

## **PART 4 – RULES OF PROCEDURE**

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### **EMPLOYMENT PROCEDURE RULES**

#### **Interpretation**

For the purposes of these Rules:

“Chief Officer” has the same meaning as in the Local Authorities (Standing Orders) (Wales) Regulations 2006, namely, the Head of Paid Service; the Monitoring Officer; a statutory chief officer mentioned in paragraph (a), (c) or (d) of section 2(6) of the Local Government and Housing Act 1989 (which includes the Chief Finance Officer); or a non-statutory chief officer within the meaning of section 2(7) of the same 1989 Act.

“Deputy Chief Officer” has the same meaning as in Section 2(8) of the Local Government and Housing Act 1989, being a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers (except for secretarial, clerical and support staff).

#### **1 Recruitment and appointment**

These rules do not apply to school-based employees, who are subject to separate procedures.

##### **(a) Declarations**

- (i) With the intention of ensuring that employment processes are fully informed and transparent, the Council requires any candidate for appointment as an officer to state in writing whether they are related to or have any close personal association with any member or senior employee of the Council.
- (ii) Deliberate omission to make such a disclosure would disqualify the candidate, and if the omission is discovered after appointment, the candidate will be liable to dismissal.

##### **(b) Seeking support for appointment**

- (i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor or employee for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) Subject to paragraph (iii), no Councillor will seek support for any person for any appointment with the Council. A member or an employee will not try to improperly influence the choice of a candidate for any appointment

- (iii) The impartiality of employees must be preserved. Accordingly Members must not give written references to support a candidate seeking employment with the Council.

## **2 Recruitment of Chief Officers**

- (a) A vacancy for the post of Chief Officer must be reported to the Council or body delegated to do so which will consider whether the post should be filled, and if so, subject to Rule 2A, the terms and conditions of employment and method of appointment.
- (b) Where the proposed remuneration of the Chief Officer post is £100,000 or more per annum, the Council will arrange for the following to be prepared:-
  - (i) A statement of the duties of the officer concerned and the required qualifications or qualities to be sought in the person appointed, which is sent to any person on request; and
  - (ii) Public advertisement of the post to bring it to the attention of people who are qualified to apply, unless the proposed appointment is for a period of 12 months or less.
- (c) Following advertisement, the Council will arrange for either all qualified candidates to be interviewed; or a shortlist to be prepared of qualified applicants and those candidates interviewed. If no suitably qualified person has applied, or if the Council decides to re-advertise the appointment, the post will be re-advertised in accordance with paragraph (b) above.

## **2A Remuneration of Chief Officers**

Any decision to determine or vary the remuneration of Chief Officers (or those to be appointed as Chief Officers) must be made by full Council.

## **3 Appointment or Dismissal of Chief Officers, Deputy Chief Officers, Monitoring Officer and Head of Democratic Services**

- (a) The appointment or dismissal of a Chief Officer, a Deputy Chief Officer, the Monitoring Officer or Head of Democratic Services will be made by the Council or by a Committee of Members delegated by the Council to make the appointment or dismissal, which Committee must contain at least one Cabinet member, but not more than half of the members of that Committee shall be Cabinet members.
- (b) Where a committee is considering on behalf of the Council the appointment or dismissal of the Chief Executive, the Council shall approve that appointment before an offer of appointment is made, or as the case may be, must approve that dismissal before notice of dismissal is given.

### **3A Joint Arrangements**

Where the duties of a Chief Officer or a Deputy Chief Officer include the discharge of functions of two or more local authorities:

- (a) the steps taken under paragraph 2 above may be taken by a joint committee of those authorities, a sub-committee of that committee or a Chief Officer of any of the authorities concerned; and
- (b) any Chief Officer or Deputy Chief Officer may be appointed by such a joint committee, a sub-committee of that committee or a committee or sub-committee of any of those authorities.

