



Leicester
City Council

MEETING OF THE STANDARDS COMMITTEE

DATE: WEDNESDAY, 14 OCTOBER 2015

TIME: 5:30 pm

PLACE: Meeting Room G.01, Ground Floor, City Hall, 115 Charles Street, Leicester, LE1 1FZ

Members of the Committee

Councillor Senior (Chair)
Councillor Shelton (Vice-Chair)
Councillor Palmer
Councillor Sood
One Unallocated Non-Grouped Place

Ms Fiona Barber (Independent Member)
Ms Amanda Fitchett (Independent Member)
Mr Desmond Henderson (Independent Member)
Mr Stephen Purser (Independent Member)
1 Independent Member Vacancy

Standing Invitees:

Mr David Lindley (Independent Person)
Ms Caroline Roberts (Independent Person)

Members of the Committee are summoned to attend the above meeting to consider the items of business listed overleaf.

for the Monitoring Officer

Officer contact: Graham Carey
Democratic Support, Leicester City Council
City Hall, 115 Charles Street, Leicester, LE1 1FZ
(Tel. 0116 454 6356)

Information for members of the public

Attending meetings and access to information

You have the right to attend formal meetings such as full Council, committee meetings & Scrutiny Commissions and see copies of agendas and minutes. On occasion however, meetings may, for reasons set out in law, need to consider some items in private.

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The aim of the Regulations and of the Council's policy is to encourage public interest and engagement so in recording or reporting on proceedings members of the public are asked:

- ✓ to respect the right of others to view and hear debates without interruption;
- ✓ to ensure that the sound on any device is fully muted and intrusive lighting avoided;
- ✓ where filming, to only focus on those people actively participating in the meeting;
- ✓ where filming, to (via the Chair of the meeting) ensure that those present are aware that they may be filmed and respect any requests to not be filmed.

Further information

If you have any queries about any of the above or the business to be discussed, please contact Graham Carey, **Democratic Support on (0116) 454 6356 or email** graham.carey@leicester.gov.uk or call in at City Hall, 115 Charles Street, Leicester, LE1 1FZ.

For Press Enquiries - please phone the **Communications Unit on 454 4151**

PUBLIC SESSION

AGENDA

FIRE / EMERGENCY EVACUATION

If the emergency alarm sounds, you must evacuate the building immediately by the nearest available fire exit and proceed to the area outside the Ramada Encore Hotel on Charles Street as directed by Democratic Services staff. Further instructions will then be given.

1. APOLOGIES FOR ABSENCE

2. DECLARATIONS OF INTEREST

Members are asked to declare any interests they may have in the business to be discussed.

3. TERMS OF REFERENCE

**Appendix A
Page1**

To note the attached Terms of Reference for the Committee and Standards Advisory Board.

4. MEMBERSHIP OF THE COMMITTEE

The Monitoring Officer to report that, following the Council meeting held on 18 June 2015, the membership of the Committee is as follows:-

Councillors:

Chair: Councillor Senior
Vice Chair: Councillor Shelton
Councillor Palmer
Councillor Sood

Independent Members:

Fiona Barber
Amanda Fitchett
Desmond Henderson
Stephen Purser

David Lindley and Caroline Roberts are still the Independent Persons advising the Committee.

5. DATES OF MEETINGS

The Monitoring Officer to report, that following the meeting of Council on 18 June 2015, the dates of Committee meetings for the remainder of the 2015/16

Municipal Year are:-

Wednesday 13 January 2016

Wednesday 16 March 2016

6. MINUTES OF PREVIOUS MEETINGS

The minutes of the meeting of the Standards Committee, held on 21 January 2015 and the Special Meeting held on 4 February 2015, have been previously circulated and Members are asked to confirm that they are correct.

7. MEMBERS AND PROCUREMENT

Appendix B
Page 3

The Monitoring Officer to give a verbal update on Member's involvement in procurement. Following a request by the Council's Overview and Select Committee on 15 January 2015, the Committee previously considered this issue at a Special Meeting held on 4 February 2015. The Committee's views were reported back to the Overview and Select Committee's meeting on 9 July and extract of the Minutes for the meeting are attached for information.

8. PROTOCOL - MEMBER CONDUCT AT MEETINGS

Appendix C
Page 7

The Monitoring Officer to submit the Protocol for Member Conduct at Meetings which was agreed by the Committee on January 13, 2010. The Monitoring Officer requests the Committee to review the protocol to determine whether any amendments are necessary.

9. CONSTITUTION - OFFICER PROCEDURE RULES

Appendix D
Pages 9-31

The Monitoring Officer to report that the Council, at its meeting on 18 June 2015, approved changes to the Officer Employment Procedure Rules in Part 41 of the Constitution to ensure compliance with the new statutory dismissal procedures for the Head of Paid Service; Chief Finance Officer and Monitoring Officer.

The following documents are attached:

- Discussion item, new procedures for dismissal of Head of Paid Service; Chief Finance Officer and Monitoring Officer. D1 – Page 9
- Local Government Association – Advisory Bulletin No 624. Workforce: Employment Relations. D2 – Page 13
- Local Authority (Standing Orders) (England) (Amendment) Regulation 2015. D3 – Page 31

10. COMPLAINT AGAINST COUNCILLORS - UPDATE

Appendix E
Page 37

The Monitoring Officer submits a report giving feedback on complaints against Councillors reviewed and/or determined since the last meeting and updating

the Committee on progress with outstanding complaints against Councillors. The Committee is recommended to receive and note the report.

MEMBERS OF THE PUBLIC TO NOTE

This report is a public document but during its consideration, Members may wish to discuss some of the issues in more detail. Under the law, the Committee is entitled to consider certain items in private. In this event, the committee will make the following resolution and the press and members of the public will be asked to leave the meeting when such items are discussed.

“that the press and public be excluded during consideration of the following reports in accordance with the provisions of Section 100A(4) of the Local Government Act 1972, as amended, because they involve the likely disclosure of 'exempt' information, as defined in the Paragraphs detailed below of Part 1 of Schedule 12A of the Act and taking all the circumstances into account, it is considered that the public interest in maintaining the information as exempt outweighs the public interest in disclosing the information.

Paragraph 1

Information relating to any individual.

Paragraph 2

Information which is likely to reveal the identity of an individual.

Paragraph 7c

The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.

11. ANNUAL REPORT 2013-2015

Appendix F Page 39

The Monitoring Officer submits the Draft Annual Report of the Standards Committee July 2013-June 2015 which provides and analysis of cases referred.

Members are asked to note the report and make any amendments.

The report is attached for Members only, as it is still in draft form.

“In accordance with Rule 1 of Part 4B of the Constitution (Access to Information – Procedure Rules) the report is not available in the public domain as it is in ‘draft’ form and is only circulated to Members of the Committee at this stage. Should Members wish to discuss specific circumstances, the Monitoring Officer may need to advise Members to exclude the public and press, and discuss the issues in private session.”

