



<b>Date:</b>	<b>1 July 2015</b>
<b>Classification:</b>	<b>For General Release</b>
<b>Title:</b>	<b>Update to Standing Order Relating to Statutory Chief Officers</b>
<b>Report of:</b>	<b>Head of Committee and Governance Services</b>
<b>Wards Involved:</b>	<b>Not Applicable</b>
<b>Financial Summary:</b>	<b>There are no financial implications</b>
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## 1. Executive Summary

- 1.1 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 come into force on 11 May 2015 and amend the Local Authorities (Standing Orders) (England) Regulations 2001 insofar as they apply to the dismissal of certain officers. As a result, it is necessary for the City Council to amend its Standing Order 51 to reflect the new statutory requirement.

## 2. Recommendation

- 2.1 That the City Council be recommended to adopt a revised Standing Order 51 as set out in Appendix A.

## 3. Background

### Current Requirements

- 3.1 The following Council officers namely the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer have statutory responsibilities to discharge. Since they work with and report to the elected members they discharge these responsibilities in a political environment. As a result, statutory protection requiring an appointment of a Designated Independent Person (DIP) to investigate any allegation of misconduct against these senior officers was introduced in the 2001 Regulations.

### New Requirements

- 3.2 DCLG are of the view that the DIP process is in practice complex and expensive. It has placed Councils as the employer at a great disadvantage in comparison to the position of the employee, particularly given that the recommendation of the DIP must be followed. There have also been suggestions that some councils prefer to negotiate severance payments rather than go through the formal DIP process. The Government believes that such a process is not appropriate as it defeats the purpose of having the DIP process in place.
- 3.3 The new Regulations which apply to all principal councils in England change the disciplinary process for the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer. They remove the requirement that a DIP be appointed to investigate and make a binding recommendation on disciplinary action against these members of staff. The Regulations provide that, in place of the DIP process, the decision will be taken by full Council which must consider any advice, views or recommendations from an independent panel, the conclusions of any investigation into the proposed dismissal, and any representations from the officer concerned. The Council must appoint the panel at least 20 working days before the Council meeting at which the Council will consider whether or not to dismiss one or more of the statutory officers.
- 3.4 The Council is required to invite independent persons who have been appointed for the purposes of the Members conduct regime 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 independent persons to the panel.
- 3.5 The appointment of the Independent Panel is the subject of a separate report to the General Purposes Urgency Sub-Committee.
4. **Other Implications:** None.

**If you have any questions about this report, or wish to inspect one of the background papers, please contact Mick Steward: 7641 3134;**

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**LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1972  
BACKGROUND PAPERS - None**

**51. Appointment of Chief Officers**

- (1) Subject to paragraphs (2) and (6) the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the Council must be discharged, on behalf of the Council, by the Chief Executive or by an officer nominated by him.
- (2) Paragraph (1) shall not apply to the appointment or dismissal of, or disciplinary action against –
  - (a) the Chief Executive
  - (b) a statutory or non statutory chief officer within the meaning of section 2 of the Local Government and Housing Act 1989 Act (“the 1989 Act”);
  - (c) a deputy chief officer within the meaning of section 2 of the 1989 Act; or
  - (d) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).
- (3)
  - (a) The full Council must approve the appointment of the Chief Executive before an offer of appointment is made to him or, as the case may be, must approve dismissal before notice of dismissal is given to him.
  - (b) Where a committee or sub-committee of the Council is discharging, on behalf of the Council, the function of the appointment or dismissal of any officer referred to in sub-paragraphs (a), (b) or (c) of paragraph (2), at least one member of the Cabinet must be a member of that committee or sub-committee.
- (4)
  - (a) In this paragraph, “appointor” means, in relation to the appointment of a person as an officer of the Council, the Council or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the Council, that committee, sub-committee or officer, as the case may be.
  - (b) An offer of an appointment as an officer referred to in sub-paragraph (a), (b) or (c) of paragraph 2 must not be made by the appointor until –

