

24 June 2015		ITEM: 10
Council		
The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 – Appointment and Dismissal of Senior Officers		
Wards and communities affected: All	Key Decision: Non-Key	
Report of: Fiona Taylor, Head of Legal & Monitoring Officer		
Accountable Head of Service: Fiona Taylor, Head of Legal & Monitoring Officer		
Accountable Director: David Bull, Interim Chief Executive		
This report is public		

Executive Summary

To amend the Council's Procedure Rules to make changes to the procedure for disciplining and dismissing senior officers in accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 ('the Regulations'), which came into force on 11th May 2015.

1. Recommendation(s)

- 1.1 That Council approve the modifications to Council Procedure Rules (Chapter 10 – Officer Employment Procedure Rules of the Constitution) in relation to the appointment and dismissal of senior officers.**

2. Introduction and Background

- 2.1 The Constitution is the set of rules that describe and constrain how the Council operates, how its decisions are made and the procedures to be followed.
- 2.2 The Council is required by common law and statute (principally the Local Government Acts 1972 and 2000, and the Local Government and Housing Act 1989) to regulate its proceedings and to have an up to date Constitution which is fit for purpose.
- 2.3 These regulations came into force from the 11th May 2015 and required the Council no later than its first *ordinary* meeting falling after the 11 May 2015 to incorporate changes in respect of disciplinary action against the Head of Paid

Service, Monitoring Officer and Chief Finance Officer into its standing orders. A copy of the revised Chapter 10 – Officer Employment Procedure Rules of the Constitution is attached at **Appendix A**.

3. Issues, Options and Analysis of Options

- 3.1 The Regulations simplify and localise the disciplinary process for the most senior members of a council, i.e. the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer. They remove the current requirement that a Designated Independent Person (**DIP**) be appointed to investigate and make a binding recommendation on disciplinary action against these senior officers.
- 3.2 The Government states that the Regulations simplify the processes for dismissing the most senior council staff, in particular putting any decisions fully in the hands of the Council's Members who are accountable to their electorate for the decisions they take. With the new arrangements in place, the Government expects that the performance management of the most senior staff will be both more effective and efficient with potentially lower costs in the case of departures/dismissals than currently.
- 3.3 The Regulations provide that, in place of the DIP process, the decision should be taken transparently by Full Council, who must consider any advice, views or recommendations from an independent panel, the conclusions of any investigation into the proposed dismissal, and any representations from the officer concerned.
- 3.4 In the case of a proposed disciplinary action against one of these officers, the Council is required to invite Independent Persons who have been appointed under the Members' Code of Conduct regime (Section 28(7) of the Localism Act 2011) to form an independent panel. The Council currently has 3 Independent Persons. An independent panel will be formed if 2 or more Independent Persons accept the invitations, and the Council should issue invitations in the following priority order:
 - An Independent Person who has been appointed by the Council and who is a local government elector;
 - Any other Independent Person who has been appointed by the Council; and
 - An Independent Person who has been appointed by another council or councils.
- 3.5 These requirements allow local people to be involved in the disciplinary process for senior officers and makes councils more accountable to the community.

4. Reasons for Recommendation

4.1 It is a legal requirement that the Council has a Constitution that accords with statute.

5. Consultation (including Overview and Scrutiny, if applicable)

5.1 Full Council

6. Impact on corporate policies, priorities, performance and community impact

6.1 It is a legal requirement that the Council has a Constitution that accords with statute, the intent of these regulations is to simplify these procedures and make the council more accountable to the local community

7. Implications

7.1 Financial

Implications verified by: **Sean Clark**
Chief Finance Officer

No resources will be required in relation to the changes.

7.2 Legal

Implications verified by: **David Lawson**
Deputy Head of Legal

It is a legal requirement that the Council has a Constitution that accords with statute.

7.3 Diversity and Equality

Implications verified by: **David Lawson**
Deputy Head of Legal

No impact has been identified arising from these legislative changes.

7.4 Other implications (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

None

8. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- The Constitution
- Local Authorities (Standing Orders) (England) Regulations 2015

9. Appendices to the report

- **Appendix 1** – Amended Terms of Reference (General Services Committee) and Officer Employment Procedure Rules

Report Author:

David Lawson

Deputy Head of Legal & Deputy Monitoring Officer

Legal Services