12. ANY OTHER URGENT BUSINESS

Appendix A

STANDARDS COMMITTEE

TERMS OF REFERENCE

1. To oversee and promote the Council's arrangements to ensure and maintain probity and the highest standards of governance in the conduct of business by members (including co-opted members) and officers.
2. To oversee and advise Full Council and the City Mayor on matters relating to the Council's corporate governance and ethical framework.
3. To receive the Council's annual Corporate Governance Review Statement.
4. To oversee, promote, monitor observance and recommend necessary change to Members' and officers' Codes of Conduct and Political Conventions.
5. To oversee and ensure the provision of appropriate training to Members and officers to enable them to adhere at all times to the provisions of the Council's Political Conventions and governance arrangements.
6. To appoint a Standards Advisory Board (chaired by an Independent Member) to scrutinise, hear and determine appropriate allegations (as set out in the Authority's "*Arrangements for dealing with Standards Complaints*") that a Member of the Council has failed, or may have failed, to comply with the Council's Code of Conduct.
7. Save in exceptional circumstances, to accept the recommendations of the Standards Advisory Board who have determined that an Elected or Co-opted Member of the Council has failed to comply with the City Council's Code of Conduct for Members, including its recommendations as to the appropriate remedy or sanction for such breach.
8. To consider under Sections 1 and 2 of the Local Government and Housing Act 1989:-
 - (a) any application received from any officer of the Council for exemption from political restriction in respect of the post held by that officer and may direct the Council that the post shall not be considered to be a politically restricted post and that the post be removed from the list maintained by the Council under Section 2(2) of that Act; and,
 - (b) upon the application of any person or otherwise, consider whether a post should be included in the list maintained by the Council under Section 2(2) of the 1989 Act, and may direct the Council to include a post in that list.
9. Temporary appointments of Independent Members may be made in accordance with the law and upon appropriate advice from the Monitoring Officer

10. The Standards Committee:

- Composition - The Standards Committee shall comprise nine Members, made up of four Elected Councillors and five Independent Members. The Independent Members shall be co-opted non-voting members of the Standards Committee, and it shall be chaired by an Elected Councillor. The Councillor make-up of the Committee will, wherever possible, reflect the political balance of the Council
- Quorum – The quorum for a meeting of the Standards Committee shall be three Councillor Members
- Frequency of Meetings –The Standards Committee will meet as and when required.

11. The Standards Advisory Board:

- Composition - The Standards Advisory Board shall comprise nine Members, made up of four Elected Councillors and five Independent Members. The Independent Members shall be co-opted voting members of the Board, and it shall be chaired by an Independent Member.
- Quorum – The quorum for a meeting of the Board shall be three, with a majority or equal number of Independent Members (with the Independent Chair having the casting vote)
- Frequency of Meetings –The Standards Advisory Board will meet as and when required.

12. The role of the Independent Person (IP) – the Independent Person is not a member of either the Standards Committee or the Standards Advisory Board. He/she remains completely neutral to the political and scrutiny process, and works closely with the City Barrister on individual complaints at the initial decision and review phases. He/she does remain a standing invitee to meetings of the Committee and the Board, and will also attend Board meetings to offer advice on the progression of individual complaints, which may or may not be adopted by the Board

Matters Reserved to the Committee:

1. All matters of significance in respect of policy, governance or training are reserved to the Committee.
2. All matters within the Terms of Reference of the Standards Committee which are not reserved to Full Council or this Committee, either by legislation, regulation or local determination, are delegated to the City Barrister and Head of Standards.

Appendix B

MEETING OF THE OVERVIEW SELECT COMMITTEE – 9 JULY 2015

EXTRACT OF MINUTE 16 - MEMBER INVOLVEMENT IN PROCUREMENT

The Monitoring Officer presented a briefing note on Member Involvement in Procurement, drawing particular attention to the following points:-

- The law largely determined what was considered to be procurement, but there was still opportunity for debate on whether some particular activities should be classed as procurement;
- There was a role for Members in deciding what should be included in a tender;
- Significant problems could arise if the law and contract procedure rules were not followed; and
- Members could, and should, raise concerns about the performance of contracts with officers responsible for those contracts. However, this should not be done at scrutiny commission meetings, as the Council had processes and mechanisms through which it should be done.

Members were reminded that a Task Group on procurement previously had been set up by this Committee and it was suggested that a further Task Group could be set up, either by this Committee or the Economic Development, Transport and Tourism Scrutiny Commission. This could consider the extent of Member involvement in procurement and the areas they should be looking at.

Councillor Willmott, Chair of the Economic Development, Transport and Tourism Scrutiny Commission, advised the Committee that there would be a presentation at the Commission's next meeting on the social value aspects of procurement. In addition, a social value policy was being drawn up and the Commission would contribute to that. This was welcomed, as Members suggested that procurement should not be considered to be the default position. Instead, systems were needed to advise when a contract should be used, or when an alternative would be more applicable.

It was noted that, although pre-qualification interviews of potential contractors were held, contractors were not interviewed when contracts were awarded, even when these contracts were large ones. Members therefore suggested that this should be introduced. In reply, the Monitoring Officer explained that procurement law set out how procurement decisions were to be taken objectively. This was a paper-driven process, with no subjectivity involved.

The Director of Finance explained that during the evaluation of tenders, face-to-face discussions/interviews often were held to clarify specific matters in relation to tender submissions. The procurement team advised contractors before they submitted bids for a particular contract whether there would be any face-to-face evaluation of tenders for that contract. Members asked for further information on how the method of evaluation to be used was decided.

The Committee asked that a way be found in which Members could look at the performance of individual contracts, as current procedures meant that major expenditure and major areas of the Council services could be excluded from scrutiny. This did not have to mean that Councillors saw every contract, as long as they could be assured that value for money was being obtained.

The Monitoring Officer noted these concerns, but felt that public scrutiny was not appropriate. He explained that the briefing note identified that there currently was not a role for Members in this performance monitoring, but he was not suggesting that there should be one. If one was established, this scrutiny would have to be undertaken in the private part of a meeting, due to commercial and financial sensitivities.

Concern also was raised that there appeared to be a lack of transparency. For example, section 2 of the briefing note, (“What and how much to acquire”), referred to the scrutiny role of picking-off key procurement activity early for work programmes, but did not indicate at what stage of the procurement process this should be. This was particularly relevant in view of problems experienced in the past with committees not receiving timely reports. In addition, Council expenditure over certain amounts had to be published on the Council’s website, so it was questioned why the process was not more transparent.

The Monitoring Officer noted that new contract procedure rules had been agreed at the Council meeting held on 18 June 2015, (minute 8, (“Reports of the Monitoring Officer – Revisions to the Constitution”, referred), and offered to speak to Councillors about any specific concerns that were not addressed by these. He also noted that, in law, draft papers did not have to be published, so as a courtesy to this Committee, the draft briefing note had not been published, to give Members a chance to discuss it before it was made public.

