

SUMMONS TO ATTEND A MEETING OF THE
NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

Time/Date 6.30 pm on TUESDAY, 30 JUNE 2015
Location Council Chamber, Council Offices, Coalville
Officer to contact Democratic Services (01530 454512)

Christine E. Fisher

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Chief Executive

All persons present are reminded that the meeting may be recorded and by attending this meeting you are giving your consent to being filmed and your image being used. You are kindly requested to make it known to the Chairman if you intend to film or record this meeting.

The Monitoring Officer would like to remind members that when they are considering whether the following items are exempt information under the relevant paragraph under part 1 of Schedule 12A of the Local Government Act 1972 they must have regard to the public interest test. This means that members must consider, for each item, whether the public interest in maintaining the exemption from disclosure outweighs the public interest in making the item available to the public.

AGENDA

Item	Pages
PRAYERS	
1. APOLOGIES FOR ABSENCE	
2. DECLARATION OF INTERESTS	
Members are reminded that any declaration of interest should be made having regard to the code of conduct. In particular, members must make clear the nature of the interest and whether it is 'pecuniary' or 'non pecuniary'.	
3. CHAIRMAN'S ANNOUNCEMENTS	
4. LEADER'S AND PORTFOLIO HOLDERS' ANNOUNCEMENTS	
Members are reminded that under paragraph 11.1 of part 4 of the Constitution, questions can be asked of the Leader and Cabinet Members without notice about any matter contained in any address. Questions shall be limited to five minutes in total for each announcement.	



5. QUESTION AND ANSWER SESSION

To receive questions from members of the public under procedure rule no.10. The procedure rule provides that members of the public may ask members of the Cabinet any question on any matter in relation to which the Council has powers or duties which affect the District, provided that three clear days' notice in writing has been given to the Head of Legal and Support Services.

6. QUESTIONS FROM COUNCILLORS

To receive members' questions under procedure rule no.11. The procedure rule provides that any member may ask the chairman of a board or group any question on any matter in relation to which the Council has powers or duties which affect the District, provided that three clear days' notice in writing has been given to the Head of Legal and Support Services.

7. MOTIONS

To consider any motions on notice under procedure rule no. 12.

8. PETITIONS

To receive petitions in accordance with the Council's Petition Scheme.

9. MINUTES

To confirm the minutes of the meeting of the Council held on 26 May 2015.

3 - 8**10. LOCAL PLAN ADVISORY COMMITTEE - TERMS OF REFERENCE**

Report of the Head of Legal and Support Services
Presented by the Corporate Portfolio Holder

9 - 12**11. ELECTED MEMBER REPRESENTATIVE FOR THE ASSOCIATION FOR PUBLIC SERVICE EXCELLENCE (APSE)**

Report of the Head of Legal and Support Services
Presented by the Corporate Portfolio Holder

13 - 16**12. AMENDMENT TO OFFICER EMPLOYMENT PROCEDURE RULES**

Report of the Legal Services Team Manager and Deputy Monitoring Officer
Presented by the Corporate Portfolio Holder

17 - 28

MINUTES of the ANNUAL meeting of the COUNCIL held in the Council Chamber, Council Offices, Coalville on TUESDAY, 26 MAY 2015

Present: Councillor G A Allman (Chairman)

Councillors R Adams, R Ashman, R D Bayliss, R Blunt, R Boam, J Bridges, R Canny, J Clarke, N Clarke, J Cotterill, J G Coxon, D Everitt, T Eynon, F Fenning, J Geary, S Gillard, T Gillard, L Goacher, D Harrison, G Houlst, J Houlst, R Johnson, G Jones, J Legrys, S McKendrick, K Merrie MBE, T Neilson, T J Pendleton, P Purver, V Richichi, N J Rushton, A C Saffell, N Smith, A V Smith MBE, M Specht, D J Stevenson and M B Wyatt

Officers: Mr S Bambrick, Mr R Bowmer, Ms C E Fisher, Mr G Jones, Mr C Lambert, Mrs M Meredith, Mr J Newton, Mrs M Phillips, Mr J Richardson and Miss E Warhurst

1. APOLOGIES FOR ABSENCE

There were no apologies for absence received.

2. DECLARATION OF INTERESTS

There were no interests declared.

3. APPOINTMENT OF CHAIRMAN

Councillor G A Allman said a few words regarding his year as Chairman of the Council. He welcomed recently elected new and returning members. He also felt it would be remiss of him not to welcome Princess Charlotte, daughter of Prince William and Kate. He stated that it had been a great honour to act as the Council's Chairman, representing North West Leicestershire with his Consort Charmaigne. He referred to two events which particularly stood out as they were of great historical significance. The first event being the centenary of the outbreak of the great war which had been commemorated with a week of remembrance. He made reference to the large number of people who had congregated in Coalville, in churches and at memorials to remember those fallen in conflicts past. He added that veterans had been remembered from all over the commonwealth and allied forces who made the ultimate sacrifice. The Chairman expressed special thanks to the Royal British Legion. The second event was the reinterment of King Richard III in Leicester Cathedral, which he and his Consort, Charmaigne, had attended on 26 March. They were just two of the 300 dignitaries invited, which included all the Mayors, Chairmen and MPs of the county, in the company of members of the Royal Family. In all, 600 people filled the church with many thousands outside and TV coverage worldwide followed by many millions.

