

## **ITEM 4            The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015**

Report of the Corporate Portfolio Holder

### **Recommended:**

- 1.        That the Employment Appeals and Ethics Sub-Committee be authorised for the purposes of Section 102(4) of the Local Government Act 1972 to advise the Authority on matters relating to the dismissal of relevant officers of the Authority. (When dealing with disciplinary or dismissal matters the Committee will include two or more independent persons).**
- 2.        That authority be given to the Head of Legal and Democratic Services to make such changes as might be necessary to the Council's Constitution so as to ensure compliance with the new Regulations.**

### **Recommended to Council**

#### **SUMMARY:**

The new Regulations simplify and localise the disciplinary process for the Head of Paid Service, Monitoring Officer and Chief Finance Officer. They remove the requirement that a Designated Independent Person (DIP) be appointed to investigate and make binding recommendations on disciplinary action against these senior staff.

The Regulations provide that in place of the DIP the decision will be taken by Council. Council must consider the advice and recommendations of a committee which must include at least two Independent Persons who have been appointed for the purposes of advising in matters relating to the Members' Code of Conduct.

### **1        Introduction**

- 1.1        To report on the requirements of the Local Authorities Standing Order Regulations 2015, which came into force on 11 May 2015. The Regulations require the Council to amend that part of the Council's Constitution which relates to the dismissal/disciplinary process for senior officers, including the Head of Paid Service, Monitoring Officer and Chief Finance Officer.**
- 1.2        Local authorities in England are required to approve a modification to their Standing Orders to implement the Regulations no later than the first ordinary meeting of the Council after the Regulations come into force.**

## **2 Background**

- 2.1 The Government issued new Regulations on 25 March, 2015, to come into force on 11 May, 2015. The Regulations introduce new arrangements for dealing with disciplinary cases involving a council's three statutory officers, namely, the Head of Paid Service, Monitoring Officer and Chief Finance Officer. The new Regulations contain requirements for councils to amend their standing orders.
- 2.2 Traditionally, before one of these officers could be dismissed, the council had to appoint a Designated Independent Person (DIP) to carry out an investigation into the circumstances. The DIP was appointed by agreement between the council and the officer concerned, although if no agreement could be reached on the individual, the Secretary of State had reserve powers to impose a DIP. A council could then only take disciplinary action in accordance with the DIP's report and recommendation.
- 2.3 The new Regulations seek to introduce a new streamlined procedure while attempting to retain some form of independent check within the system. This is broadly done by giving the Independent Person(s) (IP) appointed to support the Members' Code of Conduct framework, a role in the disciplinary process for chief officers.
- 2.4 The new Regulations mean that only the full council can dismiss one of the three statutory officers. Before considering such action, the council must establish a panel/committee whose role will be to advise and make recommendations to the full council.
- 2.5 It is recommended that the Employment Appeals and Ethics Sub-Committee be appointed to advise and make recommendations to Council in accordance with the new Regulations.
- 2.6 The Council must invite at least two Independent Persons to sit on this sub-committee. Independent Persons who are appointed to the sub-committee have the right, alongside elected Members, to vote on matters concerning the statutory officers when considered by the sub-committee.
- 2.7 Previously the investigation was carried out by the DIP. The Regulations do not intend that the IPs conduct the investigation. Consequently, there will still be a need for an investigator to be appointed to provide evidence to the sub-committee.
- 2.8 The sub-committee's role is to advise Council. When the matter is considered by Council, it must have regard to any advice or recommendations from the sub-committee as well as the findings of any investigation and any representations made by the officer concerned.
- 2.9 These changes to standing orders came into force on 11 May 2015 and councils must therefore adopt these changes at their first ordinary meeting after that date.

### **3 Corporate Objectives and Priorities**

3.1 The Council is required to comply with this Legislation.

### **4 Options**

4.1 The Council is required to comply with this Legislation.

### **5 Resource Implications**

5.1 None save for the time required to make necessary amendments to the Constitution.

### **6 Legal Implications**

6.1 In the event that Council did not approve the necessary amendment of the Constitution the Council would be without any lawful means of disciplinary action or dismissal of those senior officers noted above.

### **7 Equality Issues**

7.1 None

### **8 Other Issues**

8.1 Community Safety - none

8.2 Environmental Health Issues - none

8.3 Sustainability and Addressing a Changing Climate - none

8.4 Property Issues - none

8.5 Wards/Communities Affected - none

<u>Background Papers (Local Government Act 1972 Section 100D)</u>			
<u>Confidentiality</u> It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.			
No of Annexes:		File Ref:	
(Portfolio: Corporate) Councillor North			
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Report to:	General Purposes Committee	Date:	17 June 2015