The Director of Finance also explained that contractors provided a lot of information for contracts, such as unit prices, and staff costs. The Council had a duty to keep such commercially sensitive information secret and it was recognised that contractors would not tender with the Council if they felt that such information would be released.

The Committee questioned how communication channels worked. For example, if separate people were told that a contractor was not performing to the required standard, but they did not tell each other, problems could arise. In reply, the Monitoring Officer explained that there was a lot of procurement activity in the Council and officers would not always know what Councillors would want to see. Discussions had been held with directors on these matters, as part of the process of developing a co-operative relationship between officers and Members on procurement.

Members questioned whether an ethical trading matrix could be developed, to ensure that the companies worked with were compliant to the Council’s requirements. The Monitoring Officer advised that he had discussed with officers whether this could be done. Procurement law stated that questions that were relevant and proportional to the contract could be asked and the law did not enable

the Council to decide against a potential bidder because the Council did not like what the bidder was doing elsewhere.

RESOLVED:

- 1) That the briefing note on Member Involvement in Procurement be noted;
- 2) That the Monitoring Officer be asked to consider how Members can be involved in monitoring the performance of individual contracts;
- 3) That the Director of Finance be asked to provide information on how the method of evaluation to be used for a particular contract is decided;
- 4) That the Monitoring Officer be asked to consider how Councillors can monitor the performance of contractors on major projects and/or services; and
- 5) That the Economic Development, Transport and Tourism Scrutiny Commission be asked to set up a Task Group to develop Member involvement on procurement, the final version of the procedure to be brought to the Overview Select Committee for endorsement.

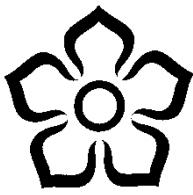
Appendix C

Protocol - Member Conduct at Meetings As agreed by Standards Committee January 13th 2010

Political interaction is one of the most powerful of the checks and balances which are built into policy development and service delivery. Such interaction should be robust and challenging but must stay within the Code of Conduct for Members. This protocol applies to all meetings held within the Council.

Members should at all times:-

1. Treat others with respect
 - Allow others to speak and explain their position without persistent interruption
 - Avoid unreasonable or excessive personal attack
 - Challenge unacceptable behaviours in others
 - Apologise immediately if they are aware they have caused personal offence
2. Not bully or intimidate others
 - Avoid language that is abusive, malicious, insulting, humiliating, defamatory or offensive
 - Avoid intimidating body language
3. Be aware of the need to respect confidentiality and treat information as such where appropriate
4. Not bring the office of councillor or Leicester City Council into disrepute
5. Avoid attempting to compromise the impartiality of officers
 - Officers are neutral and must not be persuaded to act in a way that would undermine their neutrality
6. Address comments to the Chair and avoid direct conversations with other members
7. Take personal responsibility for their behaviour and avoid the need for intervention from the Chair
8. Avoid playing to the public gallery, which could result in disruption of the meeting.



WARDS AFFECTED
All

Leicester
City Council

Appendix D 1

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

STANDARDS COMMITTEE

14th October 2015

Discussion item – new procedures for dismissal of Head of Paid Service; Chief Finance Officer and Monitoring Officer

Report of the Monitoring Officer

1. PURPOSE OF REPORT

- 1.1. The law changed on 11th May 2015 regarding the procedures for the dismissal of the Local Authority's Head of Paid Service, Monitoring Officer and Director of Finance. These are classed as "protected posts" within the Local Authority senior officer structure (because between them they undertake statutory functions to guarantee that the Council acts lawfully and under a regime of good governance procedures), and consequently there have, since 2001, been in place special provisions pertaining to the procedures to be applied by a Local Authority when seeking to discipline or dismiss such an Officer. In essence these provisions entailed the appointment of a Designated Independent Person (DIP) to investigate and report upon the allegations.
- 1.2. The Government's view was that the DIP procedure was unnecessarily burdensome in terms of being bureaucratic, expensive and overly time-consuming. The Local Authorities (Standing Orders)(England) Regulations 2001 were amended by the Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015 to introduce a new requirement which dispenses with the 'DIP' and instead makes it a pre-requisite that dismissal of these "protected officers" (i) can only take place after a decision of Full Council and (ii) at least 20 working days before going to Full Council must be referred to a "panel" on which "independent persons" shall be invited to sit, the function of which "panel" shall be to give its views and make recommendations to Full Council.
- 1.3. The statutory requirements were broadly incorporated into the Council's Standing Orders through an amendment made to the Constitution at Council on 18th June 2015 (attached as Appendix D). However the finer details of the dismissal procedures are yet to be worked out. The JNC terms and conditions for such Officers have not been re-negotiated nationally (they still make reference to the 'DIP') and the law fails to account for basic "legal" considerations such as the right to a fair and impartial investigation (which is likely to mean "external" investigation given the seniority of the Officers involved) and the right to an

appeal procedure (made extremely difficult where Full Council is the first-line decision-maker/dismissor)

- 1.4. In due course (after national negotiations are concluded) it is proposed that Employees Committee will be asked to sign-off a compliant dismissal procedure for the City. It is not a matter which strictly falls to be defined within the Constitution, or to be decided by Full Council. The only legal requirement is that the Full Council incorporates reference to the new procedures in its Standing Orders, and Recommendation 2.6 is designed to achieve this aim.
- 1.5. It is however also a matter within the terms of reference for this Committee as follows:

“To oversee and promote the Council’s arrangements to ensure and maintain probity and the highest standards of governance in the conduct of business by members (including co-opted members) and officers”

- 1.6. It is therefore submitted that it is appropriate for the Standards Committee to have early oversight of the new provisions, and to comment upon them with a view to influencing the procedures adopted at Leicester City.

2. RECOMMENDATIONS

- 2.1. For Standards Committee to note the new law and make any observations to Employee’s Committee regarding formulation of the new procedures

3. REPORT

Please see attached:

Appendix D1 - a paper produced by the Local Government Association and circulated nationally.

Appendix D2 – the new statutory amendments

4. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

4.1. Financial Implications

None at this stage

4.2. Legal Implications

Dealt with throughout the report/appendices

4.3. Climate Change Implications

None

5. OTHER IMPLICATIONS

OTHER IMPLICATIONS	YES/ NO	Paragraph/References Within the Report
Equal Opportunities		
Policy		
Sustainable and Environmental		
Crime and Disorder		
Human Rights Act		
Elderly/People on Low Income		
Corporate Parenting		
Health Inequalities Impact		

6. BACKGROUND PAPERS – LOCAL GOVERNMENT ACT 1972

7. REPORT AUTHOR

7.1. Kamal Adatia, City Barrister and Head of Standards.



Advisory Bulletin

No. 624

Workforce: Employment Relations

In this issue:

CHANGES TO STATUTORY DISMISSAL PROCEDURES FOR HEADS OF PAID SERVICE, MONITORING OFFICERS AND S.151 FINANCE OFFICERS

Implementing changes required by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

EMPLOYMENT LAW TIMETABLE

Welcome

This month's bulletin sets out the forthcoming changes to the statutory disciplinary and dismissal procedures applying to English local authorities' heads of paid service, monitoring officers and chief finance officers (the 'protected officers'), under which a new process will replace the current statutory Designated Independent Person (DIP) process. The key feature of the new process is that the requirement for a DIP is removed, and instead a protected officer will not, in most cases, be able to be dismissed unless the dismissal has been approved by full council by way of a vote. The legislation also makes provision for a Panel, on the face of it made up of independent persons, which can advise the authority on the proposed dismissal.

