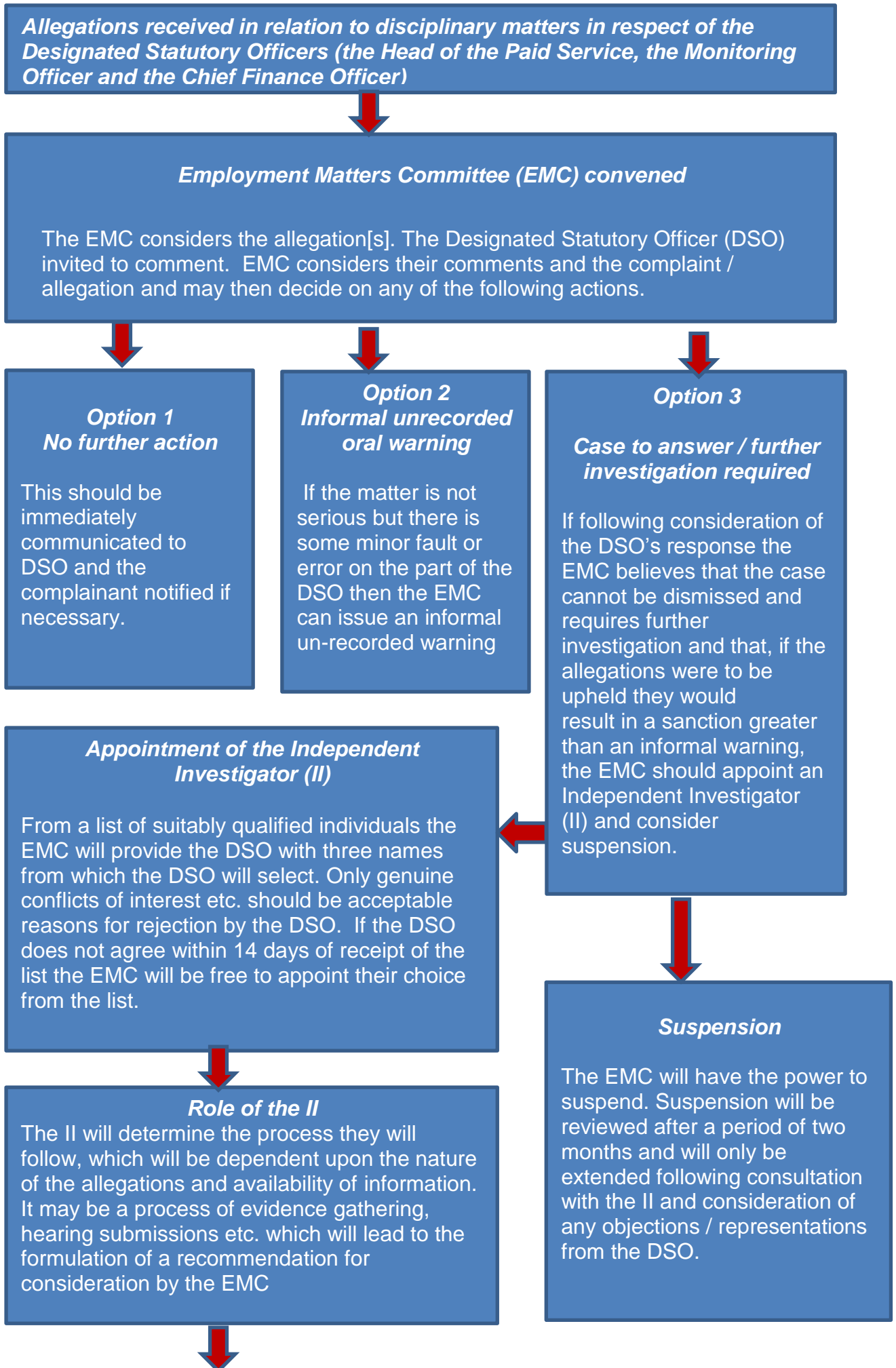


Disciplinary Procedure for Local Authority Designated Statutory Officers



Report by the II and consideration and decision by the EMC

On completion of the investigation the II will prepare a report with recommendations and rationale for submission to the EMC.