Councillor G A Allman expressed special thanks to the members, officers and staff who had supported his family during his hospitalisation. He commented that best wishes and offers of support had come from all sides of the chamber; a sign of true humanity and friendship which he would never forget. He also highlighted the unselfish support given by the Deputy Chairman, Councillor J Bridges, who had represented the Council along with his wife Annette, during his absence throughout January, February and March. He added that should Councillor J Bridges be successful in taking the Chair tonight, he was confident that the Council would be in a safe pair of hands.

Councillor G A Allman presented his Consort with a bouquet of flowers as a small token of his appreciation.

Councillor R Blunt thanked Councillor G A Allman for what he had done on behalf of the Council. He made reference to his incredible bravery throughout his hospitalisation.

Nominations were sought for the Chairman for the ensuing municipal year.

It was moved by Councillor R Blunt that Councillor J Bridges be appointed as Chairman of the Council for 2015/16.

The motion was seconded by Councillor V Richichi.

Upon being put to the vote it was

RESOLVED THAT:

Councillor J Bridges be appointed Chairman of the Council for 2015/16.

Councillor J Bridges then took the Chair and the retiring Chairman invested him with the Chain of Office. The Chairman signed the Declaration of Acceptance of Office.

The Chairman thanked Members for their kind words and for electing him as Chairman.

The Chairman invested his Consort with her Chain of Office.

The Chairman presented Councillor G A Allman with his past Chairman's badge and proposed a vote of thanks to the retiring Chairman.

4. APPOINTMENT OF DEPUTY CHAIRMAN

It was moved by Councillor R Blunt, seconded by Councillor K Merrie and

RESOLVED THAT:

Councillor J Cotterill be appointed as Deputy Chairman of the Council for 2015/16.

The Chairman invested Councillor J Cotterill with the Chain of Office. The Deputy Chairman signed the Declaration of Acceptance of Office.

Councillor J Cotterill stated that it was a great honour to be elected as Deputy Chairman and he looked forward to executing his duties to the best of his ability. He added that he would undertake to do so fairly and impartially and he looked forward to supporting the Chairman.

5. APPOINTMENT OF LEADER

It was moved by Councillor T Gillard, seconded by Councillor N J Rushton and

RESOLVED THAT:

Councillor R Blunt be appointed as the Leader of the Council for 2015/16.

Councillor R Blunt thanked members for electing him unopposed as Leader of the Council. He outlined his priorities for the coming term; he reiterated his determination to make a meaningful difference to Coalville, expressed the need for resilience and being prepared for cuts in funding and highlighted the intention to freeze Council Tax throughout the coming four year term. He stated that strategically the administration wanted to work very closely with the MP and more closely with town and parish councils. He also stressed the importance of the Council acting as an independent voice on HS2 and Roxhill. He added that he would be challenging his Cabinet members to meet targets over the next year with the focus being on delivering outcomes. Finally he wanted to

make more use of task and finish groups to encourage greater involvement of backbenchers.

6. CHAIRMAN'S ANNOUNCEMENTS

The Chairman announced that his chosen charity was the Alzheimer's Society. He stated that this cause was close to his heart, and he hoped that members would support it. He announced that his first charity event would be a walk across the district.

7. LEADER'S AND PORTFOLIO HOLDERS' ANNOUNCEMENTS

The Leader of the Council, Councillor R Blunt announced the appointments and delegations of executive functions for the forthcoming municipal year as follows:

Deputy Leader and Community Services Portfolio Holder - Councillor Alison Smith

Housing Portfolio Holder - Councillor Roger Bayliss

Regeneration and Planning Portfolio Holder - Councillor Trevor Pendleton

Corporate Portfolio Holder - Councillor Nick Rushton

Business Portfolio Holder - Councillor Tony Gillard

As in previous years the Executive responsibilities will be delegated to the Cabinet to take decisions collectively.

Councillor R Blunt encouraged newly elected members to raise any concerns with the portfolio holder directly.

Councillor T Neilson announced the Shadow Cabinet as follows:

Leader and Corporate – Councillor T Neilson

Deputy Leader and Housing - Councillor S McKendrick

Community Services – Councillor D Everitt

Business – Councillor F Fenning

Planning and Regeneration - Councillor J Legrys

Councillor T Neilson also announced his Portfolio Support Members as follows:

Wellbeing – Councillor T Eynon

Town Centres – Councillor J Geary

Customer Services – Councillor R Adams

Living Standards – Councillor N Clarke

Councillor A C Saffell congratulated all members on being elected. He commented that it would be helpful for newly elected members to have the Portfolio Holders introduced individually.

8. QUESTION AND ANSWER SESSION

There were no questions received.

9. QUESTIONS FROM COUNCILLORS

Councillor M B Wyatt put the following question to Councillor T J Pendleton:

“Could the Portfolio Holder provide an update on the alleged plans with the Belvoir centre due to comments made by the MP Andrew Bridgen at a recent election hustings at Christ Church in Coalville where he stated in public, that a company was interested in purchasing the shopping centre to help redevelopment the shopping precinct, which would include a cinema and a bowling alley?”