However, the legislation itself does not provide much, if any detail, of how the new process will work in practice. This bulletin, therefore, identifies some of the key issues with the changes, and suggests how authorities could manage the new process. The guidance though is in essence interim, pending clarification of the new requirements by DCLG and discussions within the JNC for Chief Executives of local authorities regarding amendments to the model disciplinary procedure incorporating a DIP process (see below).

In terms of managing the new process in practice, example matters that require consideration are the setting up of the Panel, and ensuring a fair investigation takes place prior to dismissal. In considering these, however, one of the issues we face is that the legislation in places is not clear, in particular in terms of the intended composition of the Panel, and whether that should only include the independent persons or also elected members. We have therefore recently asked DCLG to confirm the position for us, as although we had responded to two previous consultations on this issue, this particular form of the legislation was laid before Parliament without any notice to us and local authorities.

Another issue for local authorities is that in some cases DIP procedures will be incorporated into terms and conditions of employment, and the statutory changes do not of themselves remove that contractual entitlement. In terms of this, one of the points we would ask authorities to note is that within the next few months we envisage that changes to the Chief Executive Handbook model DIP procedures will be agreed by the JNC, to account for the new legislation. In the meantime, this bulletin suggests how those model procedures could run alongside the new process, and we would also draw authorities' attention to paragraph 15.19 of the Handbook which indicates that the joint secretaries of the JNC are available to assist the parties with the model procedures.

Finally, the bulletin sets out the implementation timetable and, as authorities will see, it is our view that the standing orders required by the legislation have to be put in place at or before an authority's first ordinary meeting falling after this year's annual meeting.

Further information

Receiving the bulletin by e-mail	The Advisory Bulletin is available by e-mail to all local authorities and subscribers. If you have any queries about the bulletin please e-mail eru@local.gov.uk
The employment law advisers	Philip Bundy, Samantha Lawrence and Kelvin Scorer will be pleased to answer questions arising from this bulletin. Please contact us on 020 7664 3000 or by e-mail on eru@local.gov.uk
Address	The Workforce Team, Local Government Association, Local Government House, Smith Square, London SW1P 3HZ
Website	www.local.gov.uk/employment-relations
Obtaining legislation and other official publications	Copies of legislation can be found at www.legislation.gov.uk

Key data

<i>SMP, SPP and SAP basic rates</i>	£139.58 or 90 per cent of normal weekly earnings if lower (from 5 April 2015)
<i>SSP</i>	£88.45 (from 6 April 2015)
<i>'A week's pay'</i>	£475 – statutory limit for calculating a week's pay (from 6 April 2015) £490 in Northern Ireland

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CHANGES TO STATUTORY DISMISSAL PROCEDURES FOR HEADS OF PAID SERVICE, MONITORING OFFICERS AND S.151 FINANCE OFFICERS

This feature provides details of the changes to the statutory disciplinary and dismissal procedures applying to English local authorities' heads of paid service, monitoring officers and chief finance officers (the 'protected officers'), whereby a new process will replace the current statutory Designated Independent Person (DIP) process.

The DIP process

It is first worth summarising the Designated Independent Person (DIP) statutory procedures that will be replaced by the new process. These are set out in schedule 3 to the [Local Authorities \(Standing Orders\) \(England\) Regulations 2001](#) (the 2001 Regulations). They require that no disciplinary action in respect of a protected officer can take place other than in accordance with a recommendation in a report made by a Designated Independent Person (DIP). Disciplinary action in this context has a wide definition of "any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the authority, be recorded on the member of staff's personal file, and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the authority has undertaken to renew such a contract."

Other key features of the DIP process are:

- the appointed DIP must be a person agreed between the officer and the authority, or where such agreement cannot be reached, a person nominated by the Secretary of State;
- any suspension for the purposes of investigating the alleged misconduct must be on full pay, and be for no longer than two months, unless specifically extended following a recommendation from the DIP; and
- where an authority operates a Mayor and cabinet executive, leader and cabinet executive or committee system the dismissal of the head of paid service (but not the monitoring officer or chief finance officer) must be approved by the authority itself.

The new process

The new process is set out in the schedule to the [Local Authorities \(Standing Orders\) \(England\) \(Amendment\) Regulations 2015](#) (the Regulations) which amend the 2001 Regulations. As well as removing the statutory requirement for a DIP in order to take disciplinary action generally the regulations introduce new rules in respect of dismissal. The key elements of the new process are that the dismissal of a protected officer for the reasons set out above, 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:

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

One other point to note is that the requirement under the DIP process set out above for the authority itself to approve dismissal has been extended to cover the chief finance officer and monitoring officer. Further details of the new process are set out below, along with suggestions on how the process could operate in authorities, in particular by using an Investigation and Disciplinary Committee system.

Joining the gaps: using an Investigation and Disciplinary Committee?

The Regulations provide little detail of how the new process will operate in practice. For this reason, authorities will need to consider how the new process could work in their authority and in particular how they will 'join the gaps' in the Regulations to ensure the effective running of a disciplinary/dismissal process, such as conducting an investigation. In this respect, authorities may consider that it would be appropriate to operate an Investigation and Disciplinary Committee (I&D Committee) type system, similar to that which they may already have in place under any contractual DIP procedures (see page 13). The role of that I&D Committee would then be as follows:

- To screen potential disciplinary/dismissal issues to consider whether they require investigation and whether the relevant protected officer

should be suspended.

- To organise the investigation, including appointing an investigator.
- To review the results of the investigation to consider what disciplinary action if any is appropriate, after hearing the views of the protected officer, and report its recommendations.
- Where dismissal is its recommendation, to refer the matter to the Panel for its views etc, which in turn the I&D Committee then refers to the authority alongside its own report for the authority to vote on whether it approves the proposal to dismiss.
- Where the authority approves dismissal, to action the dismissal by issuing notice of dismissal.
- Where the I&D Committee decides that action short of dismissal, or no disciplinary action at all is appropriate, to put that in place as appropriate, without any referral to the Panel or the authority.

