

Council

19 May 2015

Amendments to the Officer Employment Standing Orders

Recommendations

- (1) That the Council approves the changes to the Officer Employment Standing Orders as set out in Appendix 1
- (2) That the Council authorises the Strategic Director for Resources to make such arrangements as he considers necessary for the appointment and remuneration of independent persons.

1.0 Key Issues

- 1.1 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 were laid before parliament on 25 March 2015 and come into effect on 11 May 2015. Councils are required to make the changes to their standing orders as soon as possible after this date.
- 1.2 The changes relate to the processes required before notice of dismissal can be given for the posts of the Head of Paid Service, Monitoring Officer or the Chief Finance Officer. In essence the regulations -
 - Require full Council approval before a notice of dismissal can be given to the Head of Paid Service, Monitoring Officer or Chief Finance Officer
 - Abolish the requirement for a designated independent person (DIP) to investigate allegations of misconduct
 - Replace the DIP scheme with a requirement to have two independent persons on the disciplinary panel
 - Independent persons are those persons appointed for the purposes of the member code of conduct regime
 - Fixes the maximum amount of remuneration payable to independent persons

2.0 Background

- 2.1 As part of the arrangements introduced in 2001, the head of paid service, the monitoring officer, and the chief finance officer were give statutory protection through the requirement to appoint a Designated Independent Person (DIP) to investigate any allegation of misconduct. The intention of this provision was to ensure that these officers could discharge their statutory duties without any

fear of being influenced by elected members and being dismissed without good reason.

- 2.2 The DIP was appointed early in the procedure, when it appeared to a council that an allegation of misconduct by the relevant officer required investigation. No disciplinary action could be taken other than in accordance with a recommendation in a report made by a DIP. In practice, often the DIP appointed by councils was a barrister with experience of employment law.
- 2.3 These Regulations remove the requirement to appoint a DIP. Instead the regulations require the council to invite at least two independent persons, who have been appointed for the purposes of the members' conduct regime under section 28(7) of the Localism Act 2011, to join a disciplinary panel where dismissal of any of these officers is potentially under consideration.
- 2.4 The Panel will not be quorate unless two or more independent persons accept the invitations, and the Council should issue invitations in accordance with the following priority order:
- an independent person who has been appointed by the council and who is a local government elector,
 - any other independent person who has been appointed by the council,
 - an independent person who has been appointed by another council or councils.
- 2.5 The Panel must be appointed at least 20 working days before the scheduled disciplinary hearing. The final decision will be taken by full council, who must consider any advice, views or recommendations from the independent panel, the conclusions of any investigation into the proposed dismissal, and any representations from the officer concerned. Notice of dismissal can only be given with the approval of full Council.
- 2.6 The Regulations also make a provision limiting the remuneration that should be paid to independent persons on the panel to the level of the remuneration which they would normally receive as an independent person in the conduct regime. The government intends that the new process should not involve high costs. Currently the Council makes no payments other than travel or subsistence allowances to our independent persons.
- 2.7 The requirement for full Council approval before any offer of appointment as head of paid service is made remains unchanged. Revised Officer Employment Standing Orders are attached for approval as Appendix 1.

3.0 Timescales associated with the decision and next steps

- 3.1 The Regulations provide for the new arrangements for taking disciplinary action against the most senior council staff to be given effect by councils modifying their standing orders. Provision is made for councils to make this modification no later than at the first ordinary council meeting held after the

7 May 2015 elections. To achieve this the Regulations come into force on 11 May 2015.

Background papers

The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015/881

	Name	Contact Information
Report Author	Jane Pollard	janepollard@ warwickshire.gov.uk Tel: 01926 412565
Head of Service	Sarah Duxbury	sarahduxbury@warwickshire.gov.uk
Strategic Director	David Carter	davidcarter@warwickshire.gov.uk
Portfolio Holder	Councillor Seccombe	isobelseccombe@warwickshire.gov.uk