Councillor T J Pendleton gave the following response:

“I cannot speak on behalf of Andrew Bridgen MP about comments that you attribute to him, instead you are advised to contact him directly. I have had no formal approach from any company to discuss a prospective purchase of the shopping centre, nor from any developer or other company to discuss redevelopment proposals”.

10. MOTIONS

No motions were received.

11. PETITIONS

No petitions were received.

12. MINUTES

Consideration was given to the minutes of the meeting held on 24 March 2015.

It was moved by Councillor J Bridges, seconded by Councillor T Gillard and

RESOLVED THAT:

The minutes of the meeting held on 24 March 2015 be approved and signed by the Chairman as a correct record.

13. APPOINTMENT OF COMMITTEES AND GROUPS, ELECTION OF CHAIRMEN AND DEPUTY CHAIRMEN

The Chairman referred Members to the nominations as set out in the additional papers circulated at the meeting.

Councillor J Legrys congratulated Councillor J Bridges on his election as Chairman. He moved that Councillor T Neilson be elected as Chairman of the Audit and Governance Committee. This was seconded by Councillor D Everitt.

The Chairman put the motion to the vote and it was declared LOST.

Councillor A C Saffell stated that he had written to Councillor R Blunt to ask him to reconsider the membership of the Local Plan Advisory Committee as it was comprised only of members representing Ashby de la Zouch and Coalville. He commented that there were no representatives from the northern parishes, which would be hugely impacted. He felt the membership should be reconsidered as this was a terrible way of conducting

business.

Councillor J Legrys expressed support for Councillor A C Saffell's request for a representative of the northern parishes on the Local Plan Advisory Committee. He added that the comments made were valid, and if this could not be considered now, this matter should be referred back to the whips for discussion.

The Chairman advised members that the position in respect of nominations was as set out in the additional papers.

It was moved by Councillor J Bridges, seconded by Councillor R Blunt and

RESOLVED THAT:

- a) The appointments to the Committees and Groups as set out in the additional papers be agreed.
- b) The Chairmen and Deputy Chairmen of the Committees and Groups as set out in the additional papers be agreed.

14. APPOINTMENT OF REPRESENTATIVES ON COMMUNITY BODIES

The Chairman referred Members to the nominations as set out in the additional papers. As there were a number of community bodies where more nominations had been received than there were seats available, the Chairman advised that he would take a vote on these individually.

Some members commented on the nomination process and felt that proportionality and ward representation should be taken more into account when nominating representatives to community bodies.

A vote was then taken on the appointments to each of the community bodies listed below and members were appointed as follows:

Bardon Hill Quarries Liaison Committee: Councillors J Cotterill and M Specht

Coalville and District Town Twinning Association: Councillors P Purver and M Specht

Disability Action Group: Councillors G A Allman, J Cotterill, G Houlton, J Houlton, V Richichi and M Specht

Former Lount Landfill Site Liaison Committee: Councillors R Boam and D J Stevenson

Grace Dieu Priory Trust: Councillors R Boam and L Goacher

Highways Forum: Councillors R Ashman (substitute N Smith), R Boam (substitute P Purver), J Bridges (substitute T Gillard), J Cotterill (substitute G A Allman), D Harrison (substitute J Clarke), G Houlton (substitute A V Smith), V Richichi (substitute R D Bayliss) and M Specht (substitute K Merrie)

Ibstock Brick Liaison Committee: Councillor J Clarke

Leicestershire and Rutland Heritage Forum: Councillor M Specht

Mantle Community Arts: Councillor P Purver

Minorca Surface Mine Site Liaison Committee: Councillors

J Clarke and V Richichi

Moira Furnace Trust: Councillor J Hoult

New Albion Revised Liaison Committee: Councillor K Merrie
North West Leicestershire Hackney Carriage and Private Hire Licensing Forum:
Councillor P Purver

Owen Street Recreation Ground Pavilion Management Committee: Councillors R Boam, P Purver and A V Smith

Thringstone House Community Centre – Executive Committee: Councillors R Boam, J Cotterill and M Specht

It was then moved by Councillor J Bridges, seconded by Councillor T Gillard and

RESOLVED THAT:

Representatives be appointed to the remaining community bodies as set out in the additional papers.

15. SCHEDULE OF MEETINGS

It was moved by Councillor J Bridges, seconded by Councillor R Blunt and

RESOLVED THAT:

- a) The proposed schedule of meetings for 2015/16 be agreed.
- b) The proposed schedule of Council meetings for 2016/17 to 2018/19 be agreed.
- c) The proposed schedule of Cabinet meetings for 2016/17 to 2018/19 be noted.

16. MEMBER CONDUCT ANNUAL REPORT 2014/15

Councillor N J Rushton introduced the report to members.

Councillor T Neilson spoke to the report and stated that it was a great honour to have been elected as Chairman of the Audit and Governance Committee for the previous year. He thanked officers, in particular the Monitoring Officer and Deputy Monitoring Officer for their good work. He felt that the informal process for resolution of complaints which had been implemented worked incredibly well. He commended the report to Council.

