness management and capability procedures
 - viii) monitoring sickness absence and accident at work statistics and responding accordingly
 - ix) liaising with the Council's Occupational Health service, Stress Counsellor and other external service providers
 - x) reporting, as appropriate, to the Corporate Management Team

- (b) will ensure that the health, safety and welfare of staff retains a high profile in the Council's Pay and Workforce Development Strategy

- (c) will act as corporate 'whistle blower' in terms of management breaches of the policy, on behalf of the Corporate Management Team.

6. The Council's Safety Team

- (a) will advise on all matters affecting health and safety as necessary.

- (b) will support and advise managers in carrying out their duties to prevent and control risks through the risk assessment process.

- (c) will undertake a programme of safety audits and inspections in conjunction with appropriate management (including members of the Corporate Management Team) and employee representatives, and report to the Health and Safety Committee any failures to implement agreed courses of action

- (d) will develop and implement an annual Health & Safety training programme.

- (e) will keep up to date with changes in legislation and revise and issue Safety Advice Notes as the need arises. These will be available to all employees within their departments and will be referred to as part of the Induction Programme.

(f) **will notify the Health & Safety Executive (HSE) of reportable accidents and liaise with the HSE, Fire Authority and other agencies on safety matters as appropriate.**

(g) *will monitor arrangements for the search and evacuation of buildings in case of fire, bomb threat, etc, and ensure that adequate precautions are taken to comply with fire legislation. This includes fire risk assessments and, via Assets and Facilities, the provision and servicing of alarms and fire fighting equipment.*

(h) will make arrangements for employees to be provided with appropriate health surveillance if required by legislation or following risk assessment.

7. **Heads of Service**

(a) will ensure that all staff, contractors and others in a similar capacity for whom they are responsible, comply with the Council's Health and Safety requirements

(b) will ensure their service area maintains and publishes up-to-date organisational arrangements for health and safety and that the departmental Health and Safety Plan is reviewed annually .

(c) Will ensure all managers, supervisors and other staff are fully aware of their responsibilities and liabilities arising from the organisational arrangements for health and safety. They will also ensure that all provisions, requirements and safe working instructions are brought to the attention of, and understood by, all employees.

(d) will ensure that all requirements of the Management of Health and Safety at Work Regulations 1999 are observed and that suitable and sufficient risk assessments are made of all work activities, and regularly reviewed.

(e) in consultation with the Council's Safety Team will establish safe methods of work, which are free of risk to health and in compliance with current legislation and codes of practice.

(f) will ensure that the design and specification of contracts, and the selection of contractors is carried out with due regard to health and safety matters and that the contractor is adequately monitored to ensure that he carries out his work without risk to Council employees or the public. The Construction (Design and Management) Regulations will apply to certain projects.

(g) will ensure that the actions required as a result of departmental Safety Audits/Inspections and self-assessments are properly implemented.

- (h) will liaise with the Council's Safety Team on arrangements concerning fire and other emergency evacuations, and first aid.
- (i) Within the Personnel and ICT Services, as there are no Business Managers, the above responsibilities lie with the respective Heads of Service.

8. Managers and Supervisors

- (a) will ensure that all persons within their control receive adequate information, instruction and training to carry out their duties and are fully aware of any hazards involved in their work.
- (b) will carry out risk assessments as required under the Management of Health and Safety at Work Regulations 1999, and ensure that prompt action is taken to minimise risk. These assessments will be reviewed in accordance with the agreed framework.
- (c) will ensure that all persons under their control know what to do in the case of fire and know the location of, and how to use, fire equipment when necessary.
- (d) will ensure that all persons under their control know the whereabouts of First Aid facilities provided.
- (e) will continually develop safe practices to ensure maximum safety for all persons employed.
- (f) will ensure that adequate supervision is provided at all times, particularly where young or inexperienced persons are concerned, and for those working with potentially dangerous machines, materials and substances.
- (g) will arrange for all accidents, near misses and potential dangerous occurrences to be investigated immediately and thoroughly to discover their causes and to recommend preventative measures.
- (h) will arrange for accident report forms to be completed promptly and sent to Personnel Services.
- (i) will undertake periodic safety inspections of work places using the checklist provided by the Safety Team, and take appropriate remedial action.
- (j) will accompany the Council's Safety Team on safety audits and inspections and ensure that safety representatives are also invited. Will co-operate fully on safety matters arising.
- (k) will ensure that guards and safety devices are always fitted to machines and appropriately adjusted, and that all equipment is

inspected and maintained as required by the Provision and Use of Work Equipment Regulations.

