

**Haringey Council**

Report for:	Standards Committee 12 May 2015	Item Number:	
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Title:	Removal of the Designated Independent Person requirement for the dismissal of the Head of Paid Service, Monitoring Officer and Chief Finance Officer
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Report Authorised by:	Bernie Ryan, Assistant Director of Corporate Governance <i>Bernie Ryan</i>
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Lead Officer:	Victoria Wyatt, Senior Corporate Lawyer
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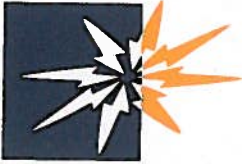
Ward(s) affected:	Report for Key/Non Key Decisions:
N/A	N/A

1. Describe the issue under consideration
  - 1.1 The Government has recently issued regulations to amend Constitutional standing orders in relation to the disciplinary process for the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer. These new regulations remove the requirement that a Designated Independent Person be appointed to investigate and make a binding recommendation on disciplinary action against these senior staff.
  - 1.2 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 come into force on 11 May 2015. Regulation 2 requires the Council to incorporate these changes into its standing orders no later than the first ordinary meeting after this date. Standards Committee is asked to note these changes and refer these on to full Council for noting and decision.
- 2 Cabinet Member introduction
  - 2.1 Not applicable
- 3 Recommendations



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- 3.1 That the Standards Committee note that in accordance with Article 15.03(a) of the Constitution ("legislative change"), the Monitoring Officer will make the necessary changes to the Constitution at
- (i) Part 3 Section B Responsibility for Functions: Sections 1 and 3 (The Full Council and The Staffing and Remuneration Committee), and
  - (ii) Part 4 Section K Officer Employment Procedure Rules
- as set out at Appendix 1.
- 3.2 That the Standards Committee refers the proposed changes set out in 3.1 above to Full Council for noting at its meeting on 14 May 2015.
- 3.3 That the Standards Committee recommends to Full Council that it delegates to the Monitoring Officer authority to establish the Independent Panel subject to any statutory requirements and to agree its terms of reference in consultation with the Head of Human Resources and Organisation Development.
4. Alternative options considered
- 4.1 None – this is a legal requirement and there are no alternative courses of action.
5. Background information
- 5.1 The most senior officers of the Council, that is, the Head of Paid Service, the Monitoring Officer, and the Chief Finance Officer, have statutory responsibilities to discharge to the Council. Since they work with and report to the elected Members, they discharge these responsibilities in a political environment. As a result, statutory protection requiring the appointment of a Designated Independent Person (DIP) to investigate any allegation of misconduct against these senior officers was introduced in the Local Authorities (Standing Orders) (England) Regulations 2001. The DIP was appointed early in the procedure, when it appeared to a council that an allegation of misconduct by the relevant officer required to be investigated. No disciplinary action nor dismissal in respect of these most senior officers could be taken other than in accordance with a recommendation in a report made by a DIP, responsibility for which sat with the Full Council in the case of the Head of Paid Service, and with the Staffing and Remuneration Committee in respect of the Monitoring Officer and the Chief Finance Officer. The intention of this provision was to ensure that these officers could discharge their duties without any fear of being influenced by elected Members and being dismissed without good reason.
- 5.2 The Department for Communities and Local Government (DCLG) has expressed concerns that the DIP process in its application to councils is, in practice, complex and expensive. The DCLG is of the view that it has placed councils as the employer at a great disadvantage in comparison to the position of the employee, given that the recommendation of the DIP must be followed. The DCLG feels that the DIP process can



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also be time consuming, in cases where the council and the senior officer concerned could not agree on a DIP.

- 5.3 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 have been introduced, removing the requirement that a DIP should be appointed. In place of the DIP process, any decision to dismiss the Head of Paid Service, Monitoring Officer or Chief Finance Officer will 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.
- 5.4 In the case of a proposed disciplinary action against one of these senior officers, the local authority is now required to invite independent persons who have been appointed for the purposes of the Members' conduct regime under section 28(7) of the Localism Act 2011, to form an Independent Panel. An Independent Panel will be formed if two or more independent persons accept the invitations, and the Council will be required to issue invitations in accordance with the following priority order:
- (i) an independent person who has been appointed by the Council and who is a local government elector,
  - (ii) any other independent person who has been appointed by the Council, and
  - (iii) an independent person who has been appointed by another council or councils.
- 5.5 The Regulations also make a provision limiting the remuneration that should be paid to independent persons on the Independent Panel to the level of the remuneration which they would normally receive as an independent person under the Members' conduct regime.
- 5.6 Regulation 2 requires the Council to incorporate these changes into its standing orders no later than the first ordinary meeting after the date on which the Regulations come into force, 11 May 2015. The Council's Constitution at Article 15.03 (a) authorises the Monitoring Office to make any changes to the Constitution that are required as a matter of law. In accordance with Article 15.03 (a), it is the responsibility of the Monitoring Officer to make these changes, which are set out for information at Appendix 1. Standards Committee is asked to note these changes and refer the same on to Full Council for noting and decision.
- 5.7 If the Terms and Conditions of the Head of Paid Service, Chief Finance Officer or Monitoring Officer contain contractual terms that are affected by the Regulations those Terms and Conditions will need to be changed.
6. Comments of the Chief Finance Officer and financial implications
- 6.1 The Chief Finance Officer confirms that no specific budget existed to fund any remuneration to a DIP and it would have been treated as a one-off expenditure and managed as part of the council's budget monitoring process.



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6.2 The required changes outlined in this report still suggest that the Council would incur some expense if an Independent Panel needed to be convened however the level of remuneration should not be excessive (see paragraph 5.5) and again would be managed as a one-off expenditure.

7 Comments of the Assistant Director of Corporate Governance and legal implications

7.1 These are considered within the body of the report.

8 Equalities and Community Cohesion Comments

8.1 The constitutional changes outlined in this report carry no implications for any aspect of the Council's Equality duties under the Equality Act 2010.

9 Head of Procurement Comments

9.1 N/A

10 Policy Implication

10.1 N/A

11 Reasons for Decision

11.1 These changes to the Constitution are a legal requirement consequent on the introduction of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

12 Use of Appendices

12.1 Appendix 1 – Changes to the Constitution:  
- Part 3 Section B Responsibility for Functions: Sections 1 and 3 (The Full Council and The Staffing and Remuneration Committee), and  
- Part 4 Section K Officer Employment Procedure Rules

13 Local Government (Access to Information) Act 1985

13.1 N/A