It was moved by Councillor N J Rushton, seconded by Councillor R Blunt and

RESOLVED THAT:

The Member Conduct Annual Report 2014/15 be received and endorsed.

The meeting commenced at 6.30 pm

The Chairman closed the meeting at 7.41 pm

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL**COUNCIL – 30 JUNE 2015**

Title of report	LOCAL PLAN ADVISORY COMMITTEE – TERMS OF REFERENCE
Contacts	<p>Councillor Nick Rushton 01530 412059 nicholas.rushton@nwleicestershire.gov.uk</p> <p>Chief Executive 01530 454500 christine.fisher@nwleicestershire.gov.uk</p> <p>Head of Legal and Support Services 01530 454762 elizabeth.warhurst@nwleicestershire.gov.uk</p>
Purpose of report	For Council to note amendments to the Terms of Reference for the Local Plan Advisory Committee
Council Priorities	All Council priorities
Implications:	
Financial/Staff	No direct implications
Link to relevant CAT	None
Risk Management	No direct implications
Equalities Impact Screening	No direct implications
Human Rights	No direct implications
Transformational Government	Not applicable
Comments of Head of Paid Service	The report is satisfactory
Comments of Section 151 Officer	The report is satisfactory
Comments of Monitoring Officer	The report is satisfactory
Consultees	None

Background papers	Minutes of Council of 25 February 2014: http://minutes-1.nwleics.gov.uk/ieListDocuments.aspx?CId=129&MId=160&Ver=4
Recommendations	THAT COUNCIL NOTES THE AMENDMENTS TO THE TERMS OF REFERENCE FOR THE LOCAL PLAN ADVISORY COMMITTEE

1.0 BACKGROUND

- 1.1 Members will recall that at the meeting of Council on 25 February 2014 it was agreed to establish a Local Plan Advisory Committee to work with officers on the new Local Plan and make recommendations to Cabinet and Council.
- 1.2 Terms of Reference for the Advisory Committee were agreed at the meeting and are attached at Appendix 1 of this report.
- 1.3 The Advisory Committee is subject to the provisions of proportionality in respect of its composition as contained within the Local Government and Housing Act 1989. When the Advisory Committee was established, the Terms of Reference included for membership of four Members from the ruling group and three Members from the opposition group, in accordance with the political balance of the Council at that time.
- 1.4 As a result of the District Council elections, the current composition of the Committee is five Members of the ruling group and two Members of the opposition group. Appointments to the Advisory Committee have already been made at the Annual Council meeting to reflect the current political balance of the Council.
- 1.5 In order to comply with the legislative provisions it is necessary to amend the Terms of Reference to ensure that the Advisory Committee is constituted in accordance with those statutory provisions. The amendment is shown on Appendix 1.

LOCAL PLAN ADVISORY COMMITTEE TERMS OF REFERENCE

Purpose of the Local Plan Advisory Committee

To enable cross-party discussion, guidance and support for the development of the North West Leicestershire Local Plan.

Role of the Local Plan Advisory Committee

- To consider and comment on documents that relate to the North West Leicestershire Local Plan including (but not restricted to) policy options, draft policies and evidence prepared to support the Plan.
- To make recommendations as required to Council in respect of the North West Leicestershire Local Plan.
- To monitor progress on the preparation of the North West Leicestershire Local Plan.
- To provide updates to other Members who do not sit on the Local Plan Advisory Committee.
- To consider and comment on responses to plans being prepared by other local planning authorities as part of the Duty to Cooperate.

Membership of the Local Plan Advisory Committee

- ~~The Advisory Committee comprises four Members of the ruling group and three members from the opposition group.~~ will be constituted in accordance with the proportionality provisions contained within The Local Government and Housing Act 1989.
- The Council's Substitution Scheme will apply.
- The Advisory Committee will select a Chair at its first meeting of each civic year.
- Other members may be invited to attend and participate in meetings of the Advisory Committee in a non-voting capacity at the discretion of the Chair.
- The Advisory Committee meetings must have at least 3 members to be quorate.

Operation of the Local Plan Advisory Committee

- Council Procedure Rule 4 will apply to the Local Plan Advisory Committee

- The Advisory Committee will meet at least once every two months, but will meet more frequently where necessary to enable continued progress on the North West Leicestershire Local Plan.
- The Advisory Committee will have no direct decision-making powers but will consider documents and information relating to the Local Plan and make recommendations to Council. Any such report will include specific comments and issues raised by the minority group.
- The Advisory Committee will be supported by the Director of Service and officers in the Planning Policy Team.
- Meetings will be organised, administered and minuted by Democratic Services with agendas and minutes being made available on the Council's website.
- The Portfolio Holder may attend as an observer.

