

## PLYMOUTH CITY COUNCIL

<b>Subject:</b>	Proposed Changes to Standing Orders in respect of Employment of the Chief Executive, Section 151 Officer and Monitoring Officer
<b>Committee:</b>	Appointments Panel
<b>Date:</b>	5 June 2015
<b>Cabinet Member:</b>	Councillor Peter Smith, Deputy Leader
<b>CMT Member:</b>	Lesa Annear, Strategic Director for Transformation and Change
<b>Author:</b>	Linda Torney, Assistant Head of Legal Services
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<b>Key Decision:</b>	No
<b>Part:</b>	I

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### **Purpose of the report:**

The purpose of this report is to inform Members of the requirements of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and propose amendments to the Council's Employment Standing Orders to comply with them.

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### **The Brilliant Co-operative Council Corporate Plan 2013/14 -2016/17:**

No direct link but the Council is being open and transparent about its actions

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### **Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land**

This proposal will affect the composition of the Appointment Panel when considering disciplinary matters concerning the Chief Executive, Section 151 Officer and Monitoring Officer. It will require changes to the terms and conditions of those staff and changes to the arrangements with the designated Independent Persons with responsibility for advising in respect of Standards Issues.

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### **Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:**

None identified

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### **Equality and Diversity:**

There are no apparent equalities implications resulting from the new regulations

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**Recommendations and Reasons for recommended action:**

1. The Panel recommends that Council amends the Employment Standing Orders in the Constitution to comply with the requirements of the new regulations as shown in Appendix I.
2. The Panel recommends that Council delegates the function of dealing with any disciplinary matters concerning the Chief Executive or Section 151 Officer or Monitoring Officer to the Chief Officer Disciplinary Panel and, where considered appropriate, to make a recommendation for dismissal to Council.
3. The Panel recommends that Council designates the people who carry out the role of Independent Persons for the Standards Regime, as suitable to act as Independent Persons for this purpose, subject to their agreement; and instructs the Monitoring Officer to put suitable arrangements in place.
4. The Assistant Director for Human Resources and Organisational Development takes the necessary action to agree variations to the contracts of employment of the affected staff.

The reasons for these actions and recommendations are contained in the body of the report.

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**Alternative options considered and rejected:**

None. The proposed changes are a result of the new regulations.

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**Published work / information:**

None

**Background papers:**

Title	Part I	Part II	Exemption Paragraph Number						
			1	2	3	4	5	6	7

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**Sign off:**

Fin <b>DJN</b> <b>1516.05</b>	Leg <b>LT/23086/ 0515</b>	Mon Off <b>LT/DVS/ 23-086</b>	HR <b>MF</b> <b>29.5.2015</b>	Assets	IT	Strat Proc
Has the Cabinet Member(s) agreed the content of the report? Yes						

## **1. Background**

- 1.1 The recent Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 require local authorities to amend their Standing Orders to incorporate new arrangements for disciplinary action against the Chief Executive, Monitoring Officer and the Section 151 Officer.
- 1.2 The regulations state that Council is required to change its standing orders to reflect these new requirements at the first full Council meeting following the AGM i.e. on 22 June 2015.
- 1.3 At present the law requires a Designated Independent Person (DIP) to investigate allegations of misconduct by the Chief Executive, Monitoring Officer and the Section 151 Officer. Those officers may be suspended on full pay whilst the allegations are investigated. No further disciplinary action may be taken in respect of those officers unless it's in accordance with a recommendation in the report of the Designated Independent Person.

## **2.0 Effect of the regulations**

- 2.1 In future, any final decision to dismiss the Chief Executive, Monitoring Officer or Section 151 Officer must be taken by full Council, unless the reason for the dismissal is as a result of permanent ill health, redundancy or a failure to renew a fixed term contract. Before taking that decision, Council must invite at least two Independent Persons to be members of a Panel to consider the matter, and Council must take into account any recommendation of that Panel before taking a final decision to appoint or to dismiss.
- 2.2 The Regulations limit the remuneration that should be paid to the Independent Persons on the panel to the level of the remuneration which they would normally receive as an Independent Person in the standards regime, i.e. a modest annual allowance or small meeting fee.

## **3.0 Recommendations**

- 3.1 The Monitoring Officers of Devon County Council and Cornwall Council carry out the role of Designated Independent Person for the standards regime for the Council which involves providing an independent view, which must be taken into account by the Monitoring Officer before he makes a decision on a standards complaint which is being formally investigated. It is recommended that they are approached to see whether they would also be prepared to be designated to carry out the role of Designated Independent Person for this regime. This has the advantage of using people who are familiar with the roles played by these senior staff within local government and an understanding of the legal requirements involved in the process. An alternative would be for Council to advertise and appoint to such a role when required, to avoid these costs unless they become necessary and to ensure that the people appointed are available at the time required.
- 3.2 Whilst, in theory, it would be possible for Council to carry out the disciplinary process at what would presumably be an extraordinary meeting of Council; the rules of debate for full Council combined with the need for flexibility of dates would make holding a hearing of this nature impracticable. Therefore, it is proposed that Council delegates this function to the Chief Officer Disciplinary Panel which could then report to full Council with their recommendation, which would include the views of the Independent Persons.

- 3.3 The current disciplinary process is incorporated into the officers' contracts of employment, so it will be necessary to agree variations to such contracts to be able to comply with the new Regulations, without giving rise to claims for breach of contract.
- 3.4 The Panel is required to be a committee of Council, so it is subject to normal proportionality rules. The Regulations provide that the authority does not have to appoint more than two Independent Persons, but may do so if it wishes. But, as a committee, the inclusion of at least two Independent Persons as voting members of the Committee would require a minimum membership of four members of a majority party to one other member of Council, unless Council resolves to depart from proportionality. So the Independent Persons will ordinarily be a minority voice on the Panel, comprising only two out of seven members of the committee.