

Report to: **Council**

Date: **8 October 2015**

Title: **Amendments to the Council's Procedure Rules regarding the dismissal of senior officers**

Portfolio Area: **Cllr S. Wright**

Wards Affected: **All**

Relevant Scrutiny Committee: **O&S Panel**

Urgent Decision: **N**

Date next steps can be taken: **8 October 2015**

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Recommendations:

- 1. That the Council amends its Procedure Rules and Officer Employment Rules in the Council's Constitution to give effect to the provisions of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 ('the Regulations'). In particular:
 - a) the Head of Paid Service, Section 151 Officer and Monitoring Officer may only be dismissed by the Council**
 - b) when considering whether to dismiss any of the officers set out in a) above the Council must have regard to any view expressed by an Independent Panel****
- 2. That the Council's Independent Persons (appointed under the Localism Act 2011) are invited to be part of a Panel for the purposes of the Regulations**
- 3. That the Monitoring Officer amends the Constitution accordingly**

1. Executive summary

- 1) This report deals with the requirements set out in the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015. The Regulations require the Council to amend its Constitution to incorporate the new arrangements for taking disciplinary action against the Council's statutory officers, namely Head of Paid Service, Section 151 Officer and Monitoring Officer.
- 2) The Regulations came into force on 11 May 2015 and require Councils to give effect to their content no later than the first ordinary Council meeting held after the May 2015 elections (i.e. its first ordinary meeting after the Annual Meeting).

2. Background

- 1) The Government has introduced regulations to change the way that Councils dismiss their statutory officers. The intention is to simplify and localise the statutory procedures.
- 2) The current procedures state that no disciplinary action in respect of a protected statutory officer can take place unless that action is in accordance with the recommendations of a report completed by a Designated Independent Person (DIP).
- 3) The Government's rationale for the change in procedures is that the existing DIP process is bureaucratic, time consuming and costly in terms of the appointment of a DIP, and also in terms of the inflated severance payments to such officers in order to avoid taking a costly DIP route.
- 4) As a result, the new Regulations require the final decision to dismiss any of the statutory officers to be made by the full Council provided that it has taken into account:
 - the views or recommendations of a Panel (see below)
 - the conclusions of any investigation into the proposed dismissal, and
 - any representations from the officer concerned.
- 5) The Council is required to invite at least two Independent Persons to be members of a Panel whose recommendations must be taken into account by the Council before taking any decision to dismiss a statutory officer. These are the Independent Persons who have been appointed for the purpose of the Council's standards regime under the Localism Act 2011 and the rationale is that the Panel will be comprised of people from the local area.
- 6) The Council is required to issue invitations to the Independent Persons in accordance with the following priority:
 - a) An Independent Person who has been appointed by the Council and who is a local government elector in the Council's area
 - b) Any other Independent Person who has been appointed by the Council
 - c) An Independent Person appointed by another Council

- 7) The Regulations provide little detail of how the new process will operate in practice and discussions continue between the Local Government Association and the Department of Communities and Local Government as to whether the Panel should comprise Independent Persons only or whether the Independent Persons should form part of a formal committee set up by the Council comprising at least 2 Independent Persons in addition to Members of the Council. If the advice concludes that the Council must set up a Panel as a Committee, then the matter will be brought back before Members.
- 8) In terms of reducing the costs of the procedure the changes in the new Regulations seeks to address this by providing that the Independent Person's remuneration must not exceed the level paid to such a person in his/her role as an Independent Person for the Code of Conduct regime (currently £500 per Independent Person per annum).

3. Proposed Way Forward

- 1) The recommendation is for the Council to adopt, formally, the requirements set out in the Regulations
- 2) The Council's Constitution will be amended accordingly together with the Council's disciplinary and grievance procedure.

4. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	The changes to the Council's procedures are mandatory and required by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015. Only the Council can make changes to the Council's procedure rules. Following approval by the Council, the Monitoring Officer will amend the Constitution accordingly.
Financial	Y	The Financial implications for the appointment of such a Panel are limited to the level of remuneration that they receive as an Independent Person appointed as part of the standards regime under the Localism Act 2011. This is currently £500 per Independent Person per annum.
Risk	Y	This is a mandatory requirement imposed through the above Regulations and failure to amend its Constitution accordingly will mean that the Council will be in breach of its statutory obligations

Comprehensive Impact Assessment Implications		
Equality and Diversity	N	
Safeguarding	N	
Community Safety, Crime and Disorder	N	
Health, Safety and Wellbeing	N	
Other implications	N	

Supporting Information

Appendices: None

Background Papers: None

Process checklist	Completed
Portfolio Holder briefed	Yes/No
SLT Rep briefed	Yes/No
Relevant Exec Director sign off (draft)	Yes/No
Data protection issues considered	Yes/No
If exempt information, public (part 1) report also drafted. (Committee/Scrutiny)	Yes/No