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

COUNCIL – 30 JUNE 2015

Title of report	ELECTED MEMBER REPRESENTATIVE FOR THE ASSOCIATION FOR PUBLIC SERVICE EXCELLENCE (APSE)
Contact	<p>Councillor Nick Rushton 01530 412059 nicholas.rushton@nwleicestershire.gov.uk</p> <p>Chief Executive 01530 454500 christine.fisher@nwleicestershire.gov.uk</p> <p>Head of Legal and Support Services 01530 454762 elizabeth.warhurst@nwleicestershire.gov.uk</p>
Purpose of report	To appoint an elected member to represent the Council at meetings of the Association for Public Service Excellence.
Council Priorities	Value for Money.
Implications:	
Financial/staff	None.
Link to relevant Corporate Action Team	None.
Risk management	None.
Equalities Impact Screening	Not applicable.
Human rights	None.
Transformational Government	None.
Comments of the Head of Paid Service	The report is satisfactory.
Comments of the Section 151 Officer	The report is satisfactory.
Comments of the Monitoring Officer	The report is satisfactory.
Consultees	None
Background papers	None

1.0 ASSOCIATION FOR PUBLIC SERVICE EXCELLENCE (APSE)

1.1 The Association for Public Service Excellence (APSE) is a not-for-profit membership based organisation working with more than 300 local authorities across the UK. APSE's team of advisors also provide specialist briefings, training and events.

1.2 Membership allows access to information and data for benchmarking purposes to support service development and improvements in areas such as;

- waste and refuse
- parks and grounds
- highways
- street lighting
- leisure
- school meals
- housing and building maintenance

1.3 The council subscribed to APSE in 2014/15 on a trial basis for parks, refuse and street cleansing benchmarking data. This was followed up with full membership subscription in April 2015 to include wider services such as;

- Environmental Health (Health and Protection)
- Sports and Leisure Facility Management
- Cemeteries and Crematoria

1.4 Membership also provides the Council with;

- personalised performance indicator standings reports
- summary reports
- direction of travel reports
- comparator reports, tailored to the needs of individual councils
- access to a members only performance web portal
- free training sessions
- peer support visits from experienced members of other local authorities
- one to one training and on-site visits from APSE's principal advisors

1.5 APSE also conducts research and campaigns for a positive role for local government in delivering high quality, effective and efficient local government services. APSE's Research team can be commissioned to conduct specific research for the council. APSE also runs a programme of training events each year which officers and members can participate in at a reduced cost.

2.0 ELECTED MEMBER REPRESENTATION

2.1 As a not-for-profit body owned by member local authorities, APSE is organised on a regional structure, with each region electing a Chair and officers. The Chair and Regional Secretary are automatically members of APSE National Council which sets the policy and determines the main focus of the Association.

- 2.2 APSE welcomes member authorities nominating elected member representatives from their authority. Most member authorities nominate two representatives to ensure there is representation of the authority at APSE meetings.
- 2.3 Being nominated as the elected member APSE representative for a member authority makes those councillors the 'official' councillor contact and this means that the representative(s) will receive the National APSE AGM and Regional AGM convening papers and hold the authority's vote.
- 2.4 Being a nominated representative also allows the elected member(s) to attend interest groups such as advisory groups or seminars on a formal basis on behalf of the authority. Attendance at such events will be considered an approved duty and so the attending councillor(s) will be eligible to claim their expenses back in accordance with the members allowances scheme.
- 2.5 There is no compulsion for the official APSE nominated representative to attend all meetings of APSE but the process of nomination enables the local authority to be represented at those meetings or events which it considers to be of importance or of interest to the authority.
- 2.6 The District Council has agreed to host the Annual General Meeting of APSE at the Council Offices on Wednesday 8 July 2015 and the nominated representative will be expected to attend. Selected officers will also be in attendance. Hosting the event will generate a small income for the authority.

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NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL**COUNCIL - 30 JUNE 2015**

Title of report	AMENDMENT TO OFFICER EMPLOYMENT PROCEDURE RULES
Contacts	Councillor Nick Rushton 01530 412059 nicholas.rushton@nwleicestershire.gov.uk Legal Services Team Manager and Deputy Monitoring Officer 01530 454772 dave.gill@nwleicestershire.gov.uk
Purpose of report	To note the requirements of The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and authorise the consequential amendments to the Constitution to ensure compliance with the legislative provisions.
Council Priorities	Value for Money
Implications:	
Financial/Staff	Amendments may be required to individual officers' employment contracts.
Link to relevant CAT	None.
Risk Management	Discussed in the report.
Equalities Impact Screening	Not Applicable.
Human Rights	Considered in drafting the primary legislation.
Transformational Government	No direct implications.
Comments of Deputy Section 151 Officer	The report is satisfactory.
Comments of Deputy Monitoring Officer	As author of the report is satisfactory.
Consultees	Statutory officers.
Background papers	The Local Authorities (Standing Orders) (England) (Amendment)

