

Report to: Governance Committee
Date: 29 June 2015
By: Chief Operating Officer
Title of report: Amendments to Constitution Rules of Procedure – Disciplinary process for senior officers
Purpose of report: To consider proposals in response to the Department for Communities and Local Government’s proposal to remove the ‘Designated Independent Person’ (DIP) from the Officer Employment Procedure Rules for the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer

RECOMMENDATION: The Committee is recommended to recommend the County Council:

- 1) to agree to the Constitution being amended to reflect the provisions of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 in relation to the disciplinary process for the posts of the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer; and
 - 2) to approve for inclusion in Part 4 of the Constitution, Officer Employment Procedure Rules provision for the proposed procedures for the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer as outlined in this report.
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1. Background

- 1.1 This paper provides an update to the Governance report dated 28 April 2015. Further guidance has now been received from the Local Government Association. It also follows the paper that was considered in March 2013 when it was resolved by the Committee that the Council should respond to the consultation with Department for Communities and Local Government (‘DCLG’) regarding whether the requirement for a designated independent person (‘DIP’) be removed when a local authority decides to take disciplinary action against its Head of Paid Service, Monitoring Officer or Chief Executive (Statutory Officers). It was resolved that the Assistant Chief Executive respond to the consultation expressing the Committee’s view that a requirement for a DIP should be retained.
- 1.2 The Local Authorities (Standing Orders) England) Amendment) Regulations 2015 have amended the statutory process to be followed by removing the requirement that a DIP be appointed to investigate and make a binding recommendation on disciplinary action against the Statutory Officers.
- 1.3 The regulations require the County Council to amend its Standing Orders to ensure that disciplinary action against any of the Statutory Officers cannot be taken until comments, views or recommendations are received from a panel consisting of at least two independent persons and including any representations from the officer concerned. The final decision must be made by the Full Council. For the avoidance of doubt, the new process applies to dismissal for the same reasons as apply to the current DIP process; this means that it applies to dismissals for any reason other than redundancy, permanent ill-health or infirmity of the mind or body.
- 1.4 The arrangements in the new Regulations would be subject to any provisions contained in the officers contracts of employment, until such time as the contracts are amended.

2. Provisions contained in the new Regulations

- 2.1 In the case of a proposed disciplinary action against a Statutory Officer, the Council is required to invite independent persons who have been appointed for the purposes of the members’ conduct regime introduced under the Localism Act 2011 to form a panel (‘the Panel’). The Panel will include two or more independent persons who accept the invitation in the following priority order:
 - (a) a relevant independent person who has been appointed by the council and who is a local government elector;
 - (b) any other independent person who has been appointed by the council; and
 - (c) an independent person who has been appointed by another council or councils

- 2.2 The authority must appoint the Panel at least 20 working days before the meeting of the council to consider whether or not to approve a proposal to dismiss the relevant officer.
- 2.3 The proposed procedure to manage a dismissal of a relevant officer is set out in Appendix 1 of the report and will amend the procedure currently set out in Part 4 of the Constitution, Officer Employment Procedure Rules.

3. Engagement with relevant officers

- 3.1 The Statutory Officers are aware of the new regulations and the recommendations set out in this paper.

4. Recommendation

- 4.1 The Committee is asked to recommend the County Council to agree to the Council's Constitution being amended in order to ensure that the authority complies with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.
- 4.2 In consideration of the resolution (paragraph 54.2 of the minutes) at the Committee meeting dated 5 March 2013 to respond to the Government supporting the maintenance of a DIP, it is proposed that any allegations are investigated by an independent and suitably qualified person and that the Committee will use its best endeavours to agree the appointment of this person with the officer. If this is agreed, such wording will be included within the amended constitution.

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