

<b>COUNCIL</b>	AGENDA ITEM No. 12(d)
<b>15 JULY 2015</b>	PUBLIC REPORT

**LOCAL AUTHORITIES (STANDING ORDERS) (ENGLAND) AMENDMENT REGULATIONS 2015**

<b>RECOMMENDATIONS</b>	
<b>FROM : Assistant Director: Human Resources and Development</b>	
<ol style="list-style-type: none"> <li>1. That Council notes the changes to the statutory process for the dismissal of the Head of the Paid Service, the Chief Finance Officer and the Monitoring Officer following the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015;</li> <li>2. That Council agrees the proposed amendments to the terms of reference for Full Council at Appendix 1.</li> <li>3. That Council agrees the amended Officer Employment Procedure Rules at Appendix 2</li> <li>4. That Council agrees to amend the Constitution to include the revised Officer Employment Procedure Rules and Terms of Reference for Full Council.</li> </ol>	

**1. ORIGIN OF REPORT**

- 1.1 This Report is submitted to Council following implementation of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and consequent to the senior management restructure reported to Council in January 2015. This report is submitted to Council following implementation of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (“the Regulations”).
- 1.2 Other Related amendments to Full Council’s terms of reference are also required to give effect to the Regulations and resultant changes to the Employment Procedure Rules.
- 1.3 Minor amendments to the Officer Employment Procedure Rules have also been incorporated in this update and consequent to the senior management restructure reported to Council in January 2015.

**2. PURPOSE AND REASON FOR REPORT**

- 2.1 These Regulations require the Council to make changes to its Employment Procedure Rules for the Head of the Paid Service, the Chief Finance Officer and the Monitoring Officer at this first meeting following annual Council.
- 2.2 The Regulations remove the current requirements for a Designated Independent Person (DIP) to conduct an investigation into a proposed dismissal of the Head of the Paid Service, the Chief Finance Officer and the Monitoring Officer. Instead the Council must make the decision to dismiss the relevant officer having first considered:
  - Any advice, views or recommendations of an independent panel;
  - The conclusions of any investigation into the matter; and
  - Any representations from the relevant officer.
- 2.3 This therefore requires Council to:
  - Amend the terms of reference of Full Council to reflect its new duty; and

- Amend the Officer Employment Procedure Rules to incorporate the changes arising from the new Regulations.

2.4 This Report also proposes some minor additional amendments to the Officer Employment Procedure Rules to clarify the definition of Chief and Deputy Chief Officer following on from the senior management restructure.

2.5 These amendments result in a revised Constitution. Approval of such changes to the Constitution is in the remit of the Council.

### 3. TIMESCALE

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If Yes, date for relevant Cabinet Meeting	
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### 4. BACKGROUND

4.1 Under the Local Government and Housing Act 1989, the Council is obliged to designate one of its officers as the Head of the Paid Service, one as the Chief Finance Officer (usually known as the S151 Officer) and one as the Monitoring Officer (“Statutory Officers”). In Peterborough City Council the officers are as follows:

Head of Paid Service	Chief Executive
Chief Finance Officer (S151 Officer)	Corporate Director: Resources
Monitoring Officer	Director of Governance

4.2 Because the Statutory Officers have particular legal responsibilities to discharge directly to the Council, they have had, since 2001, additional statutory employment protection over and above that which applies to other Council employees. This is in the form of a requirement for the Council having to appoint a Designated Independent Person (DIP) to investigate any allegations of misconduct against them. The law previously therefore prevented any disciplinary action being taken against the Statutory Officers other than in accordance with a report made by a DIP.

4.3 Furthermore, under the former requirements, whilst Full Council was statutorily obliged to retain responsibility for confirming the dismissal of the Head of Paid Service, the decision making in respect of the Chief Finance Officer and Monitoring Officer was also retained by the Council.

4.4 The new Regulations replace the requirement for a DIP with the requirement for Council to have responsibility for determining the dismissal of all Statutory Officers.

4.5 The Regulations also state that the Officer Employment Procedure Rules have to be amended to take account of the new procedures.

### 5. THE INDEPENDENT PANEL

5.1 The rationale for the new process is that the existing DIP process was bureaucratic and time consuming leading to Councils making inflated severance payments to senior officers. The Regulations therefore propose to replace this current process with a recommendation from an independent panel to the Council, which becomes the dismissing body.

5.2 The panel must comprise at least two independent members. Independent members are those persons appointed for the purpose of the members conduct regime.

- 5.3 The Regulations state that independent persons are invited to be appointed to the panel in the following order of priority:
- a) An independent person who has been appointed by the council and who is a local government elector
  - b) Any other independent person who has been appointed by the council
  - c) An independent person who has been appointed by another council or councils

As the City Council currently has only one independent person, it is recruiting further independent members.

- 5.4 Panel members would be remunerated on the same basis as their role as an independent person in the members conduct regime.
- 5.5 The Regulations have created a good deal of national debate and further work will be required before the Council is in a position to adopt any detailed procedures for this new process.
- 5.6 Additionally, as the mandatory adoption of these regulatory changes are in some instances inconsistent with the terms and conditions of existing Senior Officers, their contractual rights will prevail until such time as amendments are otherwise agreed in consultation with them at a national and/or local level.