	Regulations 2015.
Recommendations	<ol style="list-style-type: none"> 1. TO NOTE THE LOCAL AUTHORITIES (STANDING ORDERS) (ENGLAND) (AMENDMENT) REGULATIONS 2015. 2. TO AMEND THE MEMBERSHIP OF THE INVESTIGATORY COMMITTEE TO FIVE MEMBERS WHEN CONSIDERING DISCIPLINARY MATTERS RELATING TO CHIEF OFFICERS WHO ARE NOT STATUTORY OFFICERS. 3(a). TO AMEND THE MEMBERSHIP OF THE INVESTIGATORY COMMITTEE TO SEVEN MEMBERS CONSISTING OF FIVE ELECTED MEMBERS AND TWO CO-OPTED INDEPENDENT PERSONS WHEN CONSIDERING MATTERS RELATING TO CHIEF OFFICERS WHO ARE STATUTORY OFFICERS (HEAD OF PAID SERVICE, MONITORING OFFICER AND SECTION 151 OFFICER). 3(b). THAT THE TWO INDEPENDENT PERSONS HAVE EQUAL VOTING RIGHTS WITH OTHER COMMITTEE MEMBERS. 4. TO AMEND THE TERMS OF REFERENCE OF THE COMMITTEE TO INCLUDE “AND TO ADVISE THE COUNCIL IN RELATION TO THE PROPOSED DISMISSAL OF THE HEAD OF PAID SERVICE, MONITORING OFFICER AND S151 OFFICER”. 5. TO AGREE TO REMUNERATE THE INDEPENDENT PERSONS FOR THE CONDUCT OF STANDARDS MATTERS. 6. TO APPOINT COUNCILLOR BLUNT AS CHAIRMAN OF THE INVESTIGATORY COMMITTEE FOR THE MUNICIPAL YEAR. 7. TO APPOINT COUNCILLOR A SMITH MBE AS DEPUTY CHAIRMAN OF THE INVESTIGATORY COMMITTEE FOR THE MUNICIPAL YEAR. 8. TO RECEIVE NOMINATIONS FROM THE CONSERVATIVE GROUP FOR THE TWO ADDITIONAL MEMBERS OF THE INVESTIGATORY COMMITTEE TO ENSURE THAT THE EXPANDED COMMITTEE IS PROPORTIONALLY CONSTITUTED.

	9. TO AUTHORISE THE MONITORING OFFICER TO MAKE THE CONSEQUENTIAL AMENDMENTS TO THE CONSTITUTION TO ENSURE COMPLIANCE WITH THE LEGISLATIVE PROVISIONS.
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1. BACKGROUND

- 1.1 The statutory officers, the Head of Paid Service and Monitoring Officer (appointed under the Local Government and Housing Act 1989) and the Section 151 Financial Officer (appointed under Section 151 of the Local Government Act 1972) are subject to a statutory disciplinary scheme contained within the Local Authorities (Standing Orders) (England) Regulations 2000 (the Regulations).
- 1.2 In brief, the Regulations whilst permitting the suspension of any one of the statutory officers prohibited any other disciplinary action except in accordance with a recommendation in a report made by a Designated Independent Person.
- 1.3 A Designated Independent Person must be a person who is agreed between the Council and the relevant officer or in default of such agreement a person appointed by the Secretary of State.

2. LEGISLATIVE CHANGES

- 2.1 On 11 May 2015 the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015, came into force which introduced a new procedure in relation to the dismissal of one of the statutory officers. These are the Head of Paid Service, the Monitoring Officer and the S151 Officer.
- 2.2 The 2015 Regulations:
 - require that the final decision to dismiss any of the statutory officers must be by resolution of full Council;
 - remove the requirement to appoint, or to act in accordance with the report and recommendations of, a DIP;
 - require Council to appoint a Committee (referred to in the Regulations as "the Panel") which must include at least 2 "Independent Persons";
 - require that, before taking a vote on whether to approve such a dismissal, Council must take into account, in particular:
 - (a) any advice, views or recommendations of the Panel;
 - (b) the conclusions of any investigation into the proposed dismissal; and
 - (c) any representations from the statutory officer who is the subject of the proposed dismissal.

- 2.3 The effect of the Regulations is to dispense with the requirement to appoint a Designated Independent Person and for the independent element it provided for in disciplinary proceedings to be provided by the Independent Persons appointed in relation to the Code of Conduct under the Localism Act 2011 as part of a committee of the Council. Although the Regulations only cover dismissals, members are advised that it would be sensible for the Panel to be the body which holds any disciplinary hearing in respect of a statutory officer as in practice it will not always be possible to determine in advance whether a particular disciplinary issue might lead to dismissal.
- 2.4 Every local authority affected by the change in Regulations must at its first ordinary meeting after 11 May 2015 incorporate the changes brought about by the new Regulations into its Constitution.
- 2.5 Members are advised that regardless of the Regulations, the 2008 JNC Conditions of Service for Local Authority Chief Executives / Chief Officers are incorporated into the terms and conditions of service of the Head of Paid Service, Monitoring Officer and Chief Finance Officer. The JNC Conditions of Service include as Appendix 6 a model disciplinary procedure which includes the requirement for the appointment of a DIP, a requirement for an Investigating and Disciplinary Committee comprising a recommended five members, and the limitation to disciplinary action in accordance with the report and recommendation of the DIP. Whilst this is a model disciplinary procedure, it has become incorporated into the relevant officers' terms and conditions of employment.
- 2.6 The enactment of the 2015 Regulations does not automatically remove these features from current terms and conditions of employment, so a dismissal conducted in accordance with the 2015 Regulations may be in breach of the statutory officer's contract of employment.
- 2.7 The Executive Objection Procedure, set out in Schedule 3 to the 2001 Regulations, remains in force. So, where the Disciplinary Panel resolves to recommend to Council that a statutory officer be dismissed, notice will still have to be given to all members of the Executive, and the Leader then has a prescribed period to submit any objections or representations, which must be considered by Council when it considers the recommendation of the Disciplinary Panel.

