

TRAFFORD COUNCIL

Report to: Council
Date: 15th July 2015
Report for: Decision
Report of: Lisa Hooley, Acting Director of HR

Report Title

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

Summary

This report outlines the requirement for the Council to amend its Standing Orders in order to give effect to new arrangements for disciplining and dismissing its statutory officers and provides a timeline for the development and approval of an underpinning procedure.

Recommendation(s)

It is recommended that Council:

- 1. Approves the required changes to the Standing Orders.**
- 2. Gives approval for the Director of Legal and Democratic Services to make any consequential amendments to the Constitution.**
- 3. Notes the timeline set out in Appendix 1.**

Background Information

| | |
|---|---|
| Relationship to Corporate Priorities | N/A |
| Financial | None |
| Legal Implications | This change is as a result of a regulatory amendment and its compliance is therefore required by statute |
| Equality/Diversity Implications | None |
| Sustainability Implications | None |
| Staffing/E-Government/Asset Management Implications | Whilst the statutory amendments will be automatically incorporated into employment contracts, consultation on the revised process will need to be undertaken with officers directly affected by the changes, in line with routine Council procedures. |
| Risk Management Implications | The risk associated with this matter relates to non-compliance from a legal perspective, as referred to above. |
| Health and Safety Implications | None |

1.0 Background

- 1.1 The Local Authorities (Standing Order) (England) (Amendment) Regulations 2015 came into force on 11th May 2015.
- 1.2 These Regulations introduce significant changes regarding the dismissal of statutory officers of a Council i.e. the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer (Section 151); sometimes referred to as the 'protected officers'.

2.0 Key Changes under the Amended Regulations

- 2.1 Under the previous Regulations, local authorities were required to appoint a designated independent person ("DIP") to investigate all allegations of misconduct involving statutory officers, before any disciplinary action could be taken; furthermore, any decision to dismiss the Head of Paid Service had to be taken by full Council,
- 2.2 In 2013, the DCLG commenced consultation on the removal of the DIP process on the basis that it was bureaucratic and time-consuming.
- 2.3 Following on from the consultation, a set of amended Regulations were published at the end of March 2015; these Regulations removed the requirement for a DIP to be appointed and instead established a new procedure for dismissing statutory officers.
- 2.4 This new procedure essentially extends the requirement for full Council to take the decision to dismiss any of the statutory officers (i.e. it is no longer limited to the Head of Paid Service) and most importantly, sets out a requirement that this decision must be taken following consideration of recommendations made by a relevant 'Panel', which includes Independent Persons (IPs).
- 2.5 The Regulations provide that this 'Panel' should be 'a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority'; this committee would be subject to the usual legal requirements for proportionality and must comprise 'at least two' IPs.
- 2.6 These IPs must be appointed under the provisions of section 28(7) of the Localism Act 2011 (established for the purposes of the 'member conduct' regime) and must not be remunerated at a higher level than that which they would have been in undertaking their role as an Independent Person in the conduct regime. This is to ensure that the new process incurs minimal cost.

3.0 Next Steps

- 3.1 Further to this regulatory amendment, the Council is required to update its Standing Orders to reflect the changes and is also required to amend its Constitution.

- 3.2 In addition, there is a requirement to develop a revised disciplinary process for these protected officers; this is currently being drafted and will be subject to a period of consultation with the affected officers.
- 3.3 Following conclusion of the consultation process, the revised disciplinary procedure will be submitted to Employment Committee for review and agreement.
- 3.4 A draft timeline summarising this position and the next steps is provided in Appendix 1.

4.0 Conclusion and Recommendations

- 4.1 Council is recommended to approve the amendment to its Standing Orders and give approval for the Director of Legal and Democratic Services to make any consequential amendments to the Constitution.

In addition, Council is asked to note the timeline in Appendix 1.

**The Local Authorities (Standing Orders) (England) (Amendment) Regulations
2015 – Timeline**

| DATE | ACTION |
|---|---|
| 10 th July 2015 | Draft disciplinary process developed |
| 13 th July 2015 | Trade Union briefing |
| 13 th July 2015 to 24 th July 2015 | Consultation on the draft disciplinary process to be undertaken with the protected officers |
| 15 th July 2015 | Report to Council on the revised Regulations |
| 27 th July 2015 | Executive (for information) |
| 31 st July 2015 or 11 th August 2015 | Deadline for paper send-out for Employment Committee |
| 10 th August 2015 or 19 th August 2015 (date to be confirmed) | Employment Committee (approval) |