



## AGENDA ITEM: 8

### SUMMARY

<b>Report for:</b>	<b>Cabinet</b>
<b>Date of meeting:</b>	<b>29 June 2015</b>
<b>Part:</b>	<b>1</b>
If Part II, reason:	

<b>Title of report:</b>	Amendment to Standing Orders
Contact:	Cllr Andrew Williams, Leader of the Council  Author/Responsible Officer Steve Baker, Assistant Director (Chief Executive's Unit) Ext. 2229
Purpose of report:	To advise Members of the Cabinet of the requirement of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 to amend Standing Orders relating to the procedure to be followed before the Council can dismiss or discipline its Head of Paid Service, Chief Finance Officer or Monitoring Officer.
Recommendations	That Cabinet recommend Council to amend Part 4 of the Constitution 'Officer Employment Procedure Rules' as set out in the Appendix to this report pursuant to the provisions of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.
Corporate Objectives:	This report does not have implications for the Council's objectives.
Implications:	<u>Financial</u>  There are no financial implications arising from this report.
'Value For Money	<u>Value for Money</u>

Implications'	There are no value for money implications arising from this report.
Risk Implications	A risk assessment is not required.
Community Impact Assessment	A Community Impact Assessment is not required.
Health And Safety Implications	There are none arising from this report.
Monitoring Officer/S.151 Officer Comments	<p><b>Monitoring Officer:</b></p> <p>This is a report prepared by the Monitoring Officer.</p> <p><b>S.151 Officer</b></p> <p>No comments to add to the report.</p>
Consultees:	Chief Executive
Background papers:	<p>Local Authorities (Standing Orders) (England) Regulations 2001</p> <p>Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015</p> <p>Part 4 of the Constitution 'Officer Employment Procedure Rules'</p>
Glossary of acronyms and any other abbreviations used in this report:	

## Background

1. The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 ("the Amendment Regulations") came into force on 11th May this year. The Amendment Regulations remove the provisions in the Local Authorities (Standing Orders) (England) Regulations 2001 ("the 2001 regulations") relating to the requirement for the Council to appoint a "designated independent person" before it can dismiss or discipline its Head of Paid Service, Chief Finance Officer or Monitoring Officer. The Amendment Regulations make new provisions about the procedure to be followed in such cases which the Council is required to include in their standing orders.
2. The 2001 Regulations required the Council to appoint a designated independent person for the purpose of investigating and preparing a report into alleged misconduct or the taking of disciplinary action in respect of its Head of Paid Service, Chief Finance Officer or Monitoring Officer ("the Statutory Officers"). No disciplinary action (including dismissal) could be taken in respect of the Statutory Officers except in accordance with a

recommendation in a report made by a designated independent person. The 2001 Regulations required the Council to incorporate the provisions relating to the appointment of the designated independent person in its standing orders.

3. The Amendment Regulations replace the requirement to appoint a designated independent person with a new procedure which is set out in Schedule 3 to the Amendment Regulations. The Council must appoint at least two "independent persons" to the Committee which is advising the Council on matters relating to the dismissal of the Statutory Officers. These persons must be the independent person already appointed by the Council under section 28(7) of the Localism Act 2011 together with any other second independent person who the Council may have appointed. Where there is no second independent person the Council must appoint an independent person from another authority.

Before the Council can take a vote on whether or not to approve a dismissal of a Statutory Officer, it must take into account, in particular-

- (a) any advice, views or recommendations of the Committee;
  - (b) the conclusions of any investigation into the proposed dismissal; and
  - (c) any representations from the Statutory Officer who is subject to the disciplinary action.
4. Another change made by the Amendment Regulations concerns the extent to which the function of the dismissal of the Chief Finance Officer and Monitoring can be delegated. Under the 2001 Regulations, the dismissal of the Head of Paid Service required the final approval of Council, but the dismissal of the Chief Finance Officer and Monitoring Officer could be delegated to a Committee, Sub-Committee or officer. The Amendment Regulations now require the Council to give final approval to the dismissal of the Chief Finance Officer and Monitoring Officer, as well as the Head of Paid Service.
  5. The appointment of the Chief Finance Officer and Monitoring Officer can still be delegated to a Committee, Sub-Committee or officer. The requirement for the Council to give final approval to the appointment of the Head of Paid Service also remains unchanged.
  6. The Amendment Regulations require the Council to incorporate in its standing orders the provisions set out in Schedule 3 of the Amendment Regulations and the changes referred to in paragraph 4 above not later than the first ordinary meeting of the Council falling after 11<sup>th</sup> May. This means that the amendments to Part 4 of the Constitution 'Officer Employment Procedure Rules' must be adopted by Council at its meeting on 15<sup>th</sup> July.
  7. The required amendments to the Council's Officer Employment Procedure Rules are shown in the Appendix below. The words to be deleted are crossed through and the new wording is underlined so that Members can identify the changes more easily.