Looking then at the I&D Committee system outlined above, a key benefit would be that the Panel need only be involved where the I&D Committee has decided to propose dismissal. If such a system was not in place then the Panel might need to be involved earlier on in proceedings, and the authority would need robust systems in place to take relevant decisions on allegations, suspension and investigation etc.

Application of the new process

The new process applies to dismissals for the same reasons as apply to the current DIP process. This means it applies to dismissals for any reason “other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the authority has undertaken to renew such a contract.”

However, unlike the DIP process, the new process does not apply to disciplinary action short of dismissal, for whatever reason. That being said, at the outset of many disciplinary issues it will be apparent that dismissal will be a potential sanction, meaning the

authority must be prepared for it to apply at a later stage. However, if an authority chose to operate an I&D Committee system as set out above, then Panel involvement would only be required once the matter had been investigated and the I&D Committee had decided that dismissal was its recommendation.

*The Panel:
Constitution and
formation*

The Panel must include at least two independent persons, who are defined in the Regulations as a person appointed under section 28(7) of the Localism Act 2011. Section 28 deals with the member code of conduct regime, and authorities should have appointed persons under that section so most should already have independent persons in place. However, should an authority have appointed fewer than two independent persons, an independent person appointed by another authority can sit on the authority's Panel.

In terms of costs, an independent person's remuneration, fees or allowances must not exceed the level in respect of those payable to that person in their role under the Localism Act 2011. Usually independent persons receive an annual allowance and expenses, the level of which is set by the authority's Independent Remuneration Panel.

On the face of it the Regulations, as well as the accompanying [explanatory memorandum](#), suggest that the Panel need only be made up of two independent persons. However, a wider consideration of the statutory governance framework suggests that this might not be the case. This is because the Panel falls into the category of a committee appointed by the authority under section 102(4) of the Local Government Act 1972. The normal proportionality rules apply to such committees, meaning that subject to any waiver, in addition to the two or more 'neutral' independent persons, the Panel would need to include at least five additional local authority elected members. Because of the inconsistency between the apparent intention of the Regulations and the section 102(4) requirements, we have asked DCLG to clarify whether it will be possible for the Panel to be made up of independent persons only. Once we receive their response we will let authorities know what the position is.

The Regulations provide for appointment to the Panel through an invitation and acceptance process. Under

that process it appears that the authority has to invite all of its independent persons to be on the Panel. If there are fewer than two it must invite such independent persons appointed by other authorities as it considers appropriate.

Having made the invitations it must appoint in the following order for those that accept the invitation:

- an independent person appointed by the authority and who is an elector in the authority's area;
- any other independent person who has been appointed by the authority; and
- finally, an independent person who has been appointed by another authority or authorities.

This means, therefore, that the independent persons on the Panel are most likely to live in the authority's locality.

The Regulations do not limit the number of independent persons who could be on the Panel. Therefore, the authority could, if it wanted to, appoint more than two independent persons to the Panel, should more than two accept the invitation, provided the authority continued to comply with the order of appointment requirements. The Regulations state though that the authority is not required to appoint more than two.

The authority must ensure the Panel is in place at least 20 working days before the meeting at which the authority decides whether or not to approve a proposal to dismiss (this is defined in the Regulations as a "relevant meeting"). As the invitation and acceptance process could take some time, an authority may want to set up a standing Panel, that would be ready to act in any relevant disciplinary matter that may arise.

*The new process:
Investigation issues*

The Regulations say little about an investigation, and do not require the Panel or any other party to carry out an investigation. This is a key difference with the current statutory DIP requirements, which expressly require the appointment of a DIP to carry out an investigation. However, it remains the case under general employment law principles that an essential part of a fair dismissal is that a fair and objective

investigation is carried out. Further, the Regulations do refer to “any investigation”, in the sense that the authority must take into account the conclusions of any investigation before approving a proposal to dismiss, so it is implicit that an investigation will be carried out. Therefore, even though the Regulations do not require an investigation, in practice the new process will need to make provision for an investigation process that will then enable the Panel to advise full council etc. on the proposed dismissal in accordance with the Regulations’ requirements.

The question then arises of who will be responsible for that investigation and who will actually carry it out? Where an authority is operating an I&D Committee type system, the Committee would be best placed to be responsible for the investigation, and would appoint someone to carry out the investigation. If though an authority is not operating an I&D Committee system, then the Panel could be responsible for the investigation. However, it is not envisaged that the independent persons on that Panel would be able to carry out the investigation itself; instead it would need to appoint someone independent to carry out that role. This is because in many cases the independent persons will not have the necessary expertise to carry out the investigation, as well as the necessary time, especially considering the limit on the fees that can be paid to them. There may also be general issues of fairness around the independent persons carrying out the investigation and then making a recommendation as part of the Panel on dismissal, for authority approval.

So who might then be appointed to investigate the matter? Where the investigation concerns the monitoring officer and chief finance officer, the head of paid service as someone more senior may, subject to resourcing issues, be able to carry out the investigation, provided they have had no prior involvement in the matter and so have the necessary independence. However, where the person under investigation is the head of paid service, then to ensure an independent investigation the I&D Committee or Panel, as appropriate, would in many cases need to appoint an external person to carry out the investigation. In practice then what you may find is that even though the statutory requirement for a DIP appointment has been removed, a ‘DIP-like’ investigation process still takes place, and in this

respect it is worth noting that the current DIP processes are incorporated into many senior officers' term and conditions. Changing the statutory procedures does not of itself remove the contractual commitment to follow the DIP process, and further information on this issue is in the 'fit with contractual procedures' section below.

*Outcome and recommendations:
I&D Committee system*

If the I&D Committee type system was being followed, then following the investigation the Committee would consider the appropriate action, if any, taking into account the contents of the investigation and any recommendations (if any) made by the investigator.

The best way of doing this would be for the Committee to hold a meeting at which it would consider the evidence and decide what action was appropriate. The protected officer would attend that meeting, so they could put forward their views, and it would be treated as one at which the officer has the statutory right to be accompanied by a fellow worker or a trade union official. In many ways then, although the decision to dismiss would not formally be taken at that meeting, the meeting would follow the format of a standard disciplinary hearing, at which the question of dismissal was in issue. That then helps to deal with appeal issues, an appeal being an important part of a fair dismissal procedure (see below).

If the Committee recommended action short of dismissal, rather than dismissal, then it would take the relevant action itself, without referring the matter to the Panel or the authority.

However, if the Committee recommended dismissal, the Committee would refer the matter to the Panel, so in turn it could advise etc. the authority on the dismissal proposal.

*Outcome and recommendations:
No I&D Committee System*

If there was no I&D Committee system in place, then in practice the Panel would need to consider the appropriate action. In doing so it is recommended that a meeting with the protected officer be held in the same format as set out above. If the Panel were to take such a role though the authority operating that system might consider it appropriate to ensure that elected members were on the Panel. This though is subject to what DCLG say about whether the Panel should be made up of independent persons only (see page 8).