3. CONSTITUTIONAL AMENDMENTS

- 3.1 The amended Regulations set out the dismissal and disciplinary process for a relevant officer and require an authority to invite relevant Independent Persons to be considered for appointment to a Panel with a view to appointing at least two such persons to the Panel.

- 3.2 For the purposes of the Regulations:

“A Panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority. As a committee of the authority such a panel will need to be politically proportionate, which relates to the size of the panel as a whole, including the two Independent persons.

“A relevant Independent Person” means any Independent Person who has been appointed by the authority under Section 28(7) of the Localism Act 2011 or, where there are fewer than two such persons, such Independent Persons as have been appointed by another authority or authorities as the authority considers appropriate.”

- 3.3 Members will recall that when the amended Code of Conduct was introduced under the Localism Act a joint recruitment exercise was undertaken by a number of authorities across the County as a result of which nine Independent Persons were appointed with one lead Independent Person nominated for the District.
- 3.4 The standing list of committees that the Council appoints each year includes the Investigatory Committee which currently consists of three members. Its remit is described as “to determine disciplinary cases involving chief officers”. Given the Regulations it is suggested that its terms of reference are amended to include "and to advise the Council in relation to any proposed dismissal of the Head of Paid Service, Monitoring Officer and S151 Officer".
- 3.5 It is proposed that in order to comply with the legislative amendments when dealing with the proposed dismissal of a relevant officer, the composition of the Investigatory Committee is expanded from three members to seven members consisting of five elected members plus two co-opted Independent Persons drawn from the Independent Persons appointed under the Localism Act. The quorum would be three elected members.
- 3.6 Where the Committee is dealing with a proposed dismissal of a Chief Officer who is not a statutory officer, such as the Directors or a Head of Service, the composition of the Committee will be five elected members only.
- 3.7 Whilst the Regulations are silent upon whether the Independent Persons must be voting members of the Panel, the purpose of their inclusion would appear to be negated if they did not have votes. Where the Independent Persons are appointed as co-opted voting members of the Panel, the majority party, if there is one, must still have a majority of votes on the Panel, so the inclusion of the Independent Persons as co-opted voting members serves to reduce the number of seats to be allocated to the minority party groups. Council may depart from proportionality by a vote of full Council in which no elected member votes against the alternative composition of the Panel.
- 3.8 The Regulations allow the Council to remunerate the Independent Persons appointed to the Panel but payment must not exceed the level of remuneration, allowances or fees payable to that Independent Person in respect of that person’s role as Independent Person when dealing with standards complaints under the Code of Conduct. The Council agree to remunerate the Independent Persons at the same rate as when dealing with standards complaints under the Code of Conduct.
- 3.9 Any decision to dismiss a statutory officer is a matter for full Council and before any vote is taken at a meeting on whether or not to approve such a dismissal the Authority must take into account, in particular:
 - (a) any advice, views or recommendations of the Panel;
 - (b) the conclusions of any investigation into the proposed dismissal; and

(c) any representations from the statutory officer.

3.10 The proposed consequential changes to the Constitution are attached as track changed documents.

4. NOMINATIONS

4.1 At full Council on 26 May 2015 the following councillor's were appointed to the Investigatory Committee:

Councillor R Blunt
Councillor A V Smith
Councillor J Legrys

Council is requested to receive nominations and appoint two additional members from the Conservative Group to the Committee in accordance with the proportionality rules.

5. APPOINTMENT OF CHAIRMAN AND DEPUTY CHAIRMAN

5.1 In the interest of administering the meeting effectively it is proposed that a Chairman and Deputy Chairman is appointed for the municipal year in accordance with recommendations 7 and 8.

6. APPENDICES

6.1 Appendices 1 and 2 show the consequential changes to the Council's Constitution.

4.9: OFFICER EMPLOYMENT PROCEDURE RULES

9. DISCIPLINARY ACTION

9.1 Suspension. The Head of Paid Service, the Monitoring Officer or the Chief Finance Officer ~~(a Relevant Officer may)~~ may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.

9.2 ~~Independent Person.~~ Investigatory Committee. No other disciplinary action may be taken in respect of any Relevant Officer ~~of these~~ officers except in accordance with a recommendation in a report made by ~~a designated independent person~~ the Investigatory Committee.

