

**Council**

**16<sup>th</sup> July 2015**

## **Report of the Assistant Director Customer and Employees**

### **New Procedures for dismissal of statutory chief officers**

#### **Summary**

1. This report sets out changes to the Council's Constitution arising from new arrangements for the dismissal of statutory officers contained in the Local Authorities (Standing orders) (England) (Amendment) Regulations 2015. The Council is legally obliged to incorporate in its Constitution at this meeting of full Council provisions reflecting these Regulations. The opportunity has also been taken for some updating of and stylistic change to the current provisions.

#### **Background**

2. The law until recently provided that no disciplinary action could be taken in respect of the Head of Paid Service, Chief Finance Officer or Monitoring Officer other than in accordance with a recommendation in a report made by a Designated Independent Person (DIP). These provisions were included in the Council's Constitution as required by the Local Authorities (Standing orders) (England) (Regulations) 2001. The 2015 Regulations remove the requirement for a DIP and establish an alternative process which applies to proposed dismissals only. The Council is therefore required to amend its constitution.
3. The key elements of the new process are that the dismissal of any of the Officers listed above, must be approved by way of a vote at a meeting of Full Council, who instead of only being able to take action in accordance with DIP recommendations, will be able to dismiss provided they take into account:
  - any advice, views or recommendations of a panel (the Panel),

- the conclusions of any investigation into the proposed dismissal; and
  - any representations from the protected officer concerned.
4. The Panel must include at least two independent persons appointed in accordance with the member code of conduct regime. The Council has two independent persons and would be required to invite them to act in the first place but there is provision allowing the use of an independent person appointed by another local authority.
  5. The Panel will formally be an Advisory Committee to Full Council. The independent persons will therefore have voting rights.
  6. The Regulations say very little about the disciplinary process to be followed. They do not, however, override employment law duties both statutory and contractual by which the Council is bound. In particular there must continue to be fair process for investigating disciplinary allegations and Chief Executives' terms and conditions include specific provisions for investigation by a designated independent person.
  7. The current statutory procedures for disciplinary action are contained in the Officer Employment Procedure Rules within the Council's Constitution. A revised version of these Rules appears at Annex One. The revised rules:
    - Make the amendments required by the Regulations
    - Clarify that the Chief Officer appointment procedures apply to all chief officer appointments including those on a temporary basis
    - Clarify that the appointments committee does not have to proceed to interview if it has shortlisted an insufficient number of candidates
    - Remove a provision which would allow Members to sit on an appeal by an Officer against another person being appointed to a post – there are no such appeals
    - Make various stylistic changes to make the rules easier to read but without changing their meaning

8. In addition a change is suggested to the terms of reference to the Staffing Matters and Urgency Committee. The terms of reference currently include at paragraph 1 all of Council's staffing functions other than those which must be exercised by Full Council. That provision is broad enough to cover the requirements of the new law. Paragraph 2, however, seeks to clarify the powers included within the first paragraph. Changes are proposed to this paragraph as set out in Annex two. The changes:

- Confirm that the Committee may appoint disciplinary as well as recruitment Sub Committees
- Confirm that the Sub Committees may act in respect of Assistant Directors. This reflects current practice but the existing wording suggests otherwise.
- Make reference to the Committee appointing the Panels required under the 2015 Regulations

### **Council Plan**

9. The Council's Constitution is its key governance document and is an essential tool in delivering its priorities.

### **Implications**

10. **Legal:** The revised rules incorporate provisions in the Constitution to the effect of those required by the Local Authorities (Standing orders) (England) (Amendment) Regulations 2015 and ensure that the Council is complying with the law.
11. **HR:** The legislative changes do not alter the Council's obligation to ensure that proper investigations take place and fair disciplinary processes are followed which comply with any conditions set out in respect officers conditions of employment.
12. There are no specific Financial, Equalities, Crime and Disorder, ICT or Property implications

### **Risk Management**

13. There are no specific risk management issues arising from this report.

## Recommendations

14. Council are asked to:

- a) Agree the amended Officer Employment Procedure Rules set out in Annex One

Reason: to ensure that the Council has complied with the law

- b) Agree the changes to the terms of reference for the Staffing Matters and Urgency Committee set out in Annex Two

Reason: to ensure that the Constitution is clear

- c) Request Audit and Governance Committee to review the documents set out at Annexes One and Two and report back to Council on any further changes which they consider to be appropriate.

Reason: to enable more detailed oversight of the constitutional changes

## Contact Details

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the report:**

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**Report  
Approved**

**Date** 07 July 2015

## Specialist Implications Officers

Not applicable

**Wards Affected:** Not applicable

**All**

**For further information please contact the author of the report**

## Background Papers

None

## **Annexes**

Annex One - Officer Employment Procedure Rules

Annex Two - Terms of reference for Staffing Matters and Urgency  
Committee