

**WEST OXFORDSHIRE DISTRICT COUNCIL**

**WEDNESDAY, 2 SEPTEMBER, 2015**

**LOCAL AUTHORITIES (STANDING ORDERS) (ENGLAND)(AMENDMENT)  
REGULATIONS 2015 – MANDATORY STANDING ORDERS RE DISMISSAL OF  
STATUTORY OFFICERS**

**REPORT OF THE HEAD OF DEMOCRATIC SERVICES**

**(Contact: Keith Butler, Tel: (01993) 861521)**

**1. PURPOSE**

To enable the Council to comply with the legal obligation imposed upon it to incorporate new constitutional provisions dealing with the dismissal of statutory officers.

**2. RECOMMENDATIONS**

- (a) That the Head of Democratic Services be authorised to include the provisions in the [Appendix](#), or provisions to the like effect, into the Officer Employment Procedure Rules in Part 4 of the Council's constitution, and to make any consequential amendments to the constitution as necessary to reflect the requirements contained in the Local Authorities (Standing Order) (England) (Amendment) Regulations 2015; and
- (b) That the remaining content of this report be noted.

**3. BACKGROUND**

- 3.1. New Regulations have recently come into force setting out compulsory arrangements relating to staff and disciplinary procedures.
- 3.2. The 2015 Regulations repeal the previous statutory requirement, when taking disciplinary proceedings against any of the statutory officers (the Head of the Paid Service, the Section 151 Officer and the Monitoring Officer), to appoint a Designated Independent Person to conduct an investigation and make a binding recommendation to the Council on the action to be taken.
- 3.3. The Regulations require each principal council to adopt standing orders as part of their constitution which reflect the provisions set out in the Schedule to the Regulations.
- 3.4. The new Regulations include the mandatory appointment of a Panel whose role is to give advice, views and recommendations to the Council which must be taken into account before a decision is taken to dismiss any of the statutory officers referred to in the previous paragraph. The Council must appoint to the Panel at least two "relevant independent persons", being a person appointed by the authority it or any other Council under Section 28(7) of the Localism Act 2011 for the purposes of the members' conduct regime.
- 3.5. It is evident from the Government's explanatory memorandum to the 2015 Regulations that the Panel is meant to be an independent check on the overall process, to replace the previous check provided via the role of the Designated Independent Person.
- 3.6. The statutorily required provisions do not extend to defining the final composition of the required Panel, and this aspect is not addressed in this report. Clearly it is anticipated that the need for the Panel to meet would be ad hoc and, hopefully,

rare, and in the event of the Council needing to constitute the required Panel appropriate specialist legal advice would be sought and action taken.

- 3.7. The precise statutory obligation is to incorporate the provisions in the schedule to the Regulations, as reproduced in the [Appendix](#), or provisions to the “like effect”.

#### **4. ALTERNATIVES/OPTIONS**

None, the amendments proposed are required by Regulations.

#### **5. FINANCIAL IMPLICATIONS**

Whilst there are no direct financial implications arising from the report, the removal of the requirement to appoint a Designated Independent Person means that, should disciplinary action ever be taken against a statutory officer, the Council would avoid the expense involved which could have been considerable. In the event that the Panel is convened the Council would be limited to paying each independent person no more than the amount currently paid to them for their standards role, which would be met from existing budgets.

#### **6. RISKS**

None.

#### **7. REASONS**

The Council is required to put in place the requirements of The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015, and make necessary adjustments to the Officer Employment Procedure Rules as set out in the Council's Constitution.

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Date: 21 August 2015

Background Papers:

None

**Extract from the 2015 Regulations**

1. In the following paragraphs—

- (a) “the 2011 Act” means the Localism Act 2011;
- (b) “chief finance officer”, “disciplinary action”, “head of the Council’s paid service” and “monitoring officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;
- (c) “independent person” means a person appointed under section 28(7) of the 2011 Act;
- (d) “local government elector” means a person registered as a local government elector in the register of electors in the authority’s area in accordance with the Representation of the People Acts;
- (e) “the Panel” means 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;
- (f) “relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and
- (g) “relevant officer” means the chief finance officer, head of the authority’s paid service or monitoring officer, as the case may be.

2. A relevant officer may not be dismissed by an authority unless the procedure set out in the following paragraphs is complied with.

3. The authority must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.

4. In paragraph 3 “relevant independent person” means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.

5. Subject to paragraph 6, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 3 in accordance with the following priority order—

- (a) a relevant independent person who has been appointed by the authority and who is a local government elector;
- (b) any other relevant independent person who has been appointed by the authority;
- (c) a relevant independent person who has been appointed by another authority or authorities.

6. An authority is not required to appoint more than two relevant independent persons in accordance with paragraph 5 but may do so.

7. The authority must appoint any Panel at least 20 working days before the relevant meeting.

8. Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular-

- (a) any advice, views or recommendations of the Panel;
- (b) the conclusions of any investigation into the proposed dismissal; and
- (c) any representations from the relevant officer.

9. Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the 2011 Act.