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<b>Report to:</b>	Council	<b>Date of Meeting:</b>	19 May 2016
<b>Subject:</b>	Constitutional Amendments – Statutory Officers	<b>Wards Affected:</b>	All
<b>Report of:</b>	Head of Regulation and Compliance		
<b>Is this a Key Decision?</b>	No	<b>Is it included in the Forward Plan?</b>	No
<b>Exempt/Confidential</b>	No		

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### Purpose/Summary

To introduce an amendment to the Terms of Reference of the Employment Procedure Committee and the Appeals Committee to comply with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (SI 2015/881).

### Recommendation

That that the Terms of Reference of both the Employment Procedure Committee and the Appeals Committee contained in the Constitution be amended by the addition of the following:-

"That for the purposes of dealing with a matter affecting one of the following officers, the Chief Executive, the Council's Section 151 Officer and/or the Monitoring Officer, either the Employment Procedure Committee and/or the Appeals Committee (as necessary) can consist solely of independent members if that is so resolved by ordinary Council Members of the relevant Committee"

### How does the decision contribute to the Council's Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		✓	
2	Jobs and Prosperity		✓	
3	Environmental Sustainability		✓	
4	Health and Well-Being		✓	
5	Children and Young People		✓	
6	Creating Safe Communities		✓	
7	Creating Inclusive Communities		✓	
8	Improving the Quality of Council Services and Strengthening Local Democracy		✓	

**Reasons for the Recommendation:**

To comply with the regulations cited above.

**Alternative Options Considered and Rejected:**

To not comply with the regulations

**What will it cost and how will it be financed?**

**(A) Revenue Costs**

Nil

**(B) Capital Costs**

Nil

**Implications:**

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

<b>Financial:</b> Nil
<b>Legal:</b> These are contained within the contents of the report.
<b>Human Resources:</b> Appropriate notification will be provided to affected individuals which will be reflected in changes to Personnel policy.
<b>Equality</b> 1. No Equality Implication <input checked="" type="checkbox"/>
2. Equality Implications identified and mitigated <input type="checkbox"/>
3. Equality Implication identified and risk remains <input type="checkbox"/>

**Impact of the Proposals on Service Delivery:**

Nil

## **What consultations have taken place on the proposals and when?**

The Chief Finance Officer has been consulted (FD4156/16) and notes the report indicates no direct financial implications for the Council.

Head of Regulation and Compliance (LD3439 /16) have been consulted and any comments have been incorporated into the report.

## **Implementation Date for the Decision**

Immediately following the Council meeting.

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## **Background Papers:**

There are no background papers

### **1. Introduction/Background**

- 1.1 Correspondence has been received from the Joint Negotiating Committee for Chief Executives of Local Authorities (JNC) regarding the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (the Regulations) that replaced the statutory Designated Independent Person (DIP) provisions with an Independent Panel process. The Council is obliged by virtue of these new regulations to review its constitution, to accommodate changes to the procedure for disciplining and dismissing statutory officers. Statutory officers for these purposes are the Head of Paid Service (Chief Executive), the Section 151 Officer (Head of Corporate Resources) and the Monitoring Officer (Head of Regulation and Compliance).
- 1.2 The JNC has been working over recent months to update the Chief Executives' Handbook so that it reflects the new statutory process. The Regulations provide that where there is a proposal to dismiss a statutory officer the authority must appoint a Panel, and take into account any advice, views or recommendations of that Panel. The Panel should be a Committee of the Council, appointed under section 102(4) of the Local Government Act 1972 and should contain at least two independent persons appointed under s.28(7) of the Localism Act 2011.
- 1.3 There has been some uncertainty as to whether this requirement incorporated the need to maintain political balance in this Committee, i.e. that the requisite number of Councillors should also be appointed. The Department for Communities and Local Government has accepted that it is possible that the Panel can comprise only independent persons provided that is what the authority resolves and therefore in the JNC national model process the Independent Panel shall comprise only independent persons (at least two) appointed under S28(7) of the Localism Act 2011. In other words, no elected members should sit on the Panel.
- 1.4 Notwithstanding the view of the JNC, and in order to maintain flexibility in the Council's decision making processes, it is recommended that when considering

such issues both the Employment Procedure Committee and the Appeals Committee can comprise both elected Members and Independent Persons.

- 1.5 The amendment recommended is that each case be considered on its merits and Councillors can resolve to participate in the committee or can resolve that the matter be dealt with exclusively by Independent Members. This approach can occur either at the Employment Procedure Committee stage and/or the Appeals Committee stage,.
- 1.6 Accordingly, it is recommended that the Terms of Reference of both the Employment Procedure Committee and the Appeals Committee contained in the Constitution be amended by the addition of the following:-

"That for the purposes of dealing with a matter affecting one of the following officers, the Chief Executive, the Council's Section 151 Officer and/or the Monitoring Officer, either the Employment Procedure Committee and/or the Appeals Committee (as necessary) can consist solely of independent members if that is so resolved by ordinary Council Members of the relevant Committee"