- (l) will ensure that all safety rules are observed and that protective clothing and equipment is provided to employees where required by legislation or risk assessment.
- (m) will ensure that all machinery, protective clothing and equipment is properly selected, stored, maintained and used safely in accordance with current legislation.
- (n) will ensure that all defects in their work place are promptly reported and where reasonably practicable, rectified.
- (o) will maintain good housekeeping within their area at all times.
- (p) will advise the person to whom they are immediately responsible of any instance where they or their staff are unable to carry out their responsibilities, **or** where their instructions are being ignored by those responsible to them.
- (q) will consult and co-operate with appointed Safety Representatives on matters concerning health and safety.

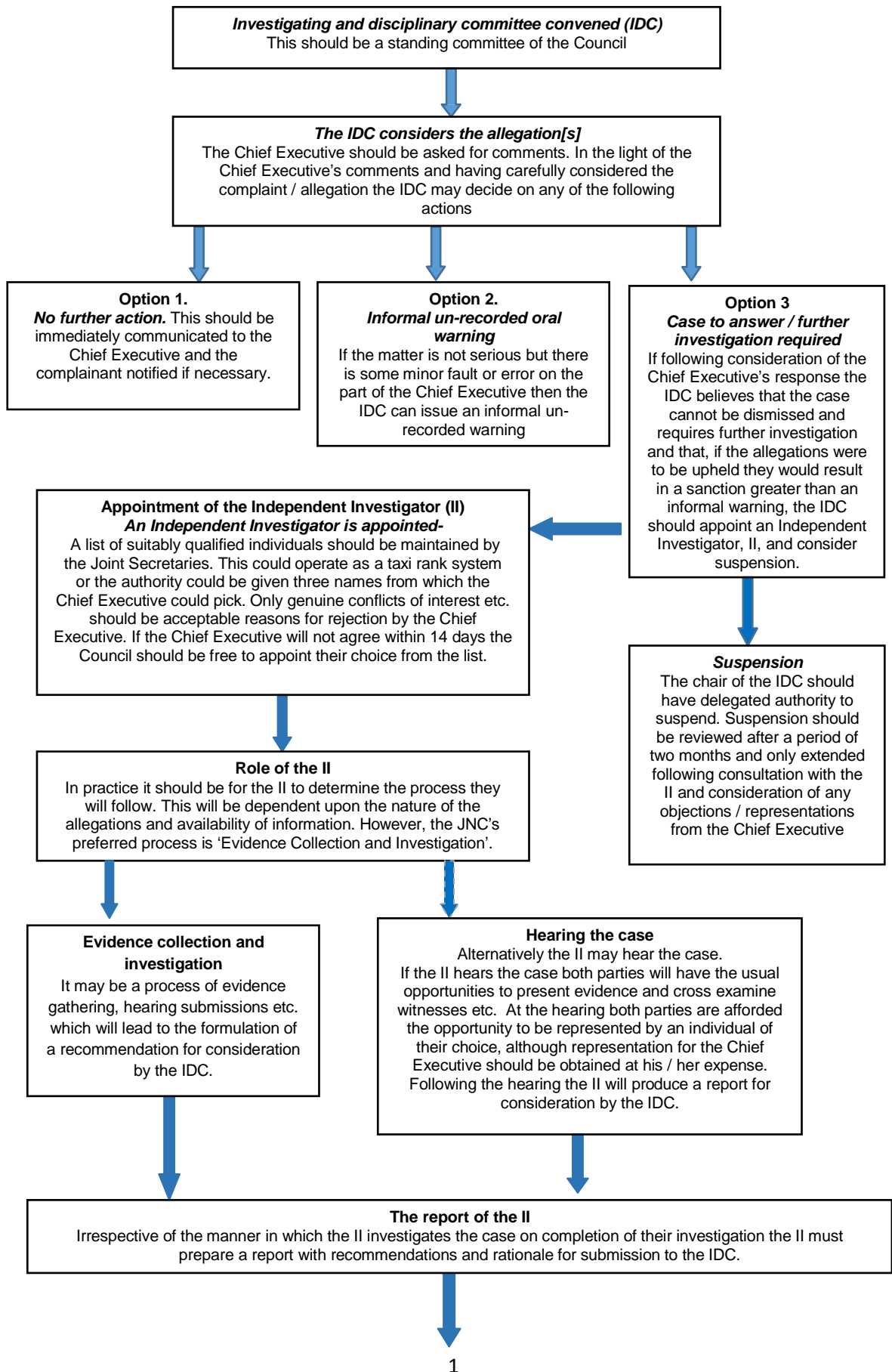
9. All Employees of High Peak Borough Council

