

Constitution



Part 4: Rules of Procedure

4. Officer Employment Procedure Rules

4.1 Recruitment and appointment

4.1.1 Declarations

- (a) The Council has drawn up procedures which include a requirement that any candidate for an appointment as an Officer must state in writing whether they have any relationship with any councillor or Officer of the Council;
- (b) no candidate so related to a councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by them.

4.1.2 Seeking support for appointment

- (a) The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information;
- (b) no councillor will seek support for any person for any appointment with the Council.

4.2 Recruitment and remuneration of Chief Officers:

- 4.2.1 (a) Where the Council proposes to appoint a Chief Officer, within the meaning of the Local Authorities (Standing Orders) (Wales) Regulations 2006 [as amended], and the proposed remuneration of the post is £100,000 or more per annum, or it is otherwise not proposed that the appointment be made exclusively from among their existing Officers, the Council will:
 - (i) draw up a statement specifying the duties of the officer concerned and any qualifications or qualities to be sought in the person to be appointed;
 - (ii) make arrangements for the post to be advertised publicly in such a way as is likely to bring it to the attention of persons who are qualified to apply for it (unless the proposed appointment is for a period of 12 months or less); and
 - (iii) make arrangements for a copy of the statement mentioned above to be sent to any person on request.
- (b) Where a post has been advertised as provided above, the Council must:
 - (i) interview all qualified applicants for the post; or
 - (ii) select, or direct appropriate officers to select, a short list of such qualified applicants and interview those included on the short list.
- (c) Where no qualified person has applied, or if the Council decides to re-advertise the appointment, the Council may make further arrangements for advertisement;

- (d) 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.

4.2.2 Appointment of Head of Paid Service

The full council will make the appointment of the Head of Paid Service following the recommendation of a short list for such an appointment by a committee of the Council. That committee must include at least one member of the executive but must not comprise a majority of members of the executive.

4.2.3 Appointment of Chief Officers, Statutory Officers and Deputy Chief Officers

The full Council will appoint statutory chief officers and statutory officers. A committee of the Council may appoint non-statutory chief officers and deputy chief officers. That committee must include at least one member of the executive but must not comprise a majority of members of the executive.

4.2.4 Other appointments

- (a) Officers other than those listed above. Appointment of these officers (other than assistants to political groups) is the responsibility of the Head of Paid Service or their nominee, and may not be made by councillors;
- (b) Assistants to political groups. Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

4.3 Disciplinary action and Investigations

4.3.1 Head of Paid Service, s151 Officer, Monitoring Officer, Head of Democratic Services:

- (a) No disciplinary action (other than action to which paragraph (b) applies) in respect of the head of the authority's paid service (unless the head of the authority's paid service is also a council manager of the relevant authority), its monitoring officer, its s151 officer or its Head of Democratic Services may be taken by the relevant authority, or by a committee, a sub-committee, a joint committee on which the relevant authority is represented or any other person acting on behalf of the relevant authority, 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 [as amended] (investigation of alleged misconduct). The detailed rules appear below;
- (b) The action to which this paragraph applies is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; provided such suspension is on full pay and terminates no later than the expiry of 2 months beginning on the day on which the suspension takes effect.

4.3.2 Investigation of alleged misconduct - Head of Paid Service, s151 Officer, Monitoring Officer, Head of Democratic Services:

- (a) subject to sub-paragraph (k), where it appears to the council that an allegation of misconduct which may lead to disciplinary action has been made against the above officers the council must appoint a committee ("an investigation committee") to consider the alleged misconduct;
- (b) the investigation committee must:
 - (i) consist of a minimum of 3 members of the authority;
 - (ii) be politically balanced in accordance with section 15 of the 1989 Act; and 220
 - (iii) must, within one month of its appointment, consider the allegation of misconduct and decide whether it should be further investigated;
- (c) for the purpose of considering the allegation of misconduct, the investigation committee:
 - (i) may make such enquiries of the relevant officer or any other person it considers appropriate;

