

REPORT TO	DATE OF MEETING
GOVERNANCE COMMITTEE	27 JANUARY 2016



SUBJECT	PORTFOLIO	AUTHOR	ITEM
CHANGES TO STATUTORY DISMISSAL PROCEDURE FOR PROTECTED OFFICERS	LEADER	S NUGENT	4

1. SUMMARY AND LINK TO CORPORATE PRIORITIES

This report sets out the changes that have been introduced to the statutory dismissal procedure for the posts of; Head of Paid Service, Monitoring Officer and Section 151 Officer. The report also recommends that a new process is agreed to reflect these changes. The report reflects the Corporate Priority of an “Efficient, Effective and Exceptional Council”.

2. RECOMMENDATIONS

Governance Committee are asked to;-

1. Note the statutory changes
2. Agree the proposed changes to the council’s procedure detailed in this report
3. Propose that these changes are approved at a meeting of the Council on 2 March 2016

3. DETAILS AND REASONING

The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 require Local Authorities to agree a new process for the dismissal of an employee in the posts of Head of Paid Service, Monitoring Officer and Section 151 Officer. These employees for the purpose of the report are known as Protected Officers.

The key change is that the decision to dismiss a Protected Officer must now be made by way of a vote at a meeting of the Council. Prior to this change, a Designated Independent Person was able to make a recommendation, [without the need for it to be considered by a meeting of the Council] to dismiss a Protected Officer.

Another issue that needs to be addressed is the need to establish a Disciplinary Panel with responsibility for proposing a recommendation to dismiss a Protected Officer, to the Council.

Whilst guidance from DCLG is not fully explicit, the Council has the option of either establishing a Disciplinary Panel that is made up entirely of independent persons or a Disciplinary Panel comprising of independent persons and an elected member[s].

It should be noted that this process only applies where a dismissal is being considered and that the principles of the council’s existing Disciplinary Procedure apply to the Protected Officers as well.

4. PROPOSED CHANGES TO THE PROCEDURE

At a meeting of the Constitution Task Group held on 17 December 2015, the following issues were discussed and agreed;

a] An Investigation Panel is convened to consider the seriousness of any complaint or allegation received, if there is a case to answer and whether an investigation is required.

The Panel would comprise of;-

Leader, Head of HR, Monitoring Officer – for an allegation against the Chief Executive.

Leader, Head of HR, Chief Executive – for an allegation against the Monitoring Officer.

b] Commissioning of an Independent Investigation

The North West Employers Organisation would be contacted to assist in identifying a suitably experienced Investigator.

c] The Disciplinary Panel will be comprised of the;-

- Chairman of the council's Standards Committee
- The council's Independent Person for Standards
- A further Independent Person will be selected in advance of the Disciplinary Hearing

It is the above changes that the Governance Committee are asked to propose for approval by the Council.

5. NEW PROCEDURE IN ACTION

In the event that an allegation was made against a Protected Officer that was considered so serious as to potentially warrant dismissal, if substantiated, then the key steps under the new procedure would be:-

1. Allegation made of a Protected Officer
2. Investigation Panel convened
3. Decision as to whether to commission an investigation and if so the precise scope of such an investigation
4. Appoint independent Investigator
5. Investigation report completed with its recommendations
6. Investigation Panel meets to consider recommendations of Investigation report

7. The independent Investigator would attend the Investigation Panel and present their report – their role would be an advisory one – it would be for the Panel to decide on whether the matter proceeded to a Disciplinary Panel
8. Disciplinary Panel convened and considers findings of the investigation – the independent Investigator would also be expected to attend this Hearing
9. If Disciplinary Panel concludes that the allegation is substantiated, then the Disciplinary Panel produces a report recommending dismissal, for submission to the Council
10. Council meeting held and the council votes on the recommendation to dismiss, following consideration of the details of the report and any submission from the Protected Officer

It should be noted that the Council's decision is the final stage in the process and in effect constitutes the appeal stage as well.

At the Council meeting on 27th May 2015, the report of the Governance Committee on 15th April 2015, was approved. Within this report as part of the review of the constitution it reported to:-

Recommend that the Monitoring Officer be authorised to update the constitution to reflect the recommendations above and to make provision for the changes required by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (Removal of Chief Officers from Post)

The constitution will be fully updated to reflect the new procedure once approved by Governance Committee and the Council.

Positions Affected in the Council

There are only two posts to which this process will apply:-

- Head of Paid Service and Section 151 Officer – this is a combined position, held by the Chief Executive.
- Monitoring Officer – this is a post held by the Director of Corporate Governance and Business Transformation.

Following approval of this report at the Cabinet meeting on 10 February 2016 and the Council meeting on 2 March 2016, both employees will be formally notified that the council has approved this process.

WIDER IMPLICATIONS

In the preparation of this report, consideration has been given to the impact of its proposals in all the areas listed below, and the table shows any implications in respect of each of these. The risk assessment which has been carried out forms part of the background papers to the report.

FINANCIAL	There are no additional costs to this change in the procedure.
LEGAL	<p>The proposed changes to the Council's procedures are designed to reflect the new legislative requirements.</p> <p>The legislation requires that there should be at least two independent persons on any Disciplinary Panel.</p> <p>The intention is that a second Independent Person would only be appointed if and when the need arose. He/she would have to be someone who had been appointed as an Independent Person for Standards by another local authority under the Localism Act 2011.</p>
RISK	none

THE IMPACT ON EQUALITY	No adverse impact for equality issues arising from this report.
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OTHER (see below)	
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<i>Asset Management</i>	<i>Corporate Plans and Policies</i>	<i>Crime and Disorder</i>	<i>Efficiency Savings/Value for Money</i>
<i>Equality, Diversity and Community Cohesion</i>	<i>Freedom of Information/ Data Protection</i>	<i>Health and Safety</i>	<i>Health Inequalities</i>
<i>Human Rights Act 1998</i>	<i>Implementing Electronic Government</i>	<i>Staffing, Training and Development</i>	<i>Sustainability</i>