

**Meeting:** COUNCIL  
**Date:** 22 JULY 2015

**Agenda Item:**

**11**

## **MANDATORY STANDING ORDERS**

Author – Prabhjit Sobti ext. 2090  
Lead Officer – Matt Partridge ext. 2456  
Contact Officer – Prabhjit Sobti ext. 2090

### **1. PURPOSE**

- 1.1 To advise the Council of changes to Mandatory Standing Orders relating to the dismissal of statutory officers.

### **2. RECOMMENDATIONS**

- 2.1. That the Officer Employment Procedure Rules contained in Part 4 of the Council's Constitution be amended as set out in Appendix A.

### **3. BACKGROUND**

- 3.1. There are currently statutory restrictions on the process for local authorities to dismiss or discipline their Heads of Paid Service, Monitoring Officers and Chief Finance Officers. These posts are held at the Council by the Chief Executive, Borough Solicitor and Assistant Director (Finance) respectively.
- 3.2. These restrictions are set out in the Officer Employment Procedure Rules in the Constitution and provide that these officers cannot be dismissed unless a Designated Independent Person (DIP) has first been appointed to investigate and makes a binding recommendation on disciplinary action.
- 3.3. In 2013 the Government proposed to abolish the requirement for a DIP process because it was considered to be bureaucratic and time consuming and led directly or indirectly to inflated severance payments.
- 3.4. These proposals were widely criticised in part because they undermined the protection given to the statutory officers who might be under a legal duty to make unpopular reports and in March 2015 a revised scheme was made in the form of 'The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015' (the Regulations)

#### **4. DETAILS**

- 4.1. The Regulations came into force on 11<sup>th</sup> May 2015 and the Council is required to incorporate these changes into its Constitution (Officer Employment Procedure Rules) at its first ordinary meeting thereafter, being this Council meeting.
- 4.2. The Regulations still remove the requirement for a DIP but require a decision to dismiss a statutory officer to be made by the full Council.
- 4.3. In arriving at its decision the Council must consider any recommendations from an 'Independent Panel', the conclusions of any investigation relating to the proposed dismissal and any representations made by the officer concerned.
- 4.4. The Independent Panel will be constituted as an advisory committee of the Council and as such may comprise of wholly independent persons or a panel (committee) comprising a mix of independents and elected members.
- 4.5. All members of the Panel will have voting rights but the political balance rules will apply to any elected members.
- 4.6. Whatever its membership the Panel must include at least two 'independent persons' being those appointed by Local Authorities under the Standards Regime in the Localism Act. They must be appointed in the following order
  - i. An independent person appointed to the authority living in the authority's area.
  - ii. An independent person appointed to the authority living outside the authority's area
  - iii. Where a council has only appointed one independent member (as has Stevenage Borough Council) it must appoint at least one independent.
- 4.7. Stevenage Borough Council has appointed just one Independent Person and so it would be necessary to appoint at least one more Independent Person if it were proposed to dismiss of one of the statutory officers.
- 4.8. The Regulations do not specify the precise role of the Panel and in particular whether or not it should carry out an investigation and/or recommend dismissal. Local Authorities could therefore choose to allocate this process to another internal or external body.
- 4.9. One complication, particularly in the case of Chief Executives, is that the new arrangements do not sit easily with the JNC terms and conditions for chief officers which incorporate the current statutory provisions orders into their contracts of employment. Because of the uncertainty in role of the Panel described in paragraph 4.8 there could still be a role for a DIP to carry out an investigation in line with their employment contracts. It is understood that the JNC terms and conditions will be amended to reflect these changes.
- 4.10. Bearing in mind that it is highly unlikely that this procedure will need to be invoked, the uncertainties over the composition and role of the Panel, the current complications with the JNC terms and conditions and, if elected members are to be appointed to the Panel, the potential political balance implications for existing

council committees, it is proposed that the Panel is not appointed unless and until it is required but that this is reconsidered at the (Annual) meeting in May 2016.

## **5. IMPLICATIONS**

### **5.1. Financial Implications**

5.1.1. There are no direct financial implications arising from this mandatory change to the Constitution.

### **5.2. Legal Implications**

5.2.1 The legal context of this matter is set out in the body of the report.

## **BACKGROUND DOCUMENTS**

- The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015'  
<http://www.legislation.gov.uk/uksi/2015/881/contents/made>

## **APPENDICES**

- Appendix A – Revised Officer Employment Rules