



REVISED EMPLOYMENT PROCEDURE RULES FOR SENIOR STATUTORY OFFICERS

ROLE OF INDEPENDENT PERSONS

Report to	Standards Committee
Ward(s):	All
Key Decision:	N/A
Appendix 1:	Flow Diagram to show new Model Procedure
Papers Relied on:	JNC Model Procedures and Guidance Joint Negotiating Committee (JNC) for Local Authority Chief Executives National Salary Framework & Conditions Of Service Handbook updated 13 October 2016 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015

Recommendation:

That the Standards Committee notes :

- **The Council will be establishing new arrangements as set out in this Report to deal with disciplinary matters relating to relevant senior officers.**
- **These arrangements will include an Independent Panel comprising at least two people appointed under section 28 Localism Act 2011 to advise Council.**
- **That the Council has been recommended to reappoint Keith Bastin; Chris Evans as Independent Standards Assessors and Sian Campbell as Independent Person under section 28(7) of the Localism Act 2011 for a new two year term office expiring in February 2020.**

Background, corporate objectives and priorities

This Report accords with the Council's Policy and Budget Framework and supports the development of an effective and efficient council.

Glossary of terms

Term	Definition
Independent Person	An Independent person is appointed by the Council under section 28(7) of the Localism Act 2011. Their view is sought and taken into consideration before any decision is taken on whether a councillor has failed to comply with the Code of Conduct and as to any action taken following a findings of failure to comply with the Code of Conduct.
Independent Standards Assessors	Independent Standards Assessors are individuals who are independent lay members of the Standards Committee. Their role is to determine alleged breaches of the Code of Conduct by Councillors and where proportionate, to impose a sanction to ensure the promotion of high standards of conduct.

Main considerations

1 Executive Summary

- 1.1 New Rules are being adopted by the Council, which will require the Independent Persons appointed under the Localism Act to support the Standards Committee to take on additional responsibilities. This Report explains these new roles.
- 1.2 The statutory officers of the council, the Head of Paid Service (Chief Executive), the Section 151 Officer (Executive Director of Finance and Resources and the Monitoring Officer (Head of Law and Governance and Monitoring Officer), have duties to advise and protect the council as a corporate body. In carrying out their duties at times they may be required to provide advice to members that is not welcome or popular, or to take such action in connection with that advice in order to fulfil their statutory responsibilities. Accordingly these three statutory posts are protected by law under specific regulations from unwarranted political interference in carrying out their proper duties.
- 1.3 The Local Authority (Standing Orders)(England)(Amendment) Regulations 2015 amended the previous legislation to change the statutory process for dismissing the Head of Paid Service, Monitoring Officer and Chief Finance Officer ("the relevant officers"). Previously no disciplinary action could be taken against a relevant officer other than in accordance with a recommendation in a report made by a Designated Independent Person (DIP). The 2015 Regulations abolished the role of the DIP and outlined a new process to be followed and to be incorporated into Council constitutions.
- 1.4 The Council was advised of the new regulations at its meeting on 10 December 2015 and approved changes to the Officer Employment Procedure Rules in the

Constitution. These changes were published on the 20 December 2017. They provide an outline of the new requirements but no detail as to how the rules will be progressed and which members will be responsible for doing this.

- 1.5 Model Disciplinary Procedure and Guidance has now been agreed nationally for Local Authority Chief Executives and incorporated into their terms and conditions of employment. It has also been agreed nationally that the Model Disciplinary Procedure for Chief Executives is appropriate for Monitoring Officers and Section 151 Officers. In order to put the Model Disciplinary Procedure into effect requires the Council to agree new procedures and establish a standing Investigating and Disciplinary Committee, an Appeal Committee, together with an Independent Panel.

2 The Proposal

- 2.1 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 amended the Local Authorities (Standing Orders) (England) Regulations 2001 by changing the statutory process for dismissing the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer (“the relevant officers”)
- 2.2 The legislation requires the council to adopt a new procedure to deal with these matters. The procedure involves four stages: an Investigating and Disciplinary Committee (IDC), an Appeals Committee, the Independent Panel and the Council.
- 2.3 The IDC is a politically balanced committee comprising seven members one of whom will be a member of the Executive. If it decides to progress a complaint, it will appoint an independent investigator.
- 2.4 The Appeals Committee is a politically balanced committee comprising seven members one of whom will be a member of the Executive. It hears appeal against action short of dismissal and decides either to confirm the action, impose no sanction or a lesser sanction.
- 2.5 The Independent Panel comprises at least two independent persons appointed by Basingstoke and Deane or another council for the purposes of hearing complaints under the Members’ standards regime.
- 2.6 The Independent Panel is only used if the IDC having received the report of the independent investigator and held a hearing is minded to recommend dismissal to full Council. If the recommendation is for a lesser sanction such as a written warning, the IDC has the power to impose this without referring to either the Independent Panel or full Council. The relevant officer can then appeal the sanction to the Appeals Committee.
- 2.7 If the IDC recommendation is dismissal, the Executive will be given the opportunity to make any objections that are both material and well founded. Following this, the Independent Panel will hold a hearing where it will listen to both the chair of the IDC and the relevant officer and will then give their advice/views/recommendations to Council.

2.8 The matter then goes to full Council for a decision. This is in effect an appeal hearing for the relevant officer who is allowed to put his or her case to council before a decision is made.

3 Independent Panel

3.1 It is proposed that the existing Independent Persons appointed by the Council under section 28(7) Localism Act 2011 to support the Standards Committee become the Independent Panel. It will be necessary to increase the number of Independent Persons to support these new arrangements as there are currently only two people in post. These are Christopher Eele and Judith Curzon. Their terms of office expire on 22 October 2019.

3.2 It is proposed that Council agrees to reappoint the Independent persons and independent standards assessors whose terms of office expired on 22 October 2017 for a new two year term whilst recruitment process to appoint additional persons takes place later this year.

3.3 The Council has been recommended to reappoint Keith Bastin and Chris Evans as Independent Standards Assessors and Sian Campbell as Independent Persons under section 28(7) of the Localism Act 2011 for a new two year term office expiring in February 2020

3.4 Training will be provide in the event the Independent Panel needs to be convened.

Corporate_implications

4 **Legal Implications:** These are set out in the Report

5 **Financial implications:** None Identified

6 **Risk management-** None Identified

7 **Equalities implications:** None Identified

8 **Consultation and communication:** The Independent Persona and Independent Standards Assessors and relevant officers have been consulted

9 **HR implications** – These are set out in the Report

Date: 12 February 2018

Decision taken by: Standards Committee

Lead officer	Bhupinder Gill, Head of Law and Governance and Monitoring Officer
Report author	Marie Rosenthal Interim Legal Services Manager and Deputy Monitoring Officer
Version	Final
Dated	30 January 2018
Status	Open
Confidentiality	<i>It is considered that information contained within this report (and appendices) do not contain exempt information under the meaning of Schedule 12A of the Local Government Act 1972, as amended, and therefore can be made public.</i>