

NORTH LINCOLNSHIRE COUNCIL

COUNCIL

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

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To inform Council of changes to the mandatory provisions that must be followed before a statutory officer can be dismissed for disciplinary reasons.
- 1.2 To approve amendments to the relevant standing orders (Part D8.03) in the Council's constitution to reflect these provisions.

2. BACKGROUND INFORMATION

- 2.1 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 ('Regulations') came into force on 11 May 2015 and amend the disciplinary process that must be followed before a statutory officer (Head of Paid Service, Chief Finance Officer and Monitoring Officer) can be dismissed.
- 2.2 The Regulations prescribe that authorities must amend the relevant statutory standing orders in their constitutions by "no later than the first ordinary meeting of the authority falling after 11 May 2015".
- 2.3 The Regulations remove the requirement that a Designated Independent Person be appointed to investigate and make a binding recommendation on disciplinary action against a statutory officer.
- 2.4 In place of the Designated Independent Person process, the decision to dismiss a statutory officer must now be taken by Full Council who must consider any advice, views or recommendations from an independent panel, the conclusions of any investigation into the proposed dismissal and any representations from the officer concerned.

- 2.5 The independent panel must consist of at least two independent persons, who accept an invitation from the Council to sit on the panel. An independent person is someone who has been appointed by the Council in that capacity under the members' code of conduct regime pursuant to section 28 (7) of the Localism Act 2011. The Council appointed two independent persons for this purpose, namely Mr R Johnson and Mr J Goolden.
- 2.6 When appointing to the panel, which must be in place at least 20 days before the meeting at which the decision to dismiss will be taken, the Council must do so in the following order:
- an independent person appointed by the Council and who is an elector in the Council's area;
 - any other independent person who has been appointed by the Council; and
 - an independent person who has been appointed by another council or councils.
- 2.7 The Regulations prescribe the amendments that must be made to the Council's standing orders to reflect these changes and are set out in Appendix 1.
- 2.8 It is therefore necessary to amend the Council's constitution to adopt the revised standing orders prescribed by the Regulations.

3. OPTIONS FOR CONSIDERATION

- 3.1 There are no options associated with the requirement to amend the Council's constitution to adopt the revised standing orders as this is a statutory requirement prescribed by the Regulations.

4. ANALYSIS OF OPTIONS

- 4.1 On account of 3.1 there is no such analysis.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

- 5.1 The Regulations specify that any remuneration paid to an independent person appointed to a panel must not exceed the level paid to that independent person when acting in that capacity under the members' code of conduct regime.

6. OUTCOMES OF INTEGRATED IMPACT ASSESSMENT (IF APPLICABLE)

- 6.1 Not appropriate on account of the matters stated in this report.

7. RECOMMENDATIONS

- 7.1 To approve the amendments to the relevant standing orders (Part D8.03) in the Council's constitution as detailed in Appendix 1.

DIRECTOR OF POLICY AND RESOURCES

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Background Papers used in the preparation of this report -

Letter from Paul Roswell, Deputy Director: Democracy, DCLG dated 25 March 2015.
The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

APPENDIX 1

Provisions to be incorporated in standing orders in respect of disciplinary action

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.