
MODIFICATION OF PRESCRIBED STANDING ORDERS RELATING TO THE DISMISSAL OF STATUTORY OFFICERS AND THE PROCESS FOR APPROVING CHANGES TO THE CONSTITUTION

To: **Council – 14 July 2016**

By: **Director of Corporate Governance and Monitoring Officer**

Classification: **Unrestricted**

Ward: **Not applicable**

Summary: **To modify standing orders relating to the dismissal of statutory Officers as required by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and to incorporate them within the Council’s Constitution.**

For Decision

1.0 Summary

1.1 The government has made legislative changes which require the Council to amend its standing orders insofar as they relate to disciplinary action against and the dismissal of the Council’s head of paid service, monitoring officer and chief finance officer. The report identifies the necessary changes and recommends that the Standards Committee commend them to Council.

2.0 Introduction and Background

2.1 Since the Council commenced operating executive arrangements it has been a requirement of the Local Authorities (Standing Orders) (England) Regulations 2001 (‘the 2001 Regulations’) that the Council makes or modifies standing orders so that they include certain provisions relating to staff and other matters

2.2 The standing orders in relation to staff operated so as to require the council to appoint a “designated independent person” before it could discipline or dismiss its head of paid service, monitoring officer or chief finance officer.

2.1 Last year the Secretary of State for Communities and Local Government made the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015, available here: www.legislation.gov.uk/uksi/2015/881/pdfs/uksi_20150881_en.pdf The 2015 Regulations repeal the provisions of the 2001 regulations insofar as they relate to the appointment of the “designated independent person” and make new provision about the procedure to be followed to dismiss a head of paid service, a monitoring officer or, a chief finance officer. These provisions must be incorporated into the Council’s standing orders.

2.2 The 2015 Regulations require that before dismissing one of the officers identified above, the Council must appoint a “panel” for the purpose of advising on matters relating to the dismissal of the relevant officer. The Council must invite independent persons who have been appointed under section 28(7) of the Localism Act 2011 to be considered for appointment to the panel, with a view to appointing at least two

such persons to the panel. These independent persons are those appointed by the Council in connection with the procedures for dealing with alleged breaches of the Code of Conduct for members.

3.0 Options

- 3.1 The requirements of the 2015 Regulations are mandatory insofar as they related to the adoption of the prescribed standing orders and therefore it is not possible to put options before the Working Party or Council for consideration in this connection.
- 3.2 The Council does have a choice as to whether it appoints a standing panel in pursuance of the standing orders or, whether it only appoints one, if and when the need arises.
- 3.3 The circumstances giving rise to the need to appoint the panel are likely to occur very infrequently, if at all. It is therefore not proposed that the Council should appoint a standing panel. In the event that one were to be needed, this would be the subject of a report to Council at the time.
- 3.4 There is also a fundamental legal difficulty in attempting to appoint a standing panel and this lies in the need to ensure that the panel is comprised of members who are impartial. The nature of the positions to which the Regulations applies is such that there is a high probability that one or more members will themselves be involved in any disciplinary action whether as instigators of it or, as witnesses. Clearly, any member involved in this capacity could not sit on the panel. Therefore, until a particular issue arises and the circumstances are known, it would not be possible to identify which members could and (more importantly) could not, sit on the panel.

4.0 Corporate Implications

4.1 Financial and Taxation

- 4.1.1 There are no financial or other resource implications.

4.2 Legal

- 4.2.1 The Council is legally obliged to revise the current standing orders in the Constitution.

4.3 Equity and Equalities

- 4.3.1 No equalities impact assessment has been carried out as this is a statutory obligation. The processes undertaken in accordance with the 2001 Regulations will have to follow employment and equalities legislation.

5.0 Recommendation

- 5.1 That the modifications to the Prescribed Standing Orders relating to staff, be modified as set out in Appendix 1 to this report and be incorporated into the Council's Constitution
- 5.2 That the Council does not appoint a standing panel to deal with dismissals but appoints a panel on an ad hoc basis as required.

6.0 Decision Making Process

- 6.1 This is a non-key decision to go to Council

Future Meeting if applicable: N/A	Date: N/A
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Reporting to:	Madeline Homer, Chief Executive

Annex List

Annex 1	Tracked changes to the standing orders
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Background Papers

Title	Details of where to access copy
<i>None</i>	

Corporate Consultation Undertaken

Finance	Tim Willis, Director of Corporate Resources
Legal	Tim Howes Director of Corporate Governance