- (i) the appointor has notified the Head of Human Resources of the name of the person on whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
  - (ii) the Head of Human Resources has notified every member of the Cabinet of:
    - (A) the name of the person to whom the appointor wishes to make the offer;
    - (B) any other particulars relevant to the appointment which the appointor has notified to the Head of Personnel; and
    - (C) the period within which any objection to the making of the offer is to be made by the Leader of the Council on behalf of the Cabinet to the Head of Human Resources; and either
      - (A) the Leader has, within the period specified in the notice under sub-paragraph (ii) (c), notified the appointor that neither he nor any other member of the Cabinet has any objection to the making of the offer;
      - (B) the Head of Human Resources has notified the appointor that no objection was received by him within that period from the Leader; or
      - (C) the appointor is satisfied that any objection received from the Leader within that period is not material or is not well founded.
- (5) (a) In this paragraph, “dismissor” means, in relation to the dismissal of an officer of the Council, the Council or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the Council, that committee, sub-committee or other officer, as the case may be.
- (b) Notice of the dismissal of an officer referred to in sub-paragraph (a), (b) or (c) of paragraph (2) must not be given by the dismissor until
  - (c) the dismissor has notified the Head of Human Resources of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
  - (iv) the Head of Human Resources has notified every member of the Cabinet of

- (A) the name of the person who the dismissor wishes to dismiss;
  - (B) any other particulars relevant to the dismissal which the dismissor has notified to the Head of Personnel; and
  - (C) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the proper officer; and
- (d) either –
  - (A) the Leader has, within the period specified in the notice under sub-paragraph (ii) (c) notified the dismissor that neither he nor any other member of the Cabinet has any objection to the dismissal;
  - (B) the Head of Human Resources has notified the dismissor that no objection was received by him within that period from the Leader; or
  - (C) the dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.
- (6) Nothing in paragraph 1 shall prevent a person from serving as a member of any committee or sub-committee established by the Council to consider an appeal by
  - (a) another person against any decision relating to the appointment of that other person as a member of staff of the Council; or
  - (b) a member of staff of the Council against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.
- (7)
  - (i) Every appointment of a Chief Officer and a Deputy Chief Officer of the Council shall be made by the Appointments Sub-Committee. In the case of Chief Officers and Deputy Chief Officers these appointments (and dismissals) shall also be made by the Appointments Sub-Committee except where the relevant Cabinet Member, in consultation with the Chief Executive, indicates that they wish the Chief Executive or Senior Officers to do so on his/her behalf. These arrangements shall also apply to appointments of Chief Officers and Deputy Chief Officers made as part of the Tri-borough arrangements. For such appointments to be made the Appointments Sub-Committee (or similar) of each of the participating boroughs must have agreed.
  - (ii) Disciplinary action shall only be considered against the Head of the Paid Service, the Chief Financial Officer or the Monitoring Officer when the provisions of the Local Authorities (Standing Order (England) (Amendment)) Regulations 2015 have been adhered to.

- (8) Where it is proposed to appoint a Chief Officer (within the meaning of the Local Authorities (Standing Orders) Regulations 1993) and it is not proposed that the appointment be made exclusively from among the Council's existing officers, the Head of Human Resources shall:
- (a) draw up a statement specifying the duties of the post concerned and any qualifications or qualities to be sought in the person to be appointed;
  - (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
  - (c) make arrangements for a copy of the statement referred to in paragraph (i) to be sent to any person on request.
- (9) Where a post has been advertised in accordance with paragraph (8) (b) a shortlist of qualified applicants for the post shall be selected and such selected applicants shall be interviewed by the Appointments Sub-Committee.
- (10) Where no qualified person has applied, the Head of Human Resources shall make further arrangements for advertisement in accordance with paragraph (8) (b) above.
- (11) The appointment, resignation, retirement etc, of Chief Officers shall be reported to all Members of the Council.