The EMC will afford the DSO the opportunity for a hearing to allow the post holder to challenge the recommendations of the II, call witnesses etc.

The EMC may decide to call witnesses for clarification. The DSO and II should attend this meeting and both parties afforded the opportunity to summarise their case and will have the usual opportunities to present evidence and cross examine witnesses etc. Both parties will have the right to be represented at the hearing. The hearing should be conducted in accordance with the ACAS code of practice.



Recommendation of the EMC

Following either consideration of the report of the II or a full hearing of the case the EMC will essentially have the following options:

1. No case to answer
2. Recommend informal resolution or other appropriate procedures
3. Refer back to the II for further investigation
4. Disciplinary action short of dismissal
5. Propose dismissal



No case to answer

Appropriate communication should be prepared in agreement with the DSO to ensure that as far as possible there is no damage to the post holder's reputation.



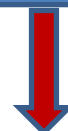
Action short of dismissal

A decision to take action short of dismissal should be communicated in writing to the DSO with rationale for the decision. The DSO has the right to appeal to the Disciplinary Appeals Committee against this decision.



Recommendation to dismiss

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





Composition, role and process of the IP

The IP will be a committee of the Council, appointed under section 102(4) of the Local Government Act 1972, and will 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 DSO in which case it should invite any response of behalf of the EMC 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 EMC should nominate a person to attend on its behalf. This will usually be the Chairman of the EMC.*



Report to full Council

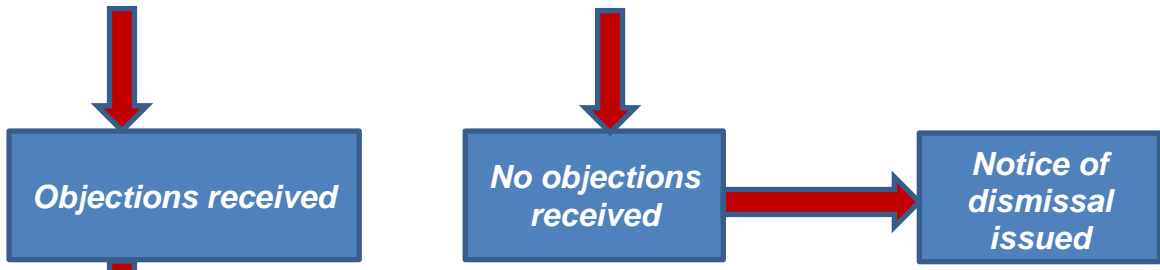
Following consideration by the IP a report will be presented to Council. This report should comprise the recommendation of the EMC, the IP's report and any comments on the recommendations for dismissal from the IP. In the light of this information, Council should consider the recommendation to dismiss. The DSO should be allowed to attend this meeting and address the Council. The IP may also be invited to attend to provide clarification if required. Following this consideration Council should either confirm or reject the recommendation to dismiss. It may at this stage impose a lesser sanction (in which case there would be no right of appeal)



Notice of dismissal and Executive Notification Procedure

The DSO will not be issued with the notice of the dismissal until:

- a) the Council has notified the proper officer of the name of the person who the Council wishes to dismiss and any other particulars which the Council considers are relevant to the dismissal
- b) the proper officer has notified every member of the executive of this information together with the period within which any objection to the dismissal is to be made by the Leader of the Council on behalf of the executive to the proper officer; and
- (c) either—
 - (i) the Leader has, within the period specified, notified the Council that neither he nor any other member of the executive has any objection to the dismissal;
 - (ii) the proper officer has notified the Council that no objection was received by him within that period from the Leader; or
 - (iii) the Council is satisfied that any objection received from the Leader within that period is not material or is not well-founded.



Dealing with objections to the dismissal

If the EMC decides that any objection is relevant to the case (material) and based on evidence (well founded) then the Committee will need to act accordingly – for example, that further investigation is required.

The EMC will prepare a further report for Council.

Council considers report from EMC

Council considers the report from the EMC and decides whether or not to confirm the decision to dismiss or take action short of dismissal.

Decision to dismiss confirmed.

Notice of dismissal issued

Decision to dismiss not confirmed

Take disciplinary action short of dismissal