



WARDS AFFECTED  
All

Leicester  
City Council

## FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

STANDARDS COMMITTEE

14<sup>th</sup> October 2015

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

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### Report of the Monitoring Officer

#### 1. **PURPOSE OF REPORT**

- 1.1. The law changed on 11<sup>th</sup> 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 18<sup>th</sup> 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**

<b>OTHER IMPLICATIONS</b>	<b>YES/ NO</b>	<b>Paragraph/References Within the Report</b>
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.