

Report to Council

Subject: Proposed amendment to the Constitution: Standing Orders relating to Staff

Date: 15 July 2015

Author: Council Solicitor and Monitoring Officer

1. Purpose of the Report

To approve changes required to the Standing Orders Relating to Staff following the introduction of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

2. Background

2.1 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 ("the 2015 Regulations") came into force on 11 May 2015. These Regulations amend the Local Authorities (Standing Orders) (England) Regulations 2001, which specify those provisions to be incorporated into the Council's Standing Orders Relating to Staff. The Council is required to modify its standing orders to comply with the 2015 Regulations at the first ordinary meeting of Council falling after 11 May 2015.

2.2 The Council's current Standing Orders Relating to Staff are as set out on pages 189 - 193 of the Council's Constitution. These Standing Orders set out rules relating to the recruitment and dismissal of various Chief Officers, including the 3 statutory officers of Head of Paid Service, Monitoring Officer and Chief Finance Officer. The current Standing Orders provide that before one of the statutory officers can be dismissed the Council has to appoint a designated independent person (DIP) to carry out an investigation into the circumstances. The Council can then only take disciplinary action in accordance with the DIP report and recommendation. The 2015 Regulations introduce new arrangements for dealing with disciplinary cases involving a Council's 3 statutory officers and require councils to amend their Standing Orders to incorporate these new arrangements.

2.3 Under the 2015 Regulations, only Full Council can dismiss one of the statutory officers. Previously (with the exception of the Head of Paid Service) the decision could have been delegated to a committee. Before taking a vote on whether to approve such a dismissal, Council must consider:

- any recommendations from the Panel set up to advise the Council on matters relating to the dismissal of the statutory officers;
- the conclusions of any investigation into the proposed dismissal; and
- any representations from the officer concerned.

2.4 The Regulations expressly provide that the Panel constitutes an advisory committee under section 102 of the Local Government Act 1972. This means that the Panel may include persons who are not elected members, but who have voting rights.

2.5 The Regulations require the Council to invite Independent Persons (IPs) with a view to appointing at least 2 onto the Panel. These are IPs who are appointed under the Localism Act 2011 to deal with standards complaints. As members of Council will recall, we currently have 1 IP under the standards framework – Mr John Baggaley. IPs are to be invited in a particular order. First priority is to be given to an IP appointed by the Council who is also an elector in that Council's area. The Council should then invite any other IP it has appointed, and finally it can then approach IPs from other authorities.

2.6 The 2015 Regulations allow for an allowance to be paid to any IPs appointed, but that allowance must not exceed any allowance paid to the IP to perform their role as IP under the Localism Act 2011. Under the standards framework, a basic allowance of £509.92 per annum is paid to the IP.

2.7 There is no requirement for the Panel to be a standing committee of the Council and it is not therefore necessary for the Council to appoint a Panel at this time. The composition of the Panel would need to be carefully considered to ensure fairness to both parties.

3. Proposal

3.1 It is proposed that the Standing Orders Relating to Staff be amended in order to comply with the requirements of the 2015 Regulations. A revised set of standing orders which incorporate the necessary provisions appear at Appendix 1 to this report.

3.2 The proposed change falls within Standing Order 29 which states:

"29. Variation and Revocation of the Constitution

Any motion to add to, vary or revoke the Articles of the Constitution, Procedural Standing Orders, Standing Orders relating to Contracts, Standing Orders for Dealings with Land and Standing Orders relating to staff except for the amendment of financial limits and other amendments appropriate to give effect to changes in officers' duties, responsibilities and titles, shall, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council."

However, the Regulations state:

"6. Standing orders in respect of disciplinary action

No later than the first ordinary meeting of the authority falling after 11th May 2015 a local authority must, in respect of disciplinary action against the head of the authority's paid service, its monitoring officer or its chief finance officer—

(a) incorporate in standing orders the provisions set out in Schedule 3 or provisions to the like effect; and

(b) modify any of its existing standing orders in so far as is necessary to conform with those provisions, in particular by removing from its existing standing orders the provisions which were set out in Schedule 3 as it was immediately before the date that the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 came into force, or provisions to the like effect."

The legislative requirement would therefore override the operation of Standing Order 29 and it is proposed that the amendments should be approved by Council to take immediate effect.

4. Financial Implications

None arising from this report.

5. Appendices

Appendix 1 – Amended Standing Orders Relating to Staff.

6. Background Papers

None identified.

7. Recommendation

It is recommended that:

- 7.1 the Standing Orders Relating to Staff at Appendix 1 be approved;
and
- 7.2 the Council Solicitor and Monitoring Officer be authorised to make the appropriate amendments to the Constitution to incorporate the Standing Orders.