

London Borough of Bromley

Report No.CSD15066 PART I – PUBLIC

Agenda Item No.:

Decision Maker: General Purposes & Licensing Committee

Date: 27th May 2015

Decision Type: Non-Urgent Non-Executive Non-Key

TITLE: **MODIFICATION OF PRESCRIBED STANDING ORDERS RELATING TO THE DISMISSAL OF STATUTORY OFFICERS**

Contact Officer: Graham Walton, Democratic Services Manager
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Chief Officer: Director of Corporate Services

Ward: N/A

1. REASON FOR REPORT

- 1.1 The Government has made legislative changes which require the Council to amend its Standing Orders insofar as they relate to disciplinary action against, and the dismissal of, the Council's Head of Paid Services (Chief Executive), Monitoring Officer (Director of Corporate Services) and Chief Finance Officer (Director of Finance).
 - 1.2 This report identifies the necessary changes and recommends that the Council makes them.
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2. RECOMMENDATION(S)

- 2.1 That the Council's Standing Orders relating to disciplinary action against the Head of Paid Service, Monitoring Officer and Chief Finance Officer be modified as set out in Appendix 2 to this report and be incorporated into the Council's Constitution.

Corporate Policy

1. Policy Status: New Policy
 2. BBB Priority: Excellent Council
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Financial

1. Cost of proposal: N/A
 2. On-going costs: N/A
 3. Budget Head/Performance Centre: N/A
 4. Total current budget for this Head: N/A
 5. Source of Funding:
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Staff

1. Number of staff (current and additional):
 2. If from existing staff resources, number of staff hours:
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Legal

- 1) Legal Requirement: Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015
 - 2) Call In: Call in is not applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected) – N/A
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Ward Councillor Views

- 1) Have Ward Councillors been asked for comments: No
- 2) Summary of Ward Councillors comments: N/A

3. COMMENTARY

- 3.1 The Council is required to include in its Constitution, Standing Orders which deal with the appointment and dismissal of staff. On 25th March 2015, the former Secretary of State for Communities and Local Government made the Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015.
- 3.2 The Regulations change the procedure which local authorities must follow before dismissing a Head of Paid Service, a Monitoring Officer or a Chief Finance Officer (the Statutory Officers) . The Regulations require that the Council's Standing Orders are revised by no later than the first ordinary meeting falling after 11th May 2015.
- 3.3 The previous provisions require the appointment of an Independent Person to undertake an investigation where disciplinary proceedings (exceeding a suspension for three months) were contemplated against a Statutory Officer. The Council or a relevant Committee was obliged to consider that report before making a decision of disciplinary sanction or dismissal of a Statutory Officer. Under the previous rules, only Full Council could dismiss the Head of Paid Service. The Monitoring Officer and Chief Finance Officer could be dismissed by a Committee.
- 3.4 The 2015 Regulations have changed the procedure. They now require that, before dismissing a Statutory Officer, the Council must appoint a Panel for the purposes of advising on matters relating to the dismissal of the relevant officer. The Council must invite independent persons who have been appointed under Section 28(7) of the Localism Act 2011 to sit on the Panel and must appoint at least two such persons to the Panel. These Independent Persons are the same as are appointed to support the Standards Committee to deal with alleged breached of the Code of Conduct for Members.
- 3.5 The Panel, when it has concluded its deliberations, must report to Council and, unlike under the previous provisions, only Council can agree to dismiss the three Statutory Officers (rather than just the Chief Executive).

4. POLICY IMPLICATIONS

- 4.1 N/A

5. FINANCIAL IMPLICATIONS

- 5.1 None directly arising from this report.

6. LEGAL IMPLICATIONS

- 6.1 As set out in the body of this report.

7. PERSONNEL IMPLICATIONS

- 7.1 Whilst the Statutory Officers have been consulted on the new procedures, these are Statutory Procedures and the Council has no option other than to adopt them. Any necessary changes will be made to contracts of employment.

Non-Applicable Sections:	
Background Documents: (Access via Contact Officer)	

AMENDMENTS TO STANDING ORDERS

**Standing Order 4 –
Disciplinary Action – Head of Paid Service, Monitoring Officer and Chief
Finance Officer**

(1) No disciplinary action in respect of the Head of the Authority's Paid Service, its Monitoring Officer or its Chief Finance Officer, except action described in Paragraph 2, may be taken by the Authority or by a Committee, a Sub-Committee, a joint Committee on which the Council is represented or any other person acting on behalf of the Authority, other than in accordance with a recommendation in a report made by a designated independent person under Regulation 7 of the Local Authorities (Standing Orders)(England) Regulations 2001 (investigation of alleged misconduct).

(2) The action taken in Paragraph (1) is the suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension must be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.

That the Standing Order be deleted and be substituted with:

The Head of Paid Service, Monitoring Officer and Chief Finance Officer must not be dismissed by the Council unless the procedure set out in Schedule 3 to the Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015 is complied with.