



NORTHAMPTON
BOROUGH COUNCIL

COUNCIL

8th June 2015

Agenda Status: Public

Directorate: Borough Secretary

Report Title	Amendments to Standing Orders
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1. Purpose

- 1.1 The *Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015* (the “2015 Regulations”), which came into force very recently introduced changes which require the Council to amend its Standing Orders relating to procedures for disciplining and dismissing Statutory Officers, which are the Head of Paid Service, Monitoring Officer and Chief Finance Officer (Section 151 Officer). There is a statutory requirement for the changes to be brought to Full Council at its first ordinary meeting, which is this meeting of Full Council.

2. Recommendations

Council is recommended to:

- 2.1 Approve the amendments to the Council’s Standing Orders as set out in Appendix 1.
- 2.2 Delegate to the Monitoring Officer, the power to make any changes required to the Constitution to implement the decision of Full Council.

3. Issues and Choices

3.1 Report Background

- 3.1.1 The *Local Authorities (Standing Orders) (England) Regulations 2001* (the “2001 Regulations”) introduced a degree of statutory protection for the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer (the “protected officers”) in relation to disciplinary and dismissal action. These officers have statutory obligations to discharge and as such the law provided them a degree of statutory protection.
- 3.1.2 The Coalition Government had concerns about the complexity and cost to the taxpayer of implementing the disciplinary procedures as they were applied by

the 2001 Regulations, in particular, concerns about using the Designated Independent Person (DIP). This resulted in changes to the law, which are outlined below.

3.1.3 The 2015 Regulations which came into force on 11th May 2015 amend the 2001 Regulations and introduce changes to the statutory procedures for dismissing protected officers. They require local authorities to amend their Standing Orders to incorporate the new arrangements no later than the first **ordinary** meeting of the Council after 11th May 2015. Therefore, it is necessary for the changes to be made at this meeting of Council.

3.1.4 The 2015 Regulations are not particularly well drafted and remain silent on a number of key areas, for example the impact and the interrelationship between the Regulations and the Statutory Officers' contracts of employment. There has been and continues to be a lot of national comment on the Regulations and clarity is being sought from the relevant government department on key aspects. However, this report does consider the main elements required for implementation and compliance.

3.2 Issues

3.2.1 Prior to the introduction of the 2015 Regulations, the *Local Authorities (Standing Orders) (England) Regulations 2001* required the use of a Designated Independent Person ("DIP") in relation to the discipline and dismissal of the protected officers. **The 2015 Regulations have amended the 2001 Regulations and removed the requirement for a DIP.**

3.2.2 The key features of the DIP process were as follows:

- a) The DIP had to be a person agreed between the protected officer and the Council (or where agreement could not be reached, a person nominated by the Secretary of State).
- b) No disciplinary action could take place other than in accordance with a recommendation in a report made by a DIP. (Disciplinary action in this context had a broad definition and included disciplinary action short of dismissal).
- c) Any suspension for the purposes of investigating the alleged misconduct had to be on full pay and be for no longer than two months, unless specifically extended following a recommendation from the DIP.
- d) The dismissal of the Head of Paid Service (but not the Monitoring Officer or Chief Finance Officer) needed to be approved by the Council itself.

3.2.3 **The statutory DIP process will now be replaced by the arrangements in the 2015 Regulations** in respect of disciplinary action against the protected officers. The key features of the new arrangements are as follows:

- a) The statutory requirement for a DIP is removed.

- b) Instead, the dismissal of a protected officer must be approved by way of a vote at a meeting of the authority (ie. Full Council), provided they take into account:
- any advice, views or recommendations of a Panel, which is to be a committee of the Council;
 - the conclusions of any investigation into the proposed dismissal; and
 - any representations from the protected officer.
- c) The Panel must appoint at least two Independent Persons, who are defined in the 2015 Regulations as persons who have been appointed by the Council (or another authority) pursuant to the Localism Act 2011 in relation to the Member Code of Conduct regime.

3.2.4 The Council's Independent Persons will now be asked to perform two separate functions; one will be to sit on the Panel dealing with any proposed dismissal of a protected officer, when required. The other function will be continued involvement in the Councillor Code of Conduct regime pursuant to the Localism Act 2011.

3.2.5 If it became necessary to operate the new arrangements, Full Council would need to appoint the Panel, and relevant Independent Persons would be invited to be considered for appointment to the Panel. In accordance with the requirements of the 2015 Regulations, the Panel would be appointed at least 20 working days before the meeting at which the Council considers whether or not to approve the proposed dismissal.

3.2.5 The Council is required to include Standing Orders in its Constitution which deal with the appointment and dismissal of staff. The Standing Orders relating specifically to disciplinary and dismissal procedures in relation to senior officers are in the Council's Constitution in the Employment Procedure Rules.

3.2.6 Appendix 1 sets out the amendments to the Standing Orders required by the 2015 Regulations. Council is recommended to approve the amendments in Appendix 1 for incorporation into the Constitution.

4. Implications (including financial implications)

4.1 Policy

4.1.1 There are no policy implications arising from this Report.

4.2 Resources and Risk

4.2.1 The 2015 Regulations state that the remuneration, fees or allowances paid by the Council to an Independent Person appointed to the Panel must not exceed the level payable to that person in respect of their role under the Localism Act 2011. This aspect of the Regulations is to ensure that the new arrangements will not involve additional costs to the Authority.

4.3 Legal

4.3.1 The legal implications are outlined in the body of the Report.

4.4 Equality

None arising specifically pursuant to this report.

4.5 Other Implications

4.5.1 None.

5. Background Papers

5.1.1 None.

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