

Gloucester City Council

Meeting:	Organisational Development Committee	Date:	17 June 2015
	Council		23 July 2015
Subject:	Revisions to Standing Orders for the dismissal of statutory officers		
Report Of:	Monitoring Officer		
Wards Affected:	All		
Key Decision:	No	Budget/Policy Framework:	No
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Appendices:	1. Extracts from Constitution 2015-16 showing proposed changes		

1.0 Purpose of Report

- 1.1 To seek approval to constitutional changes and to note potential contractual changes required to comply with legislation on the dismissal of the Head of Paid Service, Chief Finance Officer and Monitoring Officer (the 'statutory officers').

2.0 Recommendations

- 2.1 Organisational Development Committee is asked to **RESOLVE** that the contents of the report be noted.
- 2.2 Council is asked to **RESOLVE** that the changes to the Constitution shown in Appendix 1 be approved.

3.0 Background and Key Issues

- 3.1 The Council's statutory officers (the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer) have statutory responsibilities to discharge to the Council. In order to enable these officers to discharge their responsibilities within the political environment of local government, the Local Authorities (Standing Orders) (England) Regulations 2001 included statutory protection for these officers by requiring the appointment of a Designated Independent Person (DIP) to investigate any allegation of misconduct against these senior officers.
- 3.2 The Department for Communities and Local Government (DCLG) expressed concerns that the DIP process was complex and expensive in practice and was of the view that it placed councils as the employer at a great disadvantage in comparison to the position of the employee, given that the recommendation of the DIP had to be followed. The DCLG also felt that the DIP process could also be time consuming in cases where the Council and the relevant officer could not agree on a DIP.

3.3 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 came into force on 11 May 2015. The Regulations require local authorities to incorporate in their Standing Orders provisions set out in a Schedule to the Regulations and to modify existing Standing Orders so that they conform with those provisions. The authority has to do this no later than the first ordinary meeting of the authority after the Regulations come into force.

3.4 In summary:

- a) the Regulations provide that the final decision to dismiss any statutory officer (i.e. the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer) must be taken by full Council. The previous Regulations applied to dismissal of the Head of Paid Service only.
- b) There is no longer any requirement to appoint a Designated Independent Person (DIP) before dismissing or disciplining a statutory officer.
- c) Before taking any decision to dismiss a statutory officer, the Council must invite at least two Independent Persons (as appointed to deal with standards matters under Section 28(7) of the Localism Act 2011) to be members of a Panel, and the Council must take into account any recommendation of that Panel before taking a decision to appoint or dismiss the statutory officer.
- d) The Panel is a committee of the authority and is therefore subject to all the usual requirements for committees, including the proportionality rules.
- e) The Independent Persons invited to be appointed to the Panel are to be appointed in a priority order and may include independent persons appointed by another authority or authorities.

3.5 The Constitution includes Standing Orders on the procedure for disciplining and dismissing officers, as required by the Local Authorities (Standing Orders) (England) Regulations 2001 and these are set out in the Officer Employment Procedure Rules at Part 4 of the Constitution. Appendix 1 sets out the relevant parts of the Constitution, with proposed deletions shown as 'struck through' text (e.g. ~~struck through~~) and additions shown in **bold underlined font**.

4.0 Alternative Options Considered

4.1 There are no alternative options relevant to this matter.

5.0 Reasons for Recommendations

5.1 The Council Officer Employment Procedure Rules and other parts of the Constitution require amendment to comply with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

6.0 Future Work and Conclusions

6.1 The changes proposed are required to ensure that the Council's Standing Orders comply with the relevant legislation.

7.0 Financial Implications

- 7.1 The Regulations limit the remuneration that should be paid to Independent Persons on the Panel to the level of remuneration which they would normally receive as an Independent Person in the conduct regime. In the case of the Council, this is £300 per annum (based on attendance at 4 meetings).

(Financial Services have been consulted in the preparation this report.)

8.0 Legal Implications

- 8.1 These are mainly as set out in the report. Additionally, where contracts of employment for statutory officers incorporate the previous DIP process, the Council will need to seek variations to those contracts to avoid being in breach of contract as a result of these changes.

(Legal Services have been consulted in the preparation this report.)

9.0 Risk & Opportunity Management Implications

- 9.1 As the Council has only appointed 1 Independent Person, it will need to either seek to appoint another Independent Person or invite Independent Persons appointed by another or other authorities if and when any Panel is required, in order to ensure that the Panel contains at least 2 Independent Persons.

10.0 People Impact Assessment (PIA):

- 10.1 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

11.0 Other Corporate Implications

Community Safety

- 11.1 There are no community safety implications.

Sustainability

- 11.2 There are no sustainability implications.

Staffing & Trade Union

- 11.3 If the employment contracts of the Head of Paid Service, Chief Finance Officer or Monitoring Officer contain contractual terms that are affected by the 2015 Regulations, those terms and conditions will need to be changed.

Background Documents: None.