### **4 Other appointments**

- (a) **Officers below Deputy Chief Officer.** Subject to Rule 3(a), the appointment of officers below Deputy Chief Officer (other than assistants to political groups) must be discharged by the Chief Executive or by an officer nominated by the Chief Executive. All Council employees shall be appointed in accordance with the Councils Recruitment and Selection Policy.
- (b) **Assistants to political groups.** Any appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

### **5 Disciplinary Action**

#### **5.1 Head of Paid Service, Monitoring Officer, Chief Finance Officer and Head of Democratic Services**

- (1) No disciplinary action in respect of the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer or the Head of Democratic Services (a "relevant officer"), except action described in (2) below, may be taken by the Council or on its behalf, other than in accordance with a recommendation in a report made by a designated independent person under Regulation 9 of the Local Authorities (Standing Orders)(Wales) Regulations 2006.
- (2) The action mentioned in the above paragraph is suspension of the relevant officer for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension will be on full pay and will terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.
- (3) Where it appears that an allegation of misconduct which may lead to disciplinary action has been made against a relevant officer, the Council shall appoint a committee ("an investigation committee") to consider the alleged misconduct.

- (4) The investigation committee must consist of a minimum of 3 members of the Council, be politically balanced (in accordance with section 15 of the Local Government and Housing Act 1989); and must, within 1 month of its appointment, consider the allegation of misconduct and decide whether it should be further investigated.
- (5) For the purpose of considering the allegation of misconduct, the investigation committee may make such enquiries of the relevant officer or any other person it considers appropriate; may request the relevant officer or any other person it considers appropriate to provide it with such information, explanation or documents as it considers necessary within a specified time limit; and may receive written or oral representations from the relevant officer or any other person it considers appropriate.
- (6) Where it appears to the investigation committee that an allegation of misconduct by the relevant officer should be further investigated, it shall appoint a person ("the designated independent person") for the purposes of these Rules.
- (7) The designated independent person who is appointed shall be such person as may be agreed between the Council and the relevant officer within 1 month of the date on which the requirement to appoint the designated independent person arose; or where there is no such agreement, shall be such person as is nominated for the purpose by the Welsh Ministers.
- (8) The designated independent person—
  - (a) may direct:
    - (i) that the Council terminate any suspension of the relevant officer;
    - (ii) that any such suspension is to continue after the expiry of the period referred to in paragraph (2) above);
    - (iii) that the terms on which any such suspension has taken place are to be varied in accordance with the direction; or
    - (iv) that no steps by the Council or on its behalf by way of 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 sub-paragraph (d);
  - (b) may inspect any documents relating to the conduct of the relevant officer which are in possession of the Council, or which the Council has power to authorise the designated independent person to inspect;

- (c) may require any Member or members of staff of the Council to answer questions concerning the conduct of the relevant officer;
  - (d) shall make a report to the Council –
    - (i) stating an opinion as to whether (and, if so, the extent to which) the evidence obtained supports any allegation of misconduct against the relevant officer; and
    - (ii) recommending any disciplinary action which appears appropriate for the Council to take against the relevant officer; and
  - (e) shall no later than the time at which the report is made under sub-paragraph (d), send a copy of the report to the relevant officer.
- (9) Subject to paragraph (10), the relevant officer and the Council shall, after consulting the designated independent person, attempt to agree a timetable within which the designated independent person is to undertake the investigation.
- (10) Where there is no agreement under paragraph (9), the designated independent person shall set a timetable as that person considers appropriate within which the investigation is to be undertaken.
- (11) The Council shall consider the report prepared under paragraph (8)(d) within 1 month of receipt of that report.
- (12) The Council shall pay reasonable remuneration to a designated independent person appointed by the investigation committee and any costs incurred by, or in connection with, the discharge of functions under this Rule.
- (13) For the purpose of this rule, any officer who was a relevant officer at the time of the alleged misconduct or when the reason for the proposed dismissal occurred (but is no longer so), shall be regarded as a relevant officer.

## **5.2 Dismissal and or Disciplinary Action - Other Employees**

- (a) Subject to Rules 3(a) and 5.1, the Chief Executive, or an officer nominated by the Chief Executive, is responsible for the dismissal of, and taking disciplinary action against, employees below Deputy Chief Officer (other than assistants for political groups), in accordance with any relevant Council policy and procedure.
- (b) Councillors will not be involved in any disciplinary action of any officer other than the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer or the Head of Democratic Services, as set out above, except where such involvement is necessary for any

investigation or inquiry into alleged misconduct, or where a right of appeal to members is allowed in respect of dismissal or demotion.

## **6 Right of Appeal**

Any employee who has been dismissed with or without notice or relegated must be informed immediately of the right of appeal, in line with the Council's agreed Disciplinary Policy and Procedures, which may confirm the action taken, withdraw it or substitute another disciplinary penalty.