

2015 No. 881

LOCAL GOVERNMENT, ENGLAND

**The Local Authorities (Standing Orders) (England)
(Amendment) Regulations 2015**

<i>Made</i> - - - -	<i>25th March 2015</i>
<i>Laid before Parliament</i>	<i>25th March 2015</i>
<i>Coming into force</i> - -	<i>11th May 2015</i>

The Secretary of State for Communities and Local Government, in exercise of the powers conferred by sections 8, 20 and 190(1) of the Local Government and Housing Act 1989(a) makes the following Regulations.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and come into force on 11th May 2015.

(2) In these Regulations—

“the 2001 Regulations” means the Local Authorities (Standing Orders) (England) Regulations 2001(b).

Amendments relating to approval of dismissal of certain officers

2.—(1) The 2001 Regulations are amended as follows.

(2) In regulation 5, after “the appointment or dismissal of the head of the authority’s paid service” insert “, or the dismissal of the authority’s monitoring officer or chief finance officer.”.

(3) For regulation 6 substitute—

“Standing orders in respect of disciplinary action

6. No later than the first ordinary meeting of the authority falling after 11th May 2015 a local authority must, in respect of disciplinary action against the head of the authority’s paid service, its monitoring officer or its chief finance officer—

- (a) incorporate in standing orders the provisions set out in Schedule 3 or provisions to the like effect; and
- (b) modify any of its existing standing orders in so far as is necessary to conform with those provisions, in particular by removing from its existing standing orders the provisions which were set out in Schedule 3 as it was immediately before the date

(a) 1989 c. 42. Section 20 was amended by section 119 of, and Schedule 6 to, the Local Democracy, Economic Development and Construction Act 2009 (c. 20).

(b) S.I. 2001/3384. There are no relevant amendments.

that the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 came into force, or provisions to the like effect.”.

(4) Regulations 7 (investigation of alleged misconduct) and 10 (transitional and consequential provisions) are omitted.

(5) In Schedule 1 (provisions to be incorporated in standing orders relating to staff)—

(a) in paragraph 4 of Part 1 (authority with mayor and cabinet executive) and in paragraph 4 of Part 2 (authority with leader and cabinet executive), in each case for paragraph (1) substitute—

“(1) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment of an officer designated as the head of the authority’s paid service, the authority must approve that appointment before an offer of appointment is made to that person.

(1A) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the dismissal of an officer designated as the head of the authority’s paid service, as the authority’s chief finance officer, or as the authority’s monitoring officer, the authority must approve that dismissal before notice is given to that person.”;

(b) for paragraph 4 of Part 4 (authority operating committee system), substitute—

“4.—(1) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment of an officer designated as the head of the authority’s paid service, the authority must approve that appointment before an offer of appointment is made to that person.

(2) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the dismissal of an officer designated as the head of the authority’s paid service, as the authority’s chief finance officer, or as the authority’s monitoring officer, the authority must approve that dismissal before notice of dismissal is given to that person.”.

(6) For Schedule 3 (provisions to be incorporated in standing orders in respect of disciplinary action) substitute the Schedule set out in the Schedule to these Regulations.

Transitional and saving provisions

3.—(1) Where, before the date on which these Regulations come into force, anything was being done in respect of an allegation of misconduct in accordance with—

(a) regulation 7 of the 2001 Regulations, including that regulation as applied by regulation 10(1)(b) of the 2001 Regulations; or

(b) the provisions set out in paragraph 4 of Part 1 of Schedule 1 to the Local Authorities (Standing Orders) Regulations 1993(a), or Schedule 3 to the 2001 Regulations (or provisions to the like effect) incorporated in the local authority’s standing orders,

the provisions mentioned in paragraphs (a) and (b) shall continue to apply in respect of the allegation of misconduct in question.

(2) Anything which, before the date on which the local authority incorporated or modified provisions in standing orders in accordance with the 2001 Regulations as amended by regulation 2, was being done by, to or in relation to an officer in accordance with a provision mentioned in paragraph (1) may be continued after that date by, to or in relation to that officer in accordance with that provision.

(a) S.I. 1993/202. The Local Authorities (Standing Orders) Regulations 1993 were repealed by S.I. 2001/3384 subject to savings specified in regulation 8(3) of S.I. 2001/3384

(3) Nothing in these Regulations shall apply in relation to the standing orders of the New Forest National Park Authority as provided for in Part 1 of Schedule 3 to the New Forest National Park Authority (Establishment) Order 2005(a).

Signed by authority of the Secretary of State for Communities and Local Government

Kris Hopkins

Parliamentary Under Secretary of State

Department for Communities and Local Government

25th March 2015

SCHEDULE

Regulation 2

“SCHEDULE 3

Regulation 6

Provisions to be incorporated in standing orders in respect of disciplinary action

1. In the following paragraphs—

- (a) “the 2011 Act” means the Localism Act 2011(b);
- (b) “chief finance officer”, “disciplinary action”, “head of the authority’s paid service” and “monitoring officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001(c);
- (c) “independent person” means a person appointed under section 28(7) of the 2011 Act;
- (d) “local government elector” means a person registered as a local government elector in the register of electors in the authority’s area in accordance with the Representation of the People Acts;
- (e) “the Panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972(d) for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;
- (f) “relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and
- (g) “relevant officer” means the chief finance officer, head of the authority’s paid service or monitoring officer, as the case may be.

2. A relevant officer may not be dismissed by an authority unless the procedure set out in the following paragraphs is complied with.

3. The authority must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.

4. In paragraph 3 “relevant independent person” means any independent person who has been appointed by the authority 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.

(a) SI 2005/421. Article 16 of Part 1 of Schedule 3 of the Order applies regulation 7 of the 2001 Regulations to the New Forest National Park Authority, as if it were a local authority as referred to in the 2001 Regulations.

(b) 2011 c. 20.

(c) S.I. 2001/3384.

(d) 1972 c. 70.

5. Subject to paragraph 6, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 3 in accordance with the following priority order—

- (a) a relevant independent person who has been appointed by the authority and who is a local government elector;
- (b) any other relevant independent person who has been appointed by the authority;
- (c) a relevant independent person who has been appointed by another authority or authorities.

6. An authority is not required to appoint more than two relevant independent persons in accordance with paragraph 5 but may do so.

7. The authority must appoint any Panel at least 20 working days before the relevant meeting.

8. Before the taking of a vote at the relevant 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 relevant officer.

9. Any remuneration, allowances or fees paid by the authority 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 role as independent person under the 2011 Act."

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Authorities (Standing Orders) (England) Regulations 2001 ("the 2001 Regulations"), which require certain local authorities in England to make or modify standing orders so that they include certain provisions relating to staff and other matters.

Regulation 2 removes the provisions in the 2001 Regulations, except insofar as they apply in relation to the standing orders of the New Forest National Park Authority, relating to the "designated independent person" required to be appointed by a local authority before it could dismiss or discipline its head of paid service, monitoring officer or chief finance officer. It makes new provision about the procedure to be followed in such cases, which authorities are required to include in their standing orders. It also requires that the authority, when setting up its panel for the purpose of advising on matters relating to the dismissal of a relevant officer, invite independent persons who have been appointed under section 28(7) of the Localism Act 2011. The authority is required to appoint such independent persons to the panel in the specified priority order and the panel must have at least two members.

Regulation 3 makes transitional provisions in relation to regulation 2.

No impact assessment has been prepared in relation to these Regulations because no impact on the private or voluntary sectors is foreseen.