## **APPENDIX**

### **PART 4 OFFICER EMPLOYMENT PROCEDURE RULES**

#### **1. Recruitment and appointment**

##### **(a) Declarations**

- (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or of the partner of such persons.
- (ii) No candidate so related to a councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

##### **(b) Seeking support for appointment**

- (i) The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) No councillor will seek support for any person for any appointment with the Council.

#### **2. Recruitment of Head of Paid Service and Chief Officers**

Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing officers, 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 (1) to be sent to any person on request.**

#### **3. Appointment of Head of Paid Service**

- (a) The full Council will approve the appointment of the Head of Paid Service before the offer of appointment is made following the recommendation of such an appointment by the Appointments

Committee. The Appointments Committee must include at least one member of the Cabinet.

- (b) The full Council may only make or approve the appointment of the Head of Paid Service where no well-founded objection has been made by any member of the Cabinet.

#### 4. **Appointment of Chief Officers and deputy Chief Officers**

- (a) The Appointments Committee will appoint Chief Officers and deputy Chief Officers. The Appointments Committee must include at least one member of the Cabinet.
- (b) An offer of employment as a Chief Officer or deputy Chief Officer shall only be made where no well-founded objection from any member of the Cabinet has been received.

#### 5. **Other appointments**

- (a) **Officers below deputy chief officer.** Appointment of officers below deputy chief officer is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by councillors.
- (b) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

#### 6. **Disciplinary action**

- (a) The terms of reference of the Appointments Committee include the dismissal of, and taking disciplinary action against, a Chief Officer or deputy Chief Officer. ~~including the power to appoint a designated independent person for the purpose of investigating and preparing a report into alleged misconduct or the taking of disciplinary action where the Chief Officer or deputy Chief Officer is the designated Head of Paid Service.~~ Where the Chief Officer or the deputy Chief Officer is the designated Head of Paid Service, Chief Finance Officer or Monitoring Officer full Council must approve the dismissal before notice of dismissal is given.
- ~~(b) The Chief Executive, in consultation with the Chairman of the Appointments Committee, shall appoint a designated independent person for the purpose of investigating and preparing a report into alleged misconduct or disciplinary action taken against the designated Chief Finance Officer or Monitoring Officer and to agree the terms of reference of such appointment.~~
- (b) The Appointments Committee may suspend a Chief Officer or deputy Chief Officer for a period of up to two months on full pay for the purpose of investigating alleged misconduct, or the taking of disciplinary action, where the officer under investigation or the subject of the disciplinary action is the designated Head of Paid Service.
- (c) The Chief Executive, in consultation with the Chairman of the Appointments Committee, may suspend a Chief Officer or deputy

Chief Officer, including the designated Chief Finance Officer or Monitoring Officer, for a period of up to two months on full pay for the purpose of investigating alleged misconduct, or the taking of disciplinary action.

- (d) No other disciplinary action may be taken in respect of the designated Head of Paid Service, Chief Finance Officer or Monitoring Officer except in accordance with ~~a recommendation in a report made by a designated independent person.~~ the procedure set out in the schedule below.

## 7. Dismissal

Councillors will not be involved in the dismissal of any officer below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.

## SCHEDULE

### **Procedure to be followed in the event that disciplinary action is taken in respect of the designated Head of Paid Service, Chief Finance Officer or Monitoring Officer**

*[inserted under regulation 6 of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015]*

1. In the following paragraphs –
  - (a) “the 2011 Act” means the Localism Act 2011;
  - (b) “the 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 advertising 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 officers” means the chief finance officer, head of authority’s paid service or monitoring officer, as the case may be.

2. A relevant officer may not be dismissed by an authority unless the procedure set out in the following paragraphs is complied with.
3. The authority 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.
4. In paragraph 3 “relevant independent person” means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.
5. Subject to paragraph 6, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 3 in accordance with the following priority order –
  - (a) a relevant independent person who has been appointed by the authority and who is a local government elector;
  - (b) any other relevant independent person who has been appointed by the authority;
  - (c) a relevant independent person who has been appointed by another authority or authorities
6. An authority is not required to appoint more than two relevant independent persons in accordance with paragraph 5 but may do so.
7. The authority must appoint any Panel at least 20 working days before the relevant meeting.
8. Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular –
  - (a) any advice, views or recommendations of the Panel;
  - (b) The conclusions of any investigation into the proposed dismissal; and
  - (c) any representations from the relevant officer.
9. Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to the independent person in respect of that person’s role as independent person under the 2011 Act”.