

**STANDING ORDER REGULATIONS: STATUTORY POSTS
REPORT OF MONITORING OFFICER**

WARDS AFFECTED: ALL WARDS



1. **PURPOSE OF REPORT**

- 1.1 To amend the relevant sections of the Constitution as required by The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

2. **RECOMMENDATION**

- 2.1 That the amendments to the Constitution as set out in the Appendix be approved.
- 2.2 That delegated authority be given to the Ethical, Governance and Personnel Committee to consider and approve more detailed disciplinary and dismissal procedures for the Head of Paid Service, Monitoring Officer and Chief Finance Officer, incorporating the requirements of the Regulations and Constitution.

3. **BACKGROUND TO THE REPORT**

- 3.1 The regulations changed on 11th May 2015 regarding the procedures for the dismissal of the Local Authority's Head of Paid Service, Monitoring Officer and Chief Finance Officer (s151 Officer). These are classed as "protected posts" because between them they undertake statutory functions to guarantee that the Council acts lawfully and under a regime of sound governance procedures.
- 3.2 Since 2001, special provisions have been in place setting out the procedures to be applied by a Local Authority when seeking to discipline or dismiss such an officer. In summary these provisions required the appointment of a Designated Independent Person (DIP) to investigate and report upon the specific allegations.
- 3.3 The Government's view however was that the DIP procedure was unnecessarily burdensome in terms of being bureaucratic, expensive and overly time-consuming. The Local Authorities (Standing Orders)(England) Regulations 2001 were amended by the Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015 to introduce a new requirement which dispenses with the 'DIP' and instead makes it a pre-requisite that dismissal of these "protected officers":
- can only take place after a decision of Full Council and
 - at least 20 working days before going to Full Council must be referred to a "panel" on which "independent persons" shall be invited to sit, the function of which "panel" shall be to give its views and make recommendations to Full Council
- 3.4 The statutory requirements must be reflected in the Council's Constitution however a local detailed procedure also needs to be developed. It is therefore proposed that the Ethical Governance and Personnel Committee are given delegated authority to consider and approve a detailed procedure for dealing with disciplinary and dismissal of these officers.

4. FINANCIAL IMPLICATIONS [KP]

- 4.1 There are no direct implications arising from the proposals contained in this report. The Council may be required to meet the expenses of those individuals appointed to a panel but it is thought these will be minimal.

5. LEGAL IMPLICATIONS [MM]

- 5.1 These Regulations are now in force, so the Constitution should be changed. The Council can then make its own arrangements to deal with the new provisions.
- 5.2 Changes to the Constitution require a two thirds majority of Council.

6. CORPORATE PLAN IMPLICATIONS

- 6.1 As a corporate matter, this impacts on delivery all of the Corporate Plan.

7. CONSULTATION

- 7.1 None – this is a statutory requirement.

8. RISK IMPLICATIONS

- 8.1 It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.
- 8.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

9. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

- 9.1 This is not a service delivery issue.

10. CORPORATE IMPLICATIONS

- 10.1 By submitting this report, the report author has taken the following into account:

- Community Safety implications
- Environmental implications
- ICT implications
- Asset Management implications
- Procurement implications
- Human Resources implications
- Planning implications
- Data Protection implications
- Voluntary Sector

Background papers: None.

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Appendix: Schedule of proposed changes to the Constitution

Page number in current Constitution	Reference (para or section number)	Proposed change
39	16	Removal of delegation of appointment of Chief Executive (Head of Paid Service) to Ethical, Governance and Personnel Committee (EGP).
40	31	Clarify that EGP will appoint the Panel for interview and selection of Deputy Chief Executives and Chief Officers.
40	32	Insert new delegation to EGP for the approval of the job descriptions/person specifications for Chief Executive, Deputy Chief Executives and Chief Officers.
40	33	Removal of delegation to EGP for disciplinary and grievance matters for statutory officers. Remains for Deputy Chief Executives and Chief Officers. Also insert new reference to Disciplinary and Grievance Procedure for Chief Officers and Statutory Officers.
40	34	Removal of reference to conditions of service for Chief Officers.
170	5.1	Delete paragraph.
171	5.2	Clarification that EGP's involvement in the appointment and / or dismissal of officers is restricted to Deputy Chief Executives and Chief Officers, not statutory officers.
172	9.1	Delete paragraph as it refers to a Designated Independent Person which has now been withdrawn in the revised Regulations.
172	9.2	Insert new paragraph setting out that any disciplinary or grievance matter concerning a statutory officer will be subject to the Disciplinary and Procedure for Chief Officers and Statutory Officers.