

CEREDIGION COUNTY COUNCIL

Report to: Council

Date of meeting: 20 October 2022

Title: Notification of appointment of Interim Corporate Lead Officer- Porth Cynnal and Statutory Director of Social Services for a 6 month period

Purpose of the report: To notify Council of the appointment of an Interim Corporate Lead Officer - Porth Cynnal and Statutory Director of Social Services for a 6 month period

For: Information

**Cabinet Portfolio and
Cabinet Member:** Councillor Bryan Davies
Leader of the Council

Background

The current Corporate Lead Officer – Porth Cynnal and Statutory Director of Social Services, Ms Sian Howys, will be retiring from the role on 31 October 2022.

There are currently well documented recruitment challenges in the social care sector across the UK and at all levels. Following its implementation at the beginning of this year, the Through Age and Wellbeing programme continues to develop and the need for an experienced leader to be able to immediately continue this progress is seen a critical. The post of Corporate Lead Officer – Porth Cynnal also holds the responsibility of being the Council’s Statutory Director of Social Services, a role required under the Social Services and Well-Being (Wales) Act 2014 tasked with providing strategic leadership to effectively deliver care and support services.

Taking these issues into consideration a proposal to appoint a six-month interim Corporate Lead Officer – Porth Cynnal via a recruitment agency was accepted by the Leader of the Council, Councillor Bryan Davies along with both Opposition Group Leaders, Councillors Elizabeth Evans and Gareth Lloyd.

The Local Authorities (Standing Orders) (Wales) Regulations (2006) (as amended) Schedule 1, as contained within Document H, Officer Employment Procedure Rules, of the Council’s Constitution (see Appendix A), allows for the appointment of a chief officer under an interim arrangement, provided that it lasts for a period of no longer than 12 months. This process has been used previously for the appointment of an interim Corporate Director in November 2020 and an interim Corporate Lead Officer – People and Organisation in December 2020.

Appointment of Interim Corporate Lead Officer: Porth Cynnal

On Monday, 3 October 2022, a panel under the chair of Cllr Bryan Davies