- (a) will make themselves familiar with, and conform to, the requirements of the Health and Safety Policy at all times.
- (b) will familiarise themselves, and comply with the risk assessments and safe working procedures for their work area and the Arrangements for Health and Safety within their service.
- (c) will wear appropriate safety equipment and use appropriate safety devices at all times.
- (d) will conform to all instructions given by persons responsible for health and safety.
- (e) will immediately report to their Manager all accidents, near misses and damage to property.
- (f) will make appropriate suggestions designed to improve health and safety to the supervisor concerned and/or the Safety Representative.
- (g) will report all potential hazards to their Supervisor.
- (h) will observe all safety rules at all times.

NOTE: All employees, whatever their designation, have responsibility for their own safety and should not do anything which is likely to cause injury or risk to health of other persons, whether employees of High Peak Borough Council or not.

10. All persons on the premises of High Peak Borough Council will observe the safety rules and instructions given by appropriate officers enforcing the High Peak Borough Council's Health & Safety Policy.

Disciplinary Procedure – Chief Executive, Section 151 & Monitoring Officer



Consideration and Decision of the IDC

If the II has held a full hearing the IDC will limit their hearing to a consideration of the II's report. They may decide to call witnesses for clarification. The Chief Executive and II should attend this meeting and both parties afforded the opportunity to summarise their case. The hearing should be conducted in accordance with the ACAS code of practice. If the II did not hear the case then the IDC should now afford the Chief Executive the opportunity for a hearing to allow the postholder to challenge the recommendations of the II, call witnesses etc. The same rule regarding costs of representation would apply in this context

Recommendations of the IDC

Following either consideration of the report of the II or a full hearing of the case the IDC will essentially have three options

1. No case to answer
2. Disciplinary action short of dismissal
3. Dismissal

No case to answer

Appropriate communication should be prepared in agreement with the Chief Executive to ensure that as far as possible there is no damage to the postholder's reputation. The IDC should consider reimbursement of any reasonable expenses incurred by the employee.

Action short of dismissal

A decision to take action short of dismissal should be communicated in writing to the Chf Exec with rationale for the decision. The Chf Exec has the right of appeal to the appeals committee against this decision

Recommendation to dismiss

If there is a recommendation to dismiss, the reports of the IDC and the II should then be sent to Independent Panel (IP) for its consideration. The Chief Executive may make written representations to the IP

Composition, role and process of the IP

The IP should be a committee of the Council, appointed under section 102(4) of the Local Government Act 1972, and should comprise only independent persons (at least two) appointed under S28(7) of the Localism Act 2011. Appropriate training should be provided to these Independent members. Both parties should be present or represented* at the meeting. The IP should receive any oral representations from the Chief Executive, in which case it should invite any response on behalf of the IDC to the points made, and may ask questions of either party. The IP should review the decision and prepare a report for Council. This report should contain clear rationale if they disagree with the recommendation to dismiss.

* the IDC should nominate a person to attend on its behalf

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