9.3 Where it appears to the Council that an allegation of misconduct by a Relevant Officer:

~~(a) the Head of Paid Service;~~

~~(b) the Monitoring Officer; or~~

~~(c) the Chief Finance Officer~~

requires to be investigated, the ~~Council must appoint a person~~ (“the designated independent person”) to Investigatory Committee will arrange for an carry out the investigation into the allegation to be carried out on its behalf. Such investigation may be conducted either by:

a) An officer of the District Council ;or

b) A suitably qualified external person or body

~~9.4 The designated independent person must be such a person as may be agreed between the Council and the relevant officer, or in default of such agreement, nominated by the Secretary of State.~~

9.54 In the course of the investigation the ~~designated independent~~ Investigatory Committee ~~person~~ may direct:

98.45.1 that the Council terminate any suspension of the relevant officer where its enquiries reveal no gross misconduct;

98.45.2 that any such suspension must continue beyond the two month period in 8.1;

98.45.3 that the terms on which any such suspension has taken place must be varied in accordance with the direction; or

- ~~98.45.4~~ that no steps (whether by the Council or any Committee, Subcommittee or officer acting on behalf of the Council) towards disciplinary action or further disciplinary action against the relevant officer ~~_, other than steps taken in the presence, or with the agreement of, the designated independent person~~ are to be taken before a report is made under ~~98.8~~ below.
- 9.56** The ~~designated independent person~~Investigatory ~~may~~Committee or a person acting on their behalf may inspect any documents relating to the conduct of the relevant officer which are in the possession of the Council or which the Council has the power to authorise ~~him or her~~them to inspect.
- 9.67** The ~~designated independent person~~Investigatory ~~may~~Committee or a person acting on their behalf may require any member of the Council's staff to answer questions concerning the conduct of the Relevant Officer.
- 9.78** Unless they have previously directed that the suspension be terminated and the officer reinstated, ~~the designated independent person~~Investigatory ~~must~~Committee must make a report to the Council:
- ~~98.7.1~~ stating ~~his/her~~the ~~opinion~~committee's opinion as to whether (and if so, the extent to which) the evidence ~~he or she~~the ~~has~~committee has obtained supports any allegation of misconduct against the relevant officer; and
- ~~98.87.2~~ recommending any disciplinary action (including the proposed dismissal of the Relevant Officer) which appears to ~~him/her~~the ~~to~~committee to be appropriate for the Council to take against the relevant officer.
- 9.89** The ~~designated independent person~~Investigatory ~~must~~Committee must, no later than the time at which they make a report under ~~98.8.~~ above to the Council, send a copy of the report to the relevant officer.
- ~~9.10~~ ~~The Council must pay reasonable remuneration to a designated independent person and any costs incurred by him/her, or in connection with, the discharge of his/her functions.~~
- 9.9** Before the taking of a vote at a meeting to consider whether or not to approve a proposal to dismiss a relevant officer the Council must take into account, in particular:
- a) any advice, views or recommendations of the Investigatory Committee
 - b) the conclusions of any investigation into the proposed dismissal; and
 - c) any representations from the relevant officer ~~relevant meeting~~

9.104 Members of the Council will not be involved in disciplinary action against any officer below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related procedures, as adopted from time to time which may allow a right of appeal to members in respect of disciplinary action.

10. DISMISSAL

10.1 Members of the Council will ~~not~~ be involved in the dismissal an officer who is a of any officer below deputy chief officer or above.

Statutory Officers

The decision to dismiss a Statutory Officer (Head of Paid Service, Monitoring Officer and Section 151 Officer) is reserved to Council.

10.2 Non-statutory Chief officers and Deputy Chief officers

Where a ~~Board,~~ Committee or officer ("the dismissor") proposes to dismiss:

~~(i) the Head of Paid Service;~~

~~(ii) a statutory chief officer;~~

(iii) a non-statutory chief officer or,

(iv) a deputy chief officer

(a) Notice of dismissal must not be given until the dismissor has notified the Head of Paid Service (or where the officer to be dismissed is the Head of Paid Service, the Monitoring Officer) of the name of the person whom the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal; and

(b) The Head of the Paid Service, or as the case may be, the Monitoring Officer, has notified every member of the Cabinet of:

(i) The name of the person whom the dismissor wishes to dismiss;

(ii) Any other particulars relevant to the dismissal which the dismissor has notified; and

(iii) The period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the Head of Paid Service/Monitoring Officer; and

(c) Either:

- (i) The Leader has within the period specified in the notice under 109.2. b) above notified the dismissor that neither he nor she nor any other member of the Cabinet has any objection to the dismissal;
- (ii) The Head of Paid Service/Monitoring Officer has notified the dismissor that no objection was received by him or her within that period from the Cabinet;

Or:

- (i) The dismissor is satisfied that any objection received from the Cabinet within that period is not material or is not well founded.
- (d) The dismissal of staff below the position of Deputy Chief Officer is reserved to the Head of Paid Service

SECTION 5 - BODIES EXERCISING COUNCIL FUNCTIONS

6. INVESTIGATORY COMMITTEE

Membership: ~~Three~~ Five councillors

Quorum: Three councillors

Independent Members: When advising the Council in relation to the proposed dismissal of the Head of Paid Service, Monitoring Officer and S151 Officer the committee will co-opt two (voting) Independent Members in accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations.

Functions	Matters Reserved for a Decision
To determine disciplinary cases involving chief officers <u>and to advise the Council in relation to the proposed dismissal of the Head of Paid Service, Monitoring Officer and S151 Officer.</u>	To determine any matters referred to it.

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