

SLOUGH BOROUGH COUNCIL

REPORT TO: Council **DATE:** 24th November 2015

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WARD(S): ALL

PART I **FOR DECISION**

ARRANGEMENTS FOR THE DISMISSAL OF THE HEAD OF PAID SERVICE, MONITORING OFFICER AND CHIEF FINANCE OFFICER

1. **Purpose of Report**

To advise Members of Regulations which came into force on 11 May 2015 and which introduce new arrangements for dealing with the disciplinary cases involving the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer ("the relevant officers").

2. **Recommendation(s)/Proposed Action**

The Council is requested to resolve:

- a) That the provisions set out in Schedule 3 to the Local Authorities (Standing Orders) (England) Regulations 2001 as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 ("the amended regulations") be incorporated into Part 4.7 of the Council's Constitution (the Officer Employment Procedure Rules).
- b) That in accordance with the amended Regulations, a committee be established under section 102(4) of the Local Government Act 1972 for the purposes of advising the Council on matters relating to the dismissal of the Council's Head of Paid Service, Chief Finance Officer and Monitoring Officer. Such panel to be known as the Statutory Officers' Disciplinary Panel ("The Panel"). It's terms of reference are set out in Appendix 1. The Panel will be convened as required.
- c) That the membership of the Panel comprise of three independent persons (as defined in the amended Regulations), who have accepted an invitation to be considered for appointment to the panel issued in accordance with the amended Regulations.
- d) That the Monitoring Officer be authorised to issue invitations to relevant independent persons for consideration for appointment to the Panel and to appoint relevant Independent Persons to the Panel.
- e) That the Monitoring Officer be authorised to make any further amendments to the Constitution to ensure that it is compliant with the

amended Regulations and any other Regulations relating to the appointment and dismissal of the relevant officers.

3 **Other Implications**

(a) Financial

There are no significant financial implications.

(b) Risk Management

The process is compliant with the Regulations which mitigates any risk.

(c) Human Rights Act and Other Legal Implications

The recommendations take into account the requirements of the Human Rights Act.

It is not necessary for a committee appointed under section 102(4) of the Local Government Act 1972 to include elected members.

The Regulations do not require an investigation to be carried out, although Council must take into account any investigation which has taken place. In order for the Council to show that a dismissal is fair it must be able to show that a reasonable investigation has been carried out and therefore the terms of reference incorporate provision for investigation.

Another element of showing that a dismissal is fair is a right of appeal. The Regulations make this problematic as the decision is effectively to be taken by full Council and there is therefore no 'higher' body to consider an appeal. However, if as proposed the officer has the opportunity to make representations to the Statutory Officers Disciplinary Panel and then to full Council, this effectively gives the officer the two stage process which is required for a fair procedure.

(d) Equalities Impact Assessment

No Assessment has been carried out, but all relevant officers will be treated in accordance with equalities principles.

(e) Workforce

The recommendations comply with the provisions of the Statutory Regulations.

4. **Supporting Information**

- 4.1 The Local Authorities (Standing Orders) (England) Regulations 2001 set out provisions in relation to the disciplining and dismissal of the head of paid service, monitoring officer and chief finance officer ('the relevant officers'). In particular, up until recent changes, they provided for the appointment of a designated independent person (DIP) to investigate allegations made against these officers and to provide a binding recommendation in respect of any disciplinary action to be taken against them.

- 4.2 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 amend the 2001 Regulations to remove the requirement of a DIP and to make the following provisions which must be adopted by the Council:
- 1) Only full Council may approve the dismissal of a relevant officer;
 - 2) A panel must be set up under the provisions of s.102(4) of the Local Government Act 1972 at least 20 working days before the meeting of full Council with the function of advising the authority on matters relating to the dismissal of relevant officers;
 - 3) The 'independent persons' appointed for the purposes connected with standards complaints against members must be invited to be on the Panel with a view to appointing at least two such persons;
 - 4) Before voting on dismissal, full Council must take into account:
 - a. Any advice, views or recommendations of the Panel;
 - b. The conclusion of any investigation into the proposed dismissal; and
 - c. Any representations from the relevant officer.
- 4.3 The requirement to go through the process set out in 2 to 4 above applies where disciplinary action is to be taken against the relevant officer. This process is not required for dismissal by reason of redundancy, expiry of a fixed term contract and permanent ill-health.
- 4.4 The legislation does not deal with action short of dismissal.

The Statutory Officers' Disciplinary Panel

- 4.5 The Panel will be convened as and when required.
- 4.6 The membership of the Panel will comprise of three independent persons appointed under Section 28(7) of the Localism Act 2011.
- 4.7 The terms of reference of the Panel are attached at Appendix 1.

Contractual Issues

- 4.8 Procedures are incorporated into individual contracts of employment by way of the JNC for Chief Executives and JNC for Chief Officers collective agreements. Therefore, these procedures still have to be followed.
- 4.9 Any future legislative changes, or changes to JNC terms and conditions of employment, will be incorporated, as applicable, into the contract/s of the relevant officer.

5. Appendices Attached

Appendix 1 - Terms of Reference

6. Background Papers

None.

Terms of Reference of Statutory Officers' Disciplinary Panel

The Panel has the following powers in respect of matters which might lead to the dismissal of, or disciplinary action against the Chief Finance Officer, Monitoring Officer or Head of Paid Service except in relation to matters concerning redundancy, the expiry of a fixed term contract or permanent ill health:

1. To arrange for the investigation of the matter;
2. To consider the investigation report and representations (including in person) by the relevant officer;
3. To make recommendations to Council in relation to the dismissal of the relevant officer.

Membership

The Panel shall consist of 3 independent persons appointed by the Council under Section 28 of the Localism Act 2011 who will be invited to a Panel meeting as and when required.

The quorum of the Panel shall be 2 independent persons.

For the purposes of this Panel an independent person is one appointed under Section 28(7) of the Localism Act 2011.