

AGENDA ITEM 12

FULL COUNCIL

22 JULY 2015

REPORT OF SOLICITOR TO THE COUNCIL

THE LOCAL AUTHORITIES (STANDING ORDERS)(ENGLAND)(AMENDMENT) REGULATIONS 2015

1.0 PURPOSE OF REPORT

- 1.1 To amend the relevant sections of the Council's Constitution as required by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 ("2015 Regulations")

2.0 RECOMMENDATIONS

- 2.1 **That the amendments to the Officer Employment Procedure Rules set out in Part 4 of the Constitution as set out in Appendix A be approved.**
- 2.2 **That authority be given to the Policy Finance and Administration Committee to consider more detailed disciplinary and dismissal procedures for the Head of Paid Service, Chief Finance Officer and Monitoring Officer incorporating the requirements of the amended Officer Employment Procedure Rules and the 2015 Regulations.**

3.0 KEY ISSUES

- 3.1 The 2015 Regulations require that, no later than the first ordinary meeting of the authority falling after 11 May 2015, the authority must, in respect of the disciplinary action against the Head of Paid Service, the Monitoring Officer or its Chief Finance Officer incorporate into its standing order certain provisions as set out in the 2015 Regulations, and to modify any other of its standing orders to conform with those provisions.
- 3.2 The 2015 Regulations also make amendments to the arrangements for the appointment of the Head of Paid Service, and to the dismissal, for reasons other than disciplinary, for the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer.
- 3.3 Prior to the implementation of the Regulations, the Head of Paid Service, Chief Finance Officer and Monitoring Officer certain procedures had to be complied with before any disciplinary action or dismissal of those officers could take place. The main provision was the appointment of a Designated Independent Person (DIP) had to be appointed to investigate and report upon the allegations to Full Council.
- 3.4 The 2015 Regulations introduce a new requirement dispensing with the requirement for a DIP instead making it a requirement that dismissal of the Statutory Officers can only take place after a decision of Full Council and that at least 20 working days prior to the matter being considered by Full Council it must be referred to a "panel" on which "Independent Persons" must be invited to sit. The recommendations and/or views of the panel must be taken into account by Full Council.
- 3.5 "Independent Persons" in this context refer to the independent Persons appointed by the Council in respect of complaints regarding elected members. The 2015 Regulations set out the basis for their appointment to the Panel.

4.0 POLICY AND CORPORATE IMPLICATIONS

4.1 The Council is under a legal obligation to amend its standing orders in line with the 2015 Regulations. This has to take place no later than the first ordinary meeting of the Council after the 11 May 2015.

5.0 FINANCIAL AND OTHER RESOURCE IMPLICATIONS

5.1 The Council needs to ensure that its employment procedures are legally sound to protect both officers and the authority. The Council could be vulnerable to employment claims if its procedures are not legally compliant

6.0 LEGAL IMPLICATIONS/POWERS

6.1 The 2015 Regulations came into effect on 11th May 2015 and require all local authorities to make the necessary changes to Standing Orders to reflect the new provisions.

6.2 However at this stage there are still certain legal issues to resolve. The 2015 Regulations do not account for the right to a fair and impartial investigation or provide a right to appeal. The fact that the Full Council is the initial decision maker leaves no avenue for an appeal.

6.3 There are currently national negotiations taking place relating to JNC terms and conditions, which a significant number of Statutory Officers are governed by. Those terms and conditions currently provide for a DIP process. (Need to set out which officers are on JNC conditions).

6.4 It is recommended that detailed disciplinary and/or dismissal procedures for the Statutory Officers be considered by the Policy, Finance and Administration Committee following the conclusion of the national JNC negotiations and further advice from the Local Government Association.

7.0 COMMUNITY SAFETY

7.1 None as far as this report is concerned.

8.0 EQUALITIES

8.1 There are no equality implications arising from this policy as it is governed by legislation.

9.0 RISKS

9.1 There are no direct risks associated with this report.

10.0 CLIMATE CHANGE

10.1 None as far as this report is concerned.

11.0 CONSULTATION

11.1 None as far as this report is concerned.

12.0 WARDS AFFECTED

12.1 All wards

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Date: 22 July 2015

Appendices : Appendix A: Amendments to the Officer Employment Procedure Rules

Background Papers: The Local Authorities (Standing Orders) (England) Regulations 2001 and the Local Authorities
(Standing Orders) (England) (Amendment) Regulations 2015

Reference : X : Committees\Cttee, Council & Sub-Cttees\Council\220715