If the Panel recommended dismissal, then it would provide the authority with its advice etc.

However, if it considered no action or action short of dismissal should take place, then on the face of it there is no requirement under the Regulations to put the matter forward for an authority vote to determine whether dismissal is instead appropriate. This means the action short of dismissal could proceed in accordance with the authority's standard procedures and subject to any relevant contractual requirements.

Authority meeting

In the event that the Panel advice, and/or where relevant the I&D Committee recommendation, was that dismissal was appropriate, the matter would go forward to the authority who would vote at a meeting on whether to approve the proposal to dismiss, having taken into account the advice of the Panel etc, the conclusions of any investigation into the proposed dismissal and any representations from the protected officer concerned. The Regulations do not specifically give the protected officer the right to make representations at the meeting. However, because of the importance of the meeting the officer should be provided with the appropriate paperwork in advance of the meeting and be allowed to attend the meeting to make their representations. The statutory right to be accompanied should also be applied. It would also be sensible to invite the officer to make written representations in advance of the meeting, so members will have some time to consider them in advance of the meeting.

When scheduling the authority meeting, authorities will need to ensure that enough time is given to allow 20 working days between the appointment of the Panel and the meeting, as is required by the Regulations.

If the authority approves the proposal to dismiss, then it will either action the dismissal itself, or where the power has been delegated to a committee, I&D or otherwise, then that committee can action the dismissal by issuing notice. In the case of authorities operating a Mayor and cabinet executive or leader and cabinet executive system, at least one member of the authority's executive would have to be on that committee (see paragraphs 4(2) of Part I and Part 2 of Schedule 1 to the 2001 Regulations).

Appeal issues

As the authority has approved the dismissal, there is no one in the authority who has the power to overturn the dismissal decision, which raises appeal issues. For that reason, as we suggested above, many councils may want to treat the outcome and recommendations stage meeting as one at which the decision to dismiss was taken, meaning the authority meeting process can then in effect become the appeal stage, removing the need for any further appeal. Strictly speaking that is not in line with standard employment law practices, but bearing in mind the Regulations' requirements, many tribunals may find that such an approach is fair given that the officer will have had the opportunity to state their case before any proposal to dismiss is made and then to address the authority before any decision to approve the dismissal is made.

The executive objections procedure

The new procedure does not remove the requirement on authorities that operate a Mayor and cabinet executive or a leader and cabinet executive to follow the executive objections procedure set out in schedule 1, part I, paragraph 6 and part II, paragraph 6 of the 2001 Regulations. In summary, under those procedures the notice of dismissal must not be issued until the dismissor "discharging the function of dismissal" has notified the "proper officer" (as defined by the authority) of the name of the person the dismissor wishes to dismiss, along with relevant particulars. Members of the executive then have a chance to object through the elected mayor/executive leader. If there are no objections or the dismissor is satisfied that any objection is not material or well founded, then the dismissal can proceed.

Where the authority delegates the action of dismissal to an I&D Committee or similar committee, then that committee can be treated as discharging the function of dismissal. This means the objections procedure could take place once the committee has made its dismissal recommendation and prior to the authority meeting. If though the authority itself actions dismissal and there is no delegation, then the procedure would have to be followed after the authority meeting. However, given the process that would have been followed prior to that meeting, it is unlikely to result in objections that the authority overall would find material and well founded.

Fit with contractual DIP procedures

As referred to before, in some cases DIP-like procedures may be incorporated into protected

officers' contracts of employment, and authorities will need to determine this. This is because where DIP procedures are contractual, the Regulations do not of themselves remove that contractual obligation, meaning the authority will need to apply them, save to the extent that if applied it would result in not following the new requirements of the Regulations. It is anticipated that such cases will be rare, the requirements of the Regulations not being extensive.

When assessing whether DIP procedures are contractual, it may be the case that the DIP model procedures set out in the Joint Negotiating Committee Conditions of Service Handbook for Chief Executives have been incorporated into a Chief Executive's or other protected officer's contract. Authorities will need to check whether that is the case, noting in particular for chief executives that paragraph 15.16 of the Handbook states "where informal resolution is not possible the model procedures should apply unless alternative arrangements have been agreed locally".

On the face of it one option where DIP procedures are contractual is to change the contract to remove or amend those procedures. This could be through agreement or, in theory, dismissal and re-engagement. However, it is important to note that the new process would apply to any such dismissal, as well might the contractual DIP procedure. Therefore, authorities are advised to note that we are seeking to amend the JNC model procedures through collective agreement, thereby potentially removing any need to make changes at a local level.

If the model DIP procedures apply, the issue arises of how they could fit alongside the new process, and in many ways that could be along the lines outlined above where an authority chooses to operate an I&D Committee system. In addressing the potential fit it is worth setting out first the core steps in the model procedures (noting that the expectation is that the guidance with the model procedure is discretionary). Those core steps are summarised below:

1. Where an allegation is made against the chief executive relating to conduct or capability or some other substantial issue that requires investigation, the matter will be considered by the I&D Committee, which is one appointed by the authority.

2. The I&D Committee will consider and action suspension, where appropriate. Any suspension must not last longer than two months, unless extended by the DIP.
3. The I&D Committee will inform the chief executive of the allegations, and allow him/her to respond in writing and in person. The I&D Committee will then decide whether no further action is required or that the issue should be referred to a DIP.
4. If referred, the DIP must be agreed between the parties, and if agreement cannot be reached the Secretary of State will be asked to nominate the DIP.
5. The DIP will investigate and prepare a report, which will include recommendations for disciplinary action (if any is appropriate) along with relevant evidence.
6. The I&D Committee will consider the report and give the Chief Executive an opportunity to state his/her case. It may then:
 - Take no further action
 - Recommend informal resolution or other appropriate procedures
 - Refer the matter back to the DIP for further investigation and report
 - Take disciplinary action short of dismissal, up to the maximum recommended by the DIP
 - Recommend dismissal to the authority (if in accordance with the DIP's report).
7. Where the I&D Committee propose dismissal, the authority will consider the I&D Committee's proposal, and the chief executive will be given the chance to put their case to the authority before they decide whether to dismiss. Where the executive objections procedures apply, they are followed before the authority considers the proposal.

8. Where the I&D Committee proposes dismissal, the authority hearing/decision process at (7) above is treated as the appeal. Where the I&D Committee proposes action short of dismissal, then any appeal is dealt with by the Appeals Committee.

Looking at the model DIP procedure then, authorities may consider that the least problematic way of running them with the new process would be for steps 1-6 to apply prior to any substantive Panel involvement (in cases where the I&D Committee recommends dismissal). At this stage the Panel could then consider the I&D Committee and DIP recommendations, so it can advise the authority. The recommendations and any report etc of the I&D Committee and the Panel would then go the authority, in line with step 7.

