

REPORT TO	DATE OF MEETING
GOVERNANCE COMMITTEE	25 NOVEMBER 2015



SUBJECT	PORTFOLIO	AUTHOR	ITEM
CHANGES TO STATUTORY DISMISSAL PROCEDURE FOR PROTECTED OFFICERS	LEADER	S NUGENT	10

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, and
2. Approve the proposed changes to the Council procedure [subject to Council approval] including the setting up of a Disciplinary Panel comprising of independent persons.

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, (hence it being detailed in the recommendations paragraph) 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 elected members.

It is the view of the Council that the Disciplinary Panel should comprise entirely of independent persons.

It should be noted that this process only applies where a dismissal is being considered.

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:-

- ✓ Allegation made of a Protected Officer

- ✓ Investigation commissioned

- ✓ If investigation finds case to answer

- ✓ Disciplinary Panel convened and considers findings of the investigation

- ✓ If Disciplinary Panel concludes the allegation is substantiated then the Disciplinary Panel recommends dismissal to the Council

- ✓ Council votes on the recommendation to dismiss

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.
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LEGAL	The proposed changes to the Council's procedures are designed to reflect the new legislative requirements.
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RISK	none
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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>