

TO: COUNCIL
29 APRIL 2015

**THE LOCAL AUTHORITIES (STANDING ORDER) (ENGLAND) (AMENDMENT)
REGULATIONS 2015**

Director of Corporate Services – Legal

1 PURPOSE OF REPORT

- 1.1 To ensure that the Council complies with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (“the 2015 Regulations”).

2 RECOMMENDATION

- 2.1 **That the Officer Employment Procedure Rules in Section 12, Part 4 of the Council’s Constitution be amended to comply with the 2015 Regulations, with effect from 11 May 2015.**

3 REASONS FOR RECOMMENDATION

- 3.1 To comply with the 2015 Regulations which come into force on 11 May 2015.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 None.

5 SUPPORTING INFORMATION

- 5.1 The Local Government Housing and Land Act 1989 allows the Secretary of State to make regulations requiring local authorities to incorporate prescribed provisions in standing orders relating to staff. In 2001 regulations were made providing that no disciplinary action can be taken against the Head of Paid Service (the Chief Executive), the Monitoring Officer (the Borough Solicitor) or the Chief Finance Officer (the Borough Treasurer) other than in accordance with a recommendation made by a Designated Independent Person (“DIP”). Those requirements are complied with in paragraphs 13 and 14 of the Officer Employment Procedure Rules in the Council’s Constitution.
- 5.2 The rationale for the requirements of the 2001 regulations was that the senior officers concerned have statutory responsibilities and in discharging these responsibilities they should have protection from undue political interference. The experience in practice is that DIP’s tend to be senior barristers with experience in employment law. The Local Government Association has estimated that the costs of a DIP investigation seldom fall below £100,000.
- 5.3 The government has reviewed the 2001 regulations and concluded that “the DIP process in its applications to Councils is in practice complex and expensive. It has placed Councils as the employer at a great disadvantage in comparison to the position of the employee, particularly given that the recommendation of the DIP must be followed. The DIP process is time consuming particularly where the Council and the senior officer concerned could not agree on a DIP, where the process can take over 15 months to reach completion”. Accordingly, the Secretary of State has issued the 2015

regulations which amend the 2001 regulations by deleting the requirement for a DIP investigation. In its place, there is a requirement that before a local authority dismisses the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer (a decision which must be taken by full Council) it must appoint a "Panel" which includes at least two "independent persons". The independent persons will be those persons appointed, pursuant to the Localism Act 2011, to assist the local authority in determining complaints alleging breach of the Code of Conduct for Members or any such persons appointed by other Councils. The Panel must be appointed at least 20 working days before the relevant Council meeting and before taking a vote on the decision the Council must take into particular account:-

- any advice, views or recommendations of the Panel,
- the conclusions of any investigation into the proposed dismissal, and
- any representations from the relevant officer.

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

6.1 The Borough Solicitor is the author of this report.

Borough Treasurer

6.2 There are no financial implications directly arising.

Equalities Impact Assessment

6.3 Not required.

Strategic Risk Management Issues

6.4 None.

7 CONSULTATION

Principal Groups Consulted

7.1 None.

Method of Consultation

7.2 Not Applicable.

Representations Received

7.3 Not Applicable.

Background Papers

None.

Unrestricted

Contact for Further Information

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