- (ii) 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
 - (iii) may receive written or oral representations from the relevant officer or any other person it considers appropriate;
- (d) where it appears to the investigation committee that an allegation of misconduct by the relevant officer should be further investigated, it must appoint a person ("the designated independent person");
- (e) the designated independent person who is appointed:
- (i) must be such person as may be agreed between the relevant authority and the relevant officer within one month of the date on which the requirement to appoint the designated independent person arose; or
 - (ii) where there is no such agreement, must be such person as is nominated for the purpose by the Welsh Ministers;
- (f) the designated independent person:
- (i) may direct:
 - (1) that the relevant authority terminates any suspension of the relevant officer;
 - (2) that any such suspension is to continue after the expiry of the period referred to in 4.3.1(b);
 - (3) that the terms on which any such suspension has taken place are to be varied in accordance with the direction; or
 - (4) that no steps (whether by the relevant authority or any committee, sub-committee or officer acting on behalf of the relevant authority) 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;
 - (ii) may inspect any documents relating to the conduct of the relevant officer which are in the possession of the relevant authority, or which the relevant authority has power to authorise the designated independent person to inspect;
 - (iii) may require any member or member of staff of the relevant authority to answer questions concerning the conduct of the relevant officer; (iv) must make a report to the relevant authority:
 - (1) 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
 - (2) recommending any disciplinary action which appears appropriate for the relevant authority to take against the relevant officer, and
 - (3) must no later than the time at which the report is made send a copy of the report to the relevant officer;
- (g) subject to sub-paragraph (h), the relevant officer and relevant authority must, after consulting the designated independent person, attempt to agree a timetable within which the designated independent person is to undertake the investigation;
- (h) where there is no agreement under sub-paragraph (g), the designated independent person must set a timetable as that person considers appropriate within which the investigation is to be undertaken;
- (i) the relevant authority must consider the report prepared by the independent person within one month of receipt of that report;
- (j) a relevant authority must 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 regulation;
- (k) these rules do not apply in the case of a Head of Paid Service who is also the Council Manager. For the purposes of these rules, 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;
- (l) a disciplinary committee of the Council (excluding those persons who served on the investigation committee) will consider the report along with representations from the

officer against whom allegations are made, in accordance with the Council's detailed disciplinary procedures. An appeal will lie to the full Council from the decision of this committee, except in the case of the Head of Paid Service (in which case the Council will consider an appeal, or approve the recommendation of the committee if no appeal is made).

4.3.3 Other Officers:

- (a) appointment and dismissal of Officers below Chief Officer is the responsibility of the Head of Paid Service or their nominee, and may not be undertaken by councillors;
- (b) Councillors will not be involved in disciplinary action against any Officer below Chief Officer or statutory officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct or where the Council's disciplinary, capability and related procedures, as adopted from time to time, allow a right of appeal to Members.

4.4 Definitions

4.4.1 The following definitions are applicable:

- (a) references to the 1989 Act are to the Local Government and Housing Act 1989;
- (b) Head of Paid Service means the officer designated as the authority's Head of Paid Service under s.4 of the 1989 Act;
- (c) statutory Chief Officer means:
 - (i) the Chief Education Officer or Director of Education appointed under s532 of the Education Act 1996;
 - (ii) the Director of Social Services appointed under s.6 of the Local Authority Social Services Act 1970;
- (d) Non-Statutory Chief Officer means:
 - (i) a person for whom the Head of Paid Service is directly responsible;
 - (ii) any person who is required to report directly or is directly accountable to the local authority themselves or any committee or sub-committee of the authority;
- (e) Deputy Chief Officer means a person who 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);
- (f) s151 Officer means the officer appointed for the purposes of s151 of the Local Government Act 1972, s73 of the Local Government Act 1985 or s112 of the Local Government Finance Act 1988;
- (g) Monitoring Officer means the officer designated under s5(1) of the 1989 Act;
- (h) Head of Democratic Services means the officer appointed under s8 of the Local Government (Wales) Measure 2011;
 - (i) disciplinary action means, in relation to a member of staff of a relevant authority, any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the authority, be recorded on the member of staff's personal file, and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the relevant authority has undertaken to renew such a contract.