

Report of the Head of Legal Services

9. Constitution Changes

Purpose of report

1. To propose amendments to the Officer Employment Procedure Rules and subsequent amendments to the Appointments Committee terms of reference to give effect to the Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015.
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Recommendations

It is recommended that:

- i) the amended Officer Employment Procedure Rules as attached at Appendix 1 be adopted; and*
- ii) the amended terms of reference for the Appointments Committee as set out at Appendix 2 be adopted.*

Introduction and Background

2. The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 amended the rules which principal councils must abide by when taking disciplinary action against the Head of Paid Service, Monitoring Officer and/or Treasurer (Chief Financial Officer). Dismissals of such officers may now only be by a decision of the full Authority; where it is a disciplinary dismissal the full Authority must have regard to the advice of a committee including at least two Independent Persons.
3. Although these regulations do not apply to fire authorities, there is no reason in principle why the same procedures ought not to apply and the opportunity has therefore been taken to review our Officer Employment Procedure Rules in light of these new regulations.

Current Position

4. The Authority's current Officer Employment Procedure Rules require any dismissal of the Head of Paid Service (Chief Fire Officer) to be approved by a meeting of the full Authority, following recommendation by the Appointments Committee. There is currently no requirement for the involvement of any independent person with regards to the potential dismissal of the Head of Paid Service.

5. The Chief Fire Officer is employed under terms and conditions as set out in the NJC Gold Book. The Gold Book recommends that where the Chief Fire Officer is designated as the Head of Paid Service, consideration is given to the adoption of the disciplinary procedure for local authority Chief Executives. This includes the right of appeal under the disciplinary procedure, however the current Appointments Committee terms of reference do not provide an opportunity for the Head of Paid Service (Chief Fire Officer) to appeal against any disciplinary action or potential dismissal.
6. With regards to the other statutory officers; the Treasurer (Chief Financial Officer) and the Monitoring Officer Authority, approval by the full Authority is not required with regards to dismissal. The Appointments Committee currently has no responsibility for considering such issues in relation to the Treasurer and the Monitoring Officer yet this responsibility is beyond the delegated powers of the Chief Fire Officer.
7. Following discussion with the Chairman, it was agreed to bring forward a report recommending changes to the Authority's Officer Employment Procedure Rules and to the terms of reference of Appointments Committee so as to include provisions equivalent to those in the 2015 Regulations.

Recommended Amendments

Officer Employment Procedure Rules

8. The main substantive proposed change is in paragraphs 7(b) to (e) (appendix 1) which set out the procedure involved in the dismissal of the three statutory officers; the Head of Paid Service (Chief Fire Officer), the Treasurer and the Monitoring Officer. The post of Deputy Chief Fire Officer has also been included due its important strategic position within the organisation.
9. It is recommended that the procedure involves a recommendation to the Authority by a Discipline Panel, constituted from the Appointments Committee membership and to include two voting Independent Persons. The Independent Persons will be drawn from the pool of Independent Persons appointed under the Localism Act 2011 for the purposes of the members' standards and ethics regime.
10. In addition, there are some further proposed amendments which clarify the definition of disciplinary action (paragraph 5, appendix 1) and which provide a cross reference to the Appointments Committee terms of reference (paragraph 3.2, appendix 1).

Appointments Committee

11. The main substantive proposed change to the Committee terms of reference is in paragraphs 7 to 11 (Appendix 2) which sets out the constitution of the Discipline Panel, as described above and also a separate Appeal Panel.
12. Although the Chief Fire Officer's annual appraisal is not related to the 2015 Regulations, the opportunity has been taken to give the Appointments

Committee overall responsibility for ensuring that the Chief Fire Officer's appraisal is carried out on an annual basis (paragraph 5, appendix 2).

Conclusion/Summary

13. Members will be familiar with the new regulations requiring amendments to the relevant disciplinary procedures of their constituent authorities (i.e. Worcestershire County Council and Herefordshire Council). Although these regulations do not apply to fire authorities, it is recommended that the Authority adopts a similar to that of the constituent authorities to provide Members with a consistent approach.

Corporate Considerations

Resource Implications (identify any financial, legal, property or human resources issues)	No additional resources required.
Strategic Policy Links (identify how proposals link in with current priorities and policy framework and if they do not, identify any potential implications).	None
Risk Management / Health & Safety (identify any risks, the proposed control measures and risk evaluation scores).	None
Consultation (identify any public or other consultation that has been carried out on this matter)	Consultation has been carried out with the Chief Fire Officer, Treasurer and Monitoring Officer
Equalities (has an Equalities Impact Assessment been completed? If not, why not?)	An Equalities Impact Assessment has not been completed as this is not a policy affecting the communities. However, the involvement of independent persons will provide further fairness in the process and meet best practice guidelines.

Supporting Information

Appendix 1 – Draft Officer Employment Procedure Rules

Appendix 2 – Draft Appointments Committee Terms of Reference

Background papers -

- Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015
- National Joint Council for Brigade Managers of Local Authority Fire and Rescue Services Gold Book
- Herefordshire Council Constitution
- Worcestershire County Council Constitution

Contact Officer

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