## **6. OTHER CHANGES**

- 6.1 At its meeting on 28<sup>th</sup> January 2015, the Council received a report from the Head of Paid Service setting out her new senior management structure. This new structure established posts of Corporate Director, Director, Service Director, and Assistant Director. All of these posts would be considered to be Chief or Deputy Chief Officers in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001. The Officer Employment Procedure Rules have therefore been amended to take these changes into account.
- 6.2 Paragraph 9 of the Rules have also been updated to reflect the fact that salaries of the Chief Executive and Chief Officers are published on the Council's website.
- 6.3 Paragraph 5.1 of the Rules have been amended to allow the relevant Cabinet Member to attend the Employment Committee in an 'ex officio' capacity when the Employment Committee is appointing a Chief Officer relevant to the portfolio held by that Cabinet Member. As the Cabinet has the right to object to any proposed appointment of a Chief Officer it was thought to be a useful addition to the appointment process to allow the Cabinet Member to attend in a non-voting capacity.

## **7. CONSULTATION**

- 7.1 This report implements a statutory requirement. Formal consultation will need to take place with the existing Senior Officers if it is proposed that contractual variations are required at local level.

## **8. REASONS FOR RECOMMENDATIONS**

- 8.1 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 make it a mandatory requirement for the Council to make these amendments to its Standing Orders.

## **9. BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985)

The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 SI No 881 and Explanatory Memorandum issued on 25<sup>th</sup> March 2015 by Department for Communities and Local Government

## Article 4 - The Full Council

### 1. Major Policy Framework

The Council's Major Policy Framework is contained within the Delegations Document (Part 3 of this Constitution).

### 2. Budget

The Budget sets out the following:-

- (a) The funding the Council allocates to different services and projects.
- (b) The amount we should set aside as a contingency fund, to deal with unexpected expenses.
- (c) The Council Tax base.
- (d) The Council Tax to be charged.
- (e) Decisions relating to the Council's need to borrow money, its spending on fixed assets such as equipment and property and the limits on the funds available to transfer between accounts held for different purposes.

### 3. Housing land transfer

Housing land transfer is when, with the Secretary of State's approval, the Council transfers:-

- (a) 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993; or
- (b) land used for residential purposes (if we need approval under sections 32 or 43 of the Housing Act 1985).

### 4. Functions of the Full Council

Only the Council can:-

- (a) Adopt and change the Constitution (apart from consequential amendments arising from changes to the law and/or changes to the management/committee structure of the Council which may be made by the Monitoring Officer);
- (b) Approve or adopt the major Policy Framework, the Budget and any application for housing land transfer;
- (c) Make decisions about the discharge of an Executive function, if that Executive decision is made in a way which is not in keeping with the major Policy Framework or the Budget;
- (d) Appoint the Leader;
- (e) Agree or amend the rules on how Committees should be set up, what they should do, and how they should do it;
- (f) Appoint the chairman and other members to non-Executive Committees.
- (g) Appoint representatives to outside bodies, unless the Executive or another body is responsible for making the appointment;
- (h) Adopt a Members' allowances scheme;
- (i) Change the name of the area, give somebody the title of 'Honorary Alderman', or give them the 'Freedom of the City';
- (j) Confirm the appointment of the Chief Executive;
- (k) Confirm the dismissal of the Chief Executive, Monitoring Officer and/or the Chief Finance Officer following a recommendation from the Independent Panel which shall include at least 2 independent persons;
- (l) Revise or adopt byelaws, and promote or oppose local regulations;

- (m) All functions set out in part 3 of this Constitution which the Council decides should be carried out by itself rather than the Executive;
- (n) All other matters which, by law, must be dealt with by the Council

## **5. Council meetings**

There are three types of Council meeting:

- (a) the Annual meeting;
- (b) Ordinary meetings; and
- (c) Extraordinary meetings.

All meetings will be conducted in accordance with Part 4 of this Constitution.

## **6. Responsibility for functions**

Part 3 of this Constitution sets out the responsibilities of:-

- (a) the Council
- (b) the Executive; and
- (c) Regulatory committees.

The Executive functions may be carried out by:

- (a) the whole Executive;
- (b) a committee of some Executive members;
- (c) an individual Member of the Executive;
- (d) a Council officer.

## Section 9 - Officer Employment Procedure Rules

### 1. INTRODUCTION

1.1. The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. These rules govern the way that officers are appointed and dismissed and focus in particular on the role that elected members have in officer appointments and dismissals.

### 2. DEFINITIONS

2.1. In these rules:

- "Chief Officer" means a statutory chief officer or a non-statutory chief officer who, as respects all or most of the duties of his/her post, reports directly to the Head of Paid Service
- "Deputy Chief Officer" means a Service Director or Assistant Director who as respects all or most of the duties of his/her post, reports directly to a chief officer
- A Head of Service or position of an equivalent level or below shall not be regarded as a Chief Officer or Deputy Chief Officer even though they may report directly to a Chief Officer or the Head of Paid Service.