One question that arises with such an approach is that it involves some duplication in the later stages. However, it does have the potential benefit of the I&D Committee's role filling many of the gaps in the new statutory process, and provides a way of managing disciplinary issues from the start to the finish. It also provides a clear mechanism for dealing with action short of dismissal.

Another key difference between the new process and the model DIP procedure is not only the involvement of the DIP, but the fact that the DIP has to be agreed between the parties, and where the DIP cannot be agreed the Secretary of State is asked to decide who will perform the role. In respect of this, it is hoped in most cases the DIP could be agreed, but where agreement cannot be reached, the new Regulations have removed the statutory role of the Secretary of State to decide on the DIP. That would not stop the authority asking the Secretary of State to make a nomination, but if no such nomination was made then the Joint Secretaries could be asked to make a nomination.

Implementation

The Regulations require authorities to put in place the necessary standing orders in respect of the new process "no later than the first ordinary meeting of the authority falling after 11th May 2015". We have been asked whether an authority's annual meeting is an "ordinary meeting" for these purposes, and it is the LGA's view that it is not. The reason for this is that

schedule 12 to the Local Government Act 1972 makes provisions for three types of authority meeting. These are:

1. "an annual meeting"
2. "in addition to the annual meeting, such other meetings as they [the council] may determine"; and
3. "an extraordinary meeting".

Specific provisions are therefore made for the annual meeting, which reflects the fact that it is a particular meeting of the authority which usually sets up the meetings timetable for the year and deals with appointments to each of the committees, sub-committees and outside bodies. Therefore, in our view it should not be classified as ordinary. This is in line with guidance from the time of the Local Government Act 2000 when new constitutions were implemented, which clearly sets out the three types of meetings i.e. annual, ordinary and extraordinary (see [4.03 of guidance](#)).

On this basis it is the LGA's view that authorities do not have to put in place the relevant standing orders until the first ordinary meeting falling after the annual meeting.

Transitional provisions in the Regulations provide that where anything is being done before 11th May 2015 in respect of an allegation, the statutory DIP procedures shall continue to apply to that allegation. Where anything is being done in respect of an allegation after 11th May 2015, but before the authority puts in place the new Panel procedures, the authority may continue to use its current procedures.

EMPLOYMENT LAW TIMETABLE

During 2015

We set out some of the key employment law developments to look out for over the coming months.

The DWP [Fit for Work Service](#) (previously known as Health and Work Service) is to be rolled out across GB. Currently GPs in Sheffield and Betsi Cadwaladr can refer eligible patients to an occupational health assessment. This will be expanded in Spring 2015 – see the [roll out map](#) for details.

For more information visit www.fitforwork.org or

www.fitforworkscotland.scot.

From April 2015

Right to time off to attend adoption appointments for those adopting.

Parental leave extended to parents of a child under 18 years.

Introduction of shared parental leave (see [Advisory Bulletin 617](#) and Advisory Bulletin 618).

26 week qualifying period for adoption leave removed.

Statutory adoption pay increased so that adopters receive 90% of earnings for first 6 weeks, in line with statutory maternity pay.

Surrogate parents eligible for adoption leave and pay.

Other Government proposals

[Proposal](#) to increase national minimum wage for apprentices to the same rate as 16/17 year old.

[Employment law review](#) to help clarify employment status of workers.

Implementation of a [proposal to recover exit payments](#) made to high earners who leave the public sector if they return to the same part of the public sector within 12 months.

UK Parliament SIs 2010-Present/2015/851-900/Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (SI 2015/881)

2015 No 881

LOCAL GOVERNMENT, ENGLAND

Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015

Made 25th March 2015

Laid before Parliament 25th March 2015

Coming into force 11th May 2015

The Secretary of State for Communities and Local Government, in exercise of the powers conferred by sections 8, 20 and 190(1) of the Local Government and Housing Act 1989 makes the following Regulations.

- 1 Citation, commencement and interpretation
 - 2 Amendments relating to approval of dismissal of certain officers
 - 3 Transitional and saving provisions
- Signature(s)

SCHEDULES

SCHEDULE

EXPLANATORY NOTE

UK Parliament SIs 2010-Present/2015/851-900/Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (SI 2015/881)/1 Citation, commencement and interpretation

1 Citation, commencement and interpretation

(1) These Regulations may be cited as the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and come into force on 11th May 2015.

(2) In these Regulations--

"the 2001 Regulations" means the Local Authorities (Standing Orders) (England) Regulations 2001.

NOTES

Initial Commencement

Specified date

Specified date: 11 May 2015: see reg 1(1).

UK Parliament SIs 2010-Present/2015/851-900/Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (SI 2015/881)/2 Amendments relating to approval of dismissal of certain officers

2 Amendments relating to approval of dismissal of certain officers

- (1) The 2001 Regulations are amended as follows.
- (2) In regulation 5, after "the appointment or dismissal of the head of the authority's paid service" insert ", or the dismissal of the authority's monitoring officer or chief finance officer,".
- (3) For regulation 6 substitute--

"6 Standing orders in respect of disciplinary action

No later than the first ordinary meeting of the authority falling after 11th May 2015 a local authority must, in respect of disciplinary action against the head of the authority's paid service, its monitoring officer or its chief finance officer--

- (a) incorporate in standing orders the provisions set out in Schedule 3 or provisions to the like effect; and
 - (b) modify any of its existing standing orders in so far as is necessary to conform with those provisions, in particular by removing from its existing standing orders the provisions which were set out in Schedule 3 as it was immediately before the date that the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 came into force, or provisions to the like effect."
- (4) Regulations 7 (investigation of alleged misconduct) and 10 (transitional and consequential provisions) are omitted.
 - (5) In Schedule 1 (provisions to be incorporated in standing orders relating to staff)--
 - (a) in paragraph 4 of Part 1 (authority with mayor and cabinet executive) and in paragraph 4 of Part 2 (authority with leader and cabinet executive), in each case for paragraph (1) substitute--

"(1) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment of an officer designated as the head of the authority's paid service, the authority must approve that appointment before an offer of appointment is made to that person.

(1A) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the dismissal of an officer designated as the head of the authority's paid service, as the authority's chief finance officer, or as the authority's monitoring officer, the authority must approve that dismissal before notice is given to that person.";

- (b) for paragraph 4 of Part 4 (authority operating committee system), substitute--

"4

(1) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment of an officer designated as the head of the authority's paid service, the authority must

approve that appointment before an offer of appointment is made to that person.

(2) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the dismissal of an officer designated as the head of the authority's paid service, as the authority's chief finance officer, or as the authority's monitoring officer, the authority must approve that dismissal before notice of dismissal is given to that person."

(6) For Schedule 3 (provisions to be incorporated in standing orders in respect of disciplinary action) substitute the Schedule set out in the Schedule to these Regulations.

NOTES

Initial Commencement

Specified date

Specified date: 11 May 2015: see reg 1(1).

