



AGENDA ITEM: 13

COUNCIL: 22 July 2015

Report of: Borough Solicitor/Transformation Manager

Relevant Managing Director: Managing Directors

Contact for further information: Mr T Broderick (Extn. 2001)
(E-mail: terry.broderick@westlancs.gov.uk)
(Ms S Lewis(Extn. 5027)
(E-mail: sharon.lewis@westlancs.gov.uk)

**SUBJECT: LOCAL AUTHORITIES (STANDING ORDERS) (ENGLAND)
(AMENDMENT) REGULATIONS 2015 – INDEPENDENT PANEL –
STATUTORY OFFICERS**

Wards affected: Borough wide

1.0 PURPOSE OF THE REPORT

1.1 To agree changes to the Constitution to reflect the requirements of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (the Regulations).

2.0 RECOMMENDATIONS

- 2.1 That “Constitution 13.2 - Officer Employment Procedure Rules” be updated as shown in Appendix 1 of the Report.
- 2.2 That an Independent Panel be established with the Membership and Terms of Reference set out at Appendix 2 to the Report – Constitution 4.1 and 4.1A, and the necessary updates in respect of the Investigating Committee and Employment Appeals Sub-Committees also set out in Appendix 2 be agreed.
- 2.3 That it be noted that this Report does not deal with the contractual position of the Head of Paid Service, Monitoring Officer or Chief Finance Officer.

3.0 BACKGROUND

3.1 The Council is required to modify its Officer Employment Procedure Rules to implement the Regulations no later than the first ordinary Council meeting held after the Regulations came into force on 11 May 2015.

4.0 REQUIREMENTS

- 4.1 The Regulations remove the requirement that a Designated Independent Person (DIP) be appointed to investigate and make a binding recommendation on disciplinary action against the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer of a Local Authority. The Regulations provide that the full Council must take the decision to dismiss any of those three Statutory Officers. Before taking that decision, Council must consider: any advice, views or recommendations from an Independent Panel (see para 4.3 below); the conclusions of any investigation into the proposed dismissal; and any representations from the officer concerned.
- 4.2 The Council is required to establish an Independent Panel by inviting Independent Persons who have been appointed under the Members' Code of Conduct regime (Section 28(7) of the Localism Act 2011) to form an Independent Panel. The Council currently has 2 Independent Persons, Stuart Ibbs and Stephen Garvey so appointed. The Council must appoint to the Independent Panel such Independent Persons who have accepted an invitation in accordance with the following priority order:
- An Independent Person who has been appointed by the Council and who is a local government elector;
 - Any other Independent Person who has been appointed by the Council; and
 - An Independent Person who has been appointed by another council or councils.
- 4.3 The Council is not required to appoint more than 2 relevant Independent Persons but may do so. The Regulations require an authority to appoint a Panel at least 20 working days before the Council meeting which will consider the relevant disciplinary matter. Both Stuart Ibbs and Stephen Garvey have indicated they are happy to accept the invitation. The Regulations state also that the Independent Panel is a committee of the Council. The LGA has sought clarification from the Department for Communities and Local Government as to whether the Panel can comprise just independent persons as envisaged in the Regulations or whether it must be a politically balanced committee.

5.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 5.1 The Independent Person and the Reserve Independent Person receive a small allowance in line with recommendations made by the Council's Independent Remuneration Panel for their role in relation to the Council's Standards regime. Any remuneration, allowances or fees paid 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 normal role with respect to Standards and the Member Code of Conduct.

6.0 RISK ASSESSMENT

- 6.1 The proposed amendments to the Constitution are required by the Regulations. However, the lack of clarity in certain aspects of the Regulations creates some

difficulty in establishing relevant procedures. The contractual position of the statutory officers is not dealt with in this report. It is hoped that national negotiations will resolve these issues in due course.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this report.

Equality Impact Assessment

There is a direct impact on members of the public, employees, elected members and / or stakeholders. Therefore an Equality Impact Assessment is required. A formal equality impact assessment is attached as an Appendix to this report, the results of which have been taken into account in the Recommendations contained within this report.

Appendices

1. Constitution 13.2 – Officer Employment Procedure Rules
2. Constitution 4.1 – Responsibility for Functions – Page 9 and 10 of 36 and Constitution 4.1A Membership of Committees, Sub-Committees etc – Page(vi) of (xi)
3. Equality Impact Assessment