### 3. RECRUITMENT OF HEAD OF PAID SERVICE, CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS

3.1. Where the Council proposes to appoint a Head of Paid Service, Chief Officer or Deputy Chief Officer the Council will draw up a statement specifying:

- (a) the duties of the officer concerned; and
- (b) any qualifications or qualities to be sought in the person to be appointed.

3.1 Where it is proposed that the appointment will not be made exclusively from among their existing officers the Council will make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it;

3.2 The Council will make arrangements for a copy of the statement mentioned above to be sent to any person on request.

### 4. APPOINTMENT OF HEAD OF PAID SERVICE

4.1. The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by the Employment Committee (or such other Committee as the Council shall determine), provided that the Committee includes at least one Cabinet Member

4.2. Before any recommendation is made by the Committee to Council, every Cabinet Member must be notified of:

- (a) the name of the person to be appointed;
- (b) any other particulars relevant to the appointment;
- (c) the period within which objection to the appointment or dismissal is to be made; which shall be at least 2 clear days.

4.3. The full Council may only approve the appointment where no material or well-founded objection has been made by the Leader or Cabinet Member.

### 5. APPOINTMENT OF CHIEF OFFICERS & DEPUTY CHIEF OFFICERS

5.1 The Employment Committee will approve the appointment of Chief Officers and Deputy Chief Officers provided that the Committee includes at least one Cabinet Member. For the appointment of a Chief or Deputy Chief Officer, the relevant Cabinet Member is invited and entitled to attend the Employment Committee meeting in its entirety

5.2 Before any decision is made by the Committee every Cabinet Member must be notified of:

- (a) the name of the person to be appointed;
- (b) any other particulars relevant to the appointment;
- (c) the period within which objection to the appointment is to be made; which shall be at least 2 clear days.

5.3 The Committee may only approve the appointment of a Chief Officer or Deputy Chief Officer where no material or well-founded objection has been made by the Leader on behalf of himself or other Cabinet Member.

## **6 DISCIPLINARY ACTION & DISMISSAL OF THE HEAD OF PAID SERVICE, CHIEF FINANCE OFFICER AND MONITORING OFFICER**

6.1 The full Council will approve the dismissal of the Head of Paid Service, Chief Finance Officer and Monitoring Office following a Recommendation of dismissal by the Independent Panel.

6.2 Independent persons would be invited to be appointed to the panel in the following order of priority:

- 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
- An independent person who has been appointed by another council or councils

6.3 The Council will pay remuneration to the Independent Panel Members which shall be limited to the level of remuneration paid to independent persons who are members of the Standards Committee.

6.4 Before any recommendation is made by the Independent Panel to Council, every Cabinet Member must be notified of:

- (a) the name of the person to be dismissed;
- (b) any other particulars relevant to the dismissal;
- (c) the period within which objection to the dismissal is to be made; which shall be at least 2 clear days.

6.5 The full Council may only approve the dismissal where no material or well-founded objection has been made by the Leader or other Cabinet Member.

## **7 DISMISSAL OF OTHER CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS**

7.1 The Employment Committee will approve the dismissal of all other Chief Officers and Deputy Chief Officers provided that the Committee includes at least one Cabinet Member

7.2 Before any decision is made by the Committee every Cabinet Member must be notified of:

- (a) the name of the person to be dismissed;
- (b) any other particulars relevant to the dismissal;
- (c) the period within which objection to the appointment or dismissal is to be made; which shall be at least 2 clear days.

7.3 The Committee may only approve the dismissal of a Chief Officer or Deputy Chief Officer where no material or well-founded objection has been made by the Leader on behalf of himself or other Cabinet Member.

## **8 APPOINTMENT AND DISMISSAL OF OTHER OFFICERS**

8.1 Appointment of officers other than Chief Officer, Deputy Chief Officer, assistants to political groups and an assistant to the Mayor is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Members.

8.2 Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

8.3 The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Member or officer of the Council or of the partner of such persons.

8.4 No candidate related to a Member or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him or her.

- 8.5 Any candidate who fails to disclose such a relationship will be disqualified from appointment. The content of this paragraph will be included in any recruitment information.
- 8.6 The Council will disqualify any applicant who directly or indirectly seeks the support of any Member for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- 8.7 No Member will seek support for any person for any appointment with the Council.
- 8.8 This does not preclude a Member or the Mayor from giving a written reference for a candidate for submission with an application for appointment.
- 8.9 Members will not be involved in the dismissal of any officer below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, procedures, as adopted from time to time which may allow a right of appeal to Members in respect of dismissals.

## **9 PUBLICATION OF SALARIES AND EXPENSES OF THE CHIEF EXECUTIVE, AND CHIEF OFFICERS**

- 9.1 The Council will publish the salaries and expense claims of its Chief Executive, and Chief Officers on an annual basis at the same time as the allowances and expense claims of its elected Members are published. This information will be published on the Council's website in accordance with the Transparency Code.

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