UK Parliament SIs 2010-Present/2015/851-900/Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (SI 2015/881)/3 Transitional and saving provisions

3 Transitional and saving provisions

(1) Where, before the date on which these Regulations come into force, anything was being done in respect of an allegation of misconduct in accordance with--

(a) regulation 7 of the 2001 Regulations, including that regulation as applied by regulation 10(1)(b) of the 2001 Regulations; or

(b) the provisions set out in paragraph 4 of Part 1 of Schedule 1 to the Local Authorities (Standing Orders) Regulations 1993, or Schedule 3 to the 2001 Regulations (or provisions to the like effect) incorporated in the local authority's standing orders,

the provisions mentioned in paragraphs (a) and (b) shall continue to apply in respect of the allegation of misconduct in question.

(2) Anything which, before the date on which the local authority incorporated or modified provisions in standing orders in accordance with the 2001 Regulations as amended by regulation 2, was being done by, to or in relation to an officer in accordance with a provision mentioned in paragraph (1) may be continued after that date by, to or in relation to that officer in accordance with that provision.

(3) Nothing in these Regulations shall apply in relation to the standing orders of the New Forest National Park Authority as provided for in Part 1 of Schedule 3 to the New Forest National Park Authority (Establishment) Order 2005.

NOTES

Initial Commencement

Specified date

Specified date: 11 May 2015: see reg 1(1).

UK Parliament SIs 2010-Present/2015/851-900/Local Authorities (Standing Orders) (England) (Amendment)

Regulations 2015 (SI 2015/881)/Signature(s)

Signed by authority of the Secretary of State for Communities and Local Government

Kris Hopkins

Parliamentary Under Secretary of State

Department for Communities and Local Government

25th March 2015

UK Parliament SIs 2010-Present/2015/851-900/Local Authorities (Standing Orders) (England) (Amendment)
Regulations 2015 (SI 2015/881)/SCHEDULE

SCHEDULE

Regulation 2

"SCHEDULE 3

PROVISIONS TO BE INCORPORATED IN STANDING ORDERS IN RESPECT OF DISCIPLINARY ACTION

Regulation 6

1

In the following paragraphs--

- (a) "the 2011 Act" means the Localism Act 2011;
- (b) "chief finance officer", "disciplinary action", "head of the authority's paid service" and "monitoring officer" have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;
- (c) "independent person" means a person appointed under section 28(7) of the 2011 Act;
- (d) "local government elector" means a person registered as a local government elector in the register of electors in the authority's area in accordance with the Representation of the People Acts;
- (e) "the Panel" means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;
- (f) "relevant meeting" means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and
- (g) "relevant officer" means the chief finance officer, head of the authority's paid service or monitoring officer, as the case may be.

2

A relevant officer may not be dismissed by an authority unless the procedure set out in the following paragraphs is complied with.

3

The authority must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.

4

In paragraph 3 "relevant independent person" means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.

5

Subject to paragraph 6, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 3 in accordance with the following priority order--

- (a) a relevant independent person who has been appointed by the authority and who is a local government elector;
- (b) any other relevant independent person who has been appointed by the authority;
- (c) a relevant independent person who has been appointed by another authority or authorities.

6

An authority is not required to appoint more than two relevant independent persons in accordance with paragraph 5 but may do so.

7

The authority must appoint any Panel at least 20 working days before the relevant meeting.

8

Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular--

- (a) any advice, views or recommendations of the Panel;
- (b) the conclusions of any investigation into the proposed dismissal; and
- (c) any representations from the relevant officer.

9

Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the 2011 Act."

NOTES

Initial Commencement

Specified date

Specified date: 11 May 2015: see reg 1(1).

UK Parliament SIs 2010-Present/2015/851-900/Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (SI 2015/881)/EXPLANATORY NOTE

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Authorities (Standing Orders) (England) Regulations 2001 ("the 2001 Regulations"), which require certain local authorities in England to make or modify standing orders so that they include certain provisions relating to staff and other matters.

Regulation 2 removes the provisions in the 2001 Regulations, except insofar as they apply in relation to the standing orders of the New Forest National Park Authority, relating to the "designated independent person" required to be appointed by a local authority before it could dismiss or discipline its head of paid service, monitoring officer or chief finance officer. It makes new provision about the procedure to be followed in such cases, which authorities are required to include in their standing orders. It also requires that the authority, when setting up its panel for the purpose of advising on matters relating to the dismissal of a relevant officer, invite independent persons who have been appointed under section 28(7) of the Localism Act 2011. The authority is required to appoint such independent persons to the panel in the specified priority order and the panel must have at least two members.

Regulation 3 makes transitional provisions in relation to regulation 2.

No impact assessment has been prepared in relation to these Regulations because no impact on the private or voluntary sectors is foreseen.

Standards Committee 21.01.15: Complaints Update

Complaints received since 21.01.15

Case name/ number	Date complaint received	Nature of complaint	Outcome	Date completed	Lesson Learned
2015/01	22.01.15	Complaint from Councillor about alleged disrespect and shown by another Councillor at Scrutiny Meeting	Complaint dismissed as (i) no breach of Code of Conduct evidenced; (ii) matter fell within the bounds of political expression; (iii) matter handled appropriately within the Scrutiny meeting itself.	19.02.15 then 11.03.15 after Review	
2015/02	16.02.15	Complaint by member of public alleging Ward Councillors failed to deal with an issue	Complaint dismissed being trivial and misdirected. The issue concerned a national policy matter over which Ward Councillors had no control, and indeed no knowledge or involvement	11.03.15	
2015/03	06.03.15	Complaint by member of public alleging Councillor was rude about him during electioneering visit in the neighbourhood	No jurisdiction. The provisions of the Code of Conduct cannot be utilised when Councillors are undertaking "political" as opposed to "Council" business.	10.03.15	

2015/04	14.06.15	Complaint by member of the public alleging Ward councillor had failed to represent him on local planning matter	Complaint dismissed. No evidence that the Ward Councillor had ever agreed to represent the views of the complainant, nor indeed had ever been asked to do so directly. By contrast it was always clear that the Ward member actively supported the scheme which the complainant opposed.	23.06.15	
2015/05	14.06.15	Complaint by member of the public that an elected Member had made defamatory remarks in the course of correspondence	Complaint dismissed as dealt with fully by exchange of separate correspondence (outside of the Code of Conduct), which the complainant had previously acknowledged.	23.06.15	
2015/06	21.07.15	Complaint by member of public that Ward Councillor was using her elected status to intimidate and bully residents/staff over a personal issue	Complaint timed-out as complainant failed to provide further details as requested by the M.O. before deadline of mid-August (or indeed since)	15.08.15	

*KA to verbally mention two further complaints that have not been logged yet, and the reasons for this

Appendix F

By virtue of
Rule 1 of Part 4B of the Council's Constitution
(Access to Information Rules)

Document is Restricted

By virtue of
Rule 1 of Part 4B of the Council's Constitution
(Access to Information Rules)

Document is Restricted

