
Subject: **MODIFICATION OF PRESCRIBED STANDING ORDERS RELATING TO THE DISMISSAL OF STATUTORY OFFICERS**

Meeting and Date: **Council - 18 October 2017**

Report of: **David Randall – Director of Governance and Monitoring Officer**

Decision Type: **Non-Executive**

Classification: **UNRESTRICTED**

Purpose of the report: To modify standing orders relating to the dismissal of statutory officers as required by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and to incorporate them within the Council's Constitution.

Recommendation: That the modifications to the Part 1 of the Councils Prescribed Standing Orders, Standing Orders Relating to Staff, be modified as set out in Appendix 2 to this report and be incorporated into the Councils Constitution.

1. Summary

1.1 The government has made legislative changes which require the Council to amend its standing orders insofar as they relate to disciplinary action against and the dismissal of the Council's head of paid service, monitoring officer and chief finance officer. The report identifies the necessary changes and recommends that the Council makes them.

2. Introduction and Background

2.1 Since the Council commenced operating executive arrangements it has been a requirement of the Local Authorities (Standing Orders) (England) Regulations 2001 ('the 2001 Regulations') that the Council makes or modifies standing orders so that they include certain provisions relating to staff and other matters. The Council's Constitution currently incorporates standing orders which comply with the requirements of the regulations.

2.2 The provisions required to be in the standing orders in relation to staff operated so as to require the council to appoint a "designated independent person" before it could discipline or dismiss its head of paid service, monitoring officer or chief finance officer.

2.3 On 25 March, in furtherance of a long standing commitment to do so, the Secretary of State for Communities and Local Government made the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 which will come into force on 11th May 2015 ('the 2015 Regulations'). The 2015 Regulations repeal the provisions of the 2001 regulations insofar as they relate to the appointment of the "designated independent person" and make new provision about the procedure to be followed to dismiss a head of paid service, a monitoring officer or, a chief finance officer. These provisions must be incorporated into the Council's standing orders "no later than the first ordinary meeting of the authority falling after 11th May 2015"

2.4 The 2015 Regulations require that before dismissing one of the officers identified above, the Council must appoint a "panel" for the purpose of advising on matters relating to the dismissal of the relevant officer. The Council must invite independent

persons who have been appointed under section 28(7) of the Localism Act 2011 to be considered for appointment to the panel, with a view to appointing at least two such persons to the panel. These independent persons are those appointed by the Council in connection with the procedures for dealing with alleged breaches of the Code of Conduct for members.

- 2.5 The Department for Communities and Local Government have issued an explanatory memorandum to the 2015 Regulations which can be viewed at http://www.legislation.gov.uk/uksi/2015/881/pdfs/uksiem_20150881_en.pdf. The section of the document headed "policy Background" cites issues of complexity and expense as the reasons for the legislative changes although it is fair to say that many commentators do not accept this nor, that the new procedures actually address the perceived problems.
- 2.6 The governance consultancy firm Hoey Ainscough Associates Limited working with Wilkin Chapman Goolden solicitors have also produced a useful briefing note which expands on some of the implications of the 2015 regulations. A copy of this is attached as Appendix 1

2. Identification of Options

- 2.1 The requirements of the 2015 Regulations are mandatory insofar as they related to the adoption of the prescribed standing orders and therefore it is not possible to put options before the Council for consideration in this connection.
- 2.2 As will be noted from paragraph 28 of the attached briefing note the Council does have a choice as to whether it appoints a standing panel in pursuance of the standing orders or, whether it only appoints one if and when the need arises.

3. Evaluation of Options

- 3.1 The circumstances giving rise to the need to appoint the panel are likely to occur very infrequently, if at all. It is therefore not proposed that the Council should appoint a standing panel. In the event that one were to be needed, this would be the subject of a report to Council at the time.
- 3.2 There is also a fundamental legal difficulty in attempting to appoint a standing panel and this lies in the need to ensure that the panel is comprised of members who are impartial. The nature of the positions to which the 2015 applies is such that there is a high probability that one or more members will themselves be involved in any disciplinary action whether as instigators of it or, as witnesses. Clearly, any member involved in this capacity could not sit on the panel. Therefore, until a particular issue arises and the circumstances are known, it would not be possible to identify which members could and (more importantly) could not, sit on the panel.

4 Financial impacts for the Council

- 4.1 There are no financial implications

4. Resource Implications

- 4.1. There are no further resource implications

6. Corporate Implications

- 6.1 Comment from the Director of Finance
- 6.2 Comment from Equalities Officer
- 6.3 Comment from the Solicitor to the Council: The Solicitor to the Council has prepared this report and his comments are already incorporated within it

7. Appendices

- Appendix 1 - Briefing note Hoey Ainscough Associates Limited/Wilkin Chapman Golden solicitors
- Appendix 2 - Modification of Prescribed Standing Orders Relating to Stagg

8. Background Papers

The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015

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