

Sandwell Metropolitan Borough Council

21 July 2015

**Changes to Statutory Dismissal Procedures for
Heads of Paid Service, Monitoring Officers and
Chief Finance Officers**

1. Summary Statement

- 1.1 The Government issued new regulations on 25 March 2015 to come into force on 11 May 2015. The Local Authorities (Standing Order) (England)(Amendment) Regulations 2015 introduce new arrangements for dealing with disciplinary cases involving a council's three statutory officers - the Head of Paid Service, Monitoring Officer and Chief Finance Officer. This report seeks authority to amend the Council's Standing Orders and the Officer Employment Rules within the constitution and take the necessary steps to implement the requirements of the new Regulations.
- 1.2 Prior to the new Regulations, before one of these officers could be dismissed the council had to appoint a designated independent person to carry out an investigation into the circumstances. The designated independent person was appointed on agreement between the council and the officer concerned. The council could only take disciplinary action in accordance with the designated independent person's report and recommendation.
- 1.3 The Secretary of State, following consultation, proposed streamlining the process and removing the designated independent person. This has been replaced with an independent person to support the members' conduct framework role in the disciplinary process for chief officers.

2. **Recommendation**

- 2.1 That the Director - Governance be authorised to amend the Council's standing orders, including the officer employment rules within Part 4 of the Council's constitution, and take all necessary steps to secure the implementation of The Local Authorities (Standing Orders)(England) (Amendment) Regulations 2015 in relation to changes to statutory dismissal procedures for heads of paid service, monitoring officers and chief finance officers.

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3. **Strategic Resource Implications**

There are no resource implications arising directly from this report.

4. **Legal and Statutory Implications**

- 4.1 The Regulations contain new mandatory standing orders which all councils will have to put into their constitution to replace arrangements relating to the previous framework.
- 4.2 Under existing standing orders only the full council can dismiss one of the three statutory officers. Previously the decision could have been delegated to a committee or to the Head of Paid Service.
- 4.3 Under the new provisions the council must set up a panel whose role will be to give views, advice and make recommendations to the full council. The council must invite independent persons to sit on this panel. The panel must be appointed at least 20 working days before the relevant meeting of full council. There is no statutory minimum or maximum number of IPs that the council must appoint. Under the officer disciplinary process, the panel must invite at least two IPs to be on the panel, but can invite more.

4.4 Employment law and equality legislation will have to be adhered to in implementing the new Regulations.

5. **Implications for the Council's Scorecard Priorities**

5.1 Disciplinary procedures that comply with statutory provisions remain an important part of good governance and contribute to the Council's Scorecard priorities.

6. **Background Details**

6.1 The statutory officers of a council i.e. the head of paid service, the monitoring officer, and the chief finance officer, have statutory responsibilities to discharge to their councils. Since they work with and report to the elected members, they discharge these responsibilities in a political environment. As a result, statutory protection requiring an appointment of a Designated Independent Person (DIP) to investigate any allegation of misconduct against these statutory officers was introduced in the Local Authorities (Standing Orders) (England) Regulations 2001.

6.2 The Government is of the view that DIP process did not present value for money with the average case costing £100,000. The process placed the employer at a disadvantage and was rigid as the recommendations of the DIP must be followed without challenge. The DIP process was lengthy and can take over 15 months to reach completion.

6.3 These Regulations simplify and localise the disciplinary process for statutory officers of a council. The DIP is removed and the decision will be taken transparently by full council, who must consider any advice, views or recommendations from an independent panel. The conclusions of any investigation into the proposed dismissal and any representations from the officer concerned are all considered. This means that councils can consider and decide the best disciplinary process that will deliver value for money for their local taxpayers, whilst retaining independent scrutiny.

- 6.4 In the case of a proposed disciplinary action against one of the statutory officers, the council is required to invite independent persons who have been appointed for the purposes of the members' conduct regime under section 28(7) of the Localism Act 2011 to form an independent panel. An independent panel will be formed if two or more independent persons accept the invitations, and councils should issue invitations in accordance with the following priority order:
- an independent person who has been appointed by the council and who is a local government elector,
 - any other independent person who has been appointed by the council, and
 - an independent person who has been appointed by another council or councils.
- 6.6 Provision is made for councils to make this modification no later than at the first ordinary council meeting held after the 7 May 2015 elections. In the meantime the Local Government Association has issued an advisory bulletin to assist councils to secure implementation of the changes required by the regulations.

Source Documents

The Local Authorities (Standing Order) (England)(Amendment) Regulations 2015.

Local Government Advisory Bulletin No 624 Workforce: Employment Relations.