

# ***Report to the Council***

**Committee:** Constitution Working Group                      **Date:** 28 July 2015  
**Chairman:** Councillor M McEwen  
**Subject:** Disciplinary Arrangements for Relevant Officers

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## **Report of the Constitution Working Group**

### **Recommending:**

- (1) That the revised Officer Employment Procedure Rules be adopted and incorporated into the Council's Constitution; and**
  - (2) That the proposed rules be subject to further revision based on Government guidance in 6 months time.**
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1. The Government have made changes to the statutory disciplinary and dismissal procedures applying to heads of paid service, monitoring officers and chief financial officers whereby a new process replaces the current statutory Designated Independent Person (DIP) procedure. The legislation is called the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

2. The current DIP statutory procedures required that no disciplinary action in respect of a relevant officer could take place other than in accordance with a recommendation in a report made by a DIP. This process has been amended, as well as removing the statutory requirement for a DIP to take disciplinary action generally, the regulations include rules in respect of dismissal.

3. The key elements of the new process are:

(a) The dismissal of a relevant officer must be approved by way of a vote at a meeting of the authority, who instead of only being able to take action in accordance with DIP recommendations, will be able to dismiss provided they take into account:

- (i) Any advice, views or recommendations of a panel;
- (ii) The conclusions of any investigation into the proposed dismissal; and
- (iii) Any representations from the protected officer concerned.

(b) The process has also been extended to require the Council to approve the dismissal of the Chief Finance Officer and Monitoring Officer.

(c) It will not apply to disciplinary action short of dismissal.

4. The Council is required to set up a Panel and appoint two relevant independent persons to the Panel which must include at least two independent persons under Section 28 (7) of the Localism Act 2011. This deals with the Member Code of Conduct regime, under which the Council has appointed these persons. However, these independent persons will

need to be invited onto the Panel, which they may refuse to do. The Council can appoint other suitably experienced/qualified independent persons or use an independent person appointed by another authority.

5. The normal proportionality rules apply to such committees, meaning that the Panel is subject to the Council's pro rata rules.

6. Attached to this report as an appendix are the new Officer Employment Procedure Rules.

7. Unfortunately the new regulations provided little detail of how the new process would operate in practice and there were a number of gaps within the legislation regarding the composition of the Panel. Therefore the Constitution has been amended in accordance with Schedule 3 of the 2015 Regulations. Once further advice is available from the Local Government Association (LGA) a Guidance Note will be submitted to the Constitution Working Group for consideration. The Constitution Working Group has requested that a review take place in 6 months time based on any further advice submitted by the Government.