

Disciplinary processes for Statutory Officers

Cabinet Member: Leader of the Council
Responsible Officer: Chief Executive

Reason for Report: This report recommends changes to the Council's Constitution following recent legislation.

RECOMMENDATIONS:

The process for dismissing the Chief Executive/Head of Paid Service, Monitoring Officer and Chief Finance Officer be amended in line with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

Relationship to Corporate Plan: None

Financial Implications: There are no direct financial implications arising from this report.

Legal Implications: Any changes proposed must comply with employment legislation.

Risk Assessment: The Council is required to make changes in line with the legislation, however these need to result in a robust procedure which is not open to challenge.

1.0 Introduction

1.1 The Council's Constitution is periodically updated and this report details amendments that will be needed to incorporate the disciplinary process for the three statutory officers in line with recent legislative changes. However, this is a holding report to alert Members to impending changes.

2.0 Changes required by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015

2.1 Following legislation introduced on 25 March 2015, every local authority is required to take a report to its first Council meeting after its Annual Meeting in May 2015, to amend its Standing Orders to make changes to the procedure for disciplining and dismissing its statutory officers.

2.2 The new Regulations prescribe disciplinary procedures for removing a statutory officer. These are the Chief Executive, who is the Head of Paid Service, the Monitoring Officer and the Chief Financial Officer. This modification must be made by the first ordinary Council meeting held after the 7 May 2015 elections.

2.3 The government's rationale for these changes was that the existing process was bureaucratic and time-consuming. It also involved the appointment of a

Designated Independent Person (DIP) to deal with any serious disciplinary issue prior to taking action against a statutory officer. The government's view is that it often led to authorities making inflated severance payments to senior officers in order to avoid taking the costly DIP route. The new regulations require that any decision to dismiss top staff has to be taken by full Council. The Council would be required to consider a report about the proposed dismissal from a panel drawn from members of the Council's Independent Remuneration Panel.

- 2.4 Council must invite at least two Independent Persons to be members of a disciplinary panel, and Council must take into account any recommendation of that disciplinary panel, the conclusions from any investigation and any representations from the officer, before taking a final decision to dismiss.
- 2.5 However, currently, specific information as to the role of an investigating officer and how this role will interact with the panel has not been given. There is also an outstanding issue in that, at present, the disciplinary procedures for the Chief Executive is a contractual one and negotiations on a national level are yet to be had.
- 2.6 The Regulations provide that the Panel is to be a committee of the Authority and so it is subject to the legal requirements for committees, including the proportionality rules.

3.0 Conclusion

- 3.1 This report highlights that the amendment of the Council's Constitution to update various sections as detailed above will be made as soon as the guidance from the Local Government Association and DCLG is forthcoming. The Council is advised that use of the present disciplinary process should be continued if it should be required until such time as a workable alternative is produced and agreed nationally.

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Circulation of the Report: Management Team