

**To the Chair and Members of the CHIEF OFFICERS' APPOINTMENTS AND
CONDITIONS OF SERVICE COMMITTEE**

Revised Discipline and Dismissal Procedures for the Managing Director

EXECUTIVE SUMMARY

1. A report was presented to this committee on 15 January 2009 to request approval to the adoption of the Model Disciplinary Procedure & Guidance (2008) ("the Model Procedure") as established by the Joint Negotiating Committee as a revised documented process for dismissals, appeals and compromise agreements, guidance on the use of suspension and special leave and procedures for investigation for the Managing Director.
2. Members were also asked to consider appropriate amendments to the Model Procedure as set out and/or recommended in the report to take account of the matters for local determination (as is set out in the Model Procedure Guidance) or to ensure compliance with the recommendations of the District Auditor contained in his report dated 28 May, 2008.
3. It was resolved that the model procedure be adopted as the basis of the revised documented process for dismissals, appeals and compromise agreements, guidance on the use of suspension and special leave and procedures for investigation for the Managing Director, subject to minor amendments identified and agreed in relation to those matters for local determination and that the Director of People and Performance Improvement would submit a revised local discipline and dismissal procedure for the Managing Director to this committee for adoption.

RECOMMENDATIONS

4. The Committee is asked to consider the revised Local Discipline and Dismissal Procedure for the Managing Director (attached as Appendix 1), following the minor amendments in relation to those matters for local determination agreed at the last committee, for adoption.

BACKGROUND

5. A revised Joint Negotiating Committee (JNC) handbook for Chief Executives ('the handbook') came into force with effect from 1 April 2008. Within these revisions are significant changes as regards disciplinary procedures with the new model procedure contained in the handbook. Although this procedure is recommended to authorities by the joint secretaries, it is not mandatory; however the relevant statutory regulations are clearly mandatory and provide an appropriate response to the Public Interest Report.
6. The Council approved the Managing Director's Action Plan in response to the District Auditor's Report. It is considered that the adoption of the new Model Procedures incorporating the locally determined matters represented a significant step in the progress of the Improving Governance Project which is the mechanism for the delivery of the Managing Director's Action Plan in response to the District Auditor's Recommendations detailed in the report which have been addressed.
7. A Report in the Public Interest under Section 8 of the Audit Commission Act 1998 was prepared following a request by the then Interim Managing Director, to review the approach followed by the Council in investigating issues relating to the conduct and capability of the former Managing Director. The findings of this Report were reported to the Full Council on 28 May 2008 along with recommendations that could be considered to avoid similar situations arising in the future.
8. The prime purpose of the District Auditor's report was to help the Council learn lessons for the future and a number of recommendations were made to assist the process.
9. A holistic approach has been taken to improve governance arrangements and a clear action plan drawn up which not only addresses the recommendations with the Public Interest Report but goes beyond this to aim for governance that fosters and creates an excellent environment to work within. The implementation of a procedure for dismissals, appeals and compromise agreements, guidance on the use of suspension and special leave and procedures for investigation for the Managing Director forms part of this holistic approach.
10. The Council's existing procedure for the discipline and dismissal of the Managing Director is the nationally agreed process which has been in operation since 1988 with some minor revisions. In the light of difficulties experienced by a number of authorities over recent years the Joint Negotiating Committee for Chief Executives of Local Authorities has agreed a new model procedure and guidance which was issued on 4th April, 2008.

OPTIONS CONSIDERED

11. No other options were considered appropriate in this case as a review of the related procedures covered in this report was needed not only to resolve a number of recommendations made as part of the Managing Director's report but also in line with the JNC for Chief Executives changes effective from 1 April 2008

IMPACT ON THE COUNCIL'S KEY OBJECTIVES

12.

Doncaster Priorities	Implications of this initiative
Achieving Excellence	To support the Council in achieving excellence in direct service delivery and to fulfil its broader Borough-wide governance and leadership roles as part of the implementation of the LAA by developing our workforce and Members and creating appropriate roles and responsibilities that provide clear and effective leadership

RISKS & ASSUMPTIONS

13. The risk of not having appropriate procedures in place and undertaking a review of existing procedures may result in lessons not being learnt and the Council facing being in a similar position to when the Public Interest Report was requested. This could result in a poor reputation locally and nationally in relation to governance arrangements and the potential for poor ratings in inspection regimes.
14. In addition, if the Council's procedures are not fundamentally in line with those of the Joint Negotiating Committee for Chief Executives, then it could leave the council vulnerable to not adhering to its statutory obligations and potential employment tribunal cases being brought forward against the council.

LEGAL IMPLICATIONS

15. The Local Authorities (Standing Orders) (England) Regulations 2001 (Regulation 6, and Schedule 3) require that no disciplinary action be taken against the Managing Director (unless they are also the council manager) other than in accordance with a recommendation in a report made by the DIP. The definition of disciplinary action is any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the authority, 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.

The application of the new model procedures will ensure that processes are up-to-date, comply with relevant legislation and that best practice is being applied within the Council.

Adopting the Model Procedure together with the agreed minor amendments in relation to those matters for local determination will constitute part of a substantive and significant response to the Managing Director’s action plan.

FINANCIAL IMPLICATIONS

- 16. There are no direct financial implications arising from the recommendations in this report.

Any costs associated with dismissals, appeals or compromise agreements will need to be met from existing budgets. A separate decision with appropriate financial implications will be made on each occasion.

CONSULTATION

- 17. Detailed consultation has taken place with the Managing Director, relevant Statutory, Legal and Human Resources officers.

- 18. This report has significant implications in terms of the following:

<u>Procurement</u>		Crime & Disorder	
Human Resources	X	Human Rights & Equalities	
Buildings, Land and Occupiers		Environment & Sustainability	
ICT		Capital Programme	

BACKGROUND PAPERS

Audit Commission Public Interest Report – February 2008
 Report of the Managing Director on the District Auditor’s Public Interest Report – Full Council 28 May 2008
 NJC for Chief Executives of Local Authorities Circular - 4 April 2008
 Chief Officers’ Appointments and Conditions of Service Committee – 15 January 2009

APPENDIX 1

Council’s Revised Procedures
 From the National Salary Framework and Conditions of Service for Local Authority Chief Executives Joint Negotiating Committee Handbook- April 2008

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Appendix 1

Council's Revised Local Procedures

**From the National Salary Framework and Conditions of Service for Local Authority
Chief Executives Joint Negotiating Committee Handbook- April 2008**