

REPORT FOR DECISION



DECISION OF:	Human Resources and Appeal Panel
DATE:	19 to 21 June 2017
SUBJECT:	Senior Officer Disciplinary Issues
REPORT FROM:	Interim Chief Executive
CONTACT OFFICER:	Pat Jones-Greehalgh
TYPE OF DECISION:	COUNCIL - NON KEY DECISION
FREEDOM OF INFORMATION/STATUS:	It is recommended that this item of business is considered in confidential session under paragraphs 1, 2 and 10 of Schedule 12A to Section 100A of the Local Government Act 1972, as it contains information relating to individuals, is likely to reveal the identity of individuals and the public interest in maintaining the exemption outweighs the public interest in disclosure.
SUMMARY:	<p>On 28 February 2017 a differently constituted panel resolved to commence a formal disciplinary investigation into matters relating to the conduct of three senior officers of the Council. The Council appointed Charles Bourne QC to undertake an Independent Investigation.</p> <p>The Committee will receive that report, consider the original external review from Mr Malcolm Newsam CBE and hear representations from the three officers concerned.</p> <p>It is a matter for the members of the Committee to determine the response to the report and what, if any disciplinary action should be taken.</p>
OPTIONS & RECOMMENDED OPTION	Members must determine any disputed facts on the balance of probabilities and decide within the range of reasonable responses, whether any disciplinary action is required, taking account of any mitigating circumstances.

1.0 BACKGROUND

- 1.1 The Human Resources and Appeal Panel (HRA Panel) is a committee of the Council established under Part 3 of the Constitution. Part 3, Paragraph 3.2(E) paragraph 13, of the Constitution, delegates to the HRA Panel the power to determine disciplinary issues relating to Chief and Deputy Chief Officers and in appropriate cases, the power to recommend dismissal of the Head of Paid Service [REDACTED]
- 1.2 Regulation 6 of The Local Authorities (England) (Standing Orders) Regulations 2015 require a Local Authority proposing disciplinary against its Head of Paid Service [REDACTED] must comply with the provisions of Schedule 3 of the Regulations. These require that where a Local Authority is proposing to dismiss its Head of Paid Service or Monitoring Officer it must include, at least two, Independent Person to be included in the Panel considering the case. The Independent Persons are persons appointed to Standards Committee of Local Authorities under the Localism Act 2011.
- 1.3 The HRA Panel, at its meeting on 28 February 2017, received a review into an historic child safeguarding case, that had been compiled by Malcolm Newsam CBE. A copy of the Newsam Review is to be found at Appendix 1. The Review recommended disciplinary investigation in relation to three senior officers. A HRA Panel decided to authorise an Independent Investigation into disciplinary allegations against The Chief Executive, Mike Owen; [REDACTED] [REDACTED] and The Executive Director of Children, Young People and Culture, Mark Carriline.
- 1.4 The Chief Executive is employed under Terms and Conditions agreed by the JNC for Chief Executives of Local Authorities in England and Wales 2016. [REDACTED] [REDACTED] Executive Director for Children, Young People and Culture are employed under the JNC for Chief Officers of Local Authorities. Both JNC documents contain different model disciplinary provisions.
- 1.5 In authorising the Independent Investigation the HRA Panel also agreed to adapt the model disciplinary procedures so as to adopt a single procedure for all three officers, a single report and single hearing, so as to ensure fairness between the protections afforded to the officers and the ability to review the conduct as a whole.
- 1.6 The Terms of Reference and allegations authorised for Investigation were dated 14 March 2017 and appear at Appendix 2.
- 1.7 The Independent Investigator appointed by the Council is Charles Bourne QC. Mr Bourne specialises in Local Government Employment Law and sits as a Deputy High Court Judge. He undertook an extensive and thorough investigation which involved face to face interviews and access to papers. His report is set out at Appendix 3.
- 1.8 Members will also hear directly from Mr Newsam as the children's safeguarding expert who initially made the recommendation for disciplinary action, and from Councillor Shori, the Leader of the Council. Councillor Shori may wish to address the HRA Panel on the extent to which he retains confidence in each of the officers. Members should take note of the views of Councillor Shori, but it will be for members to decide the extent to which any comments made by Councillor Shori are reasonable in all the circumstances. Members must not give undue weight to any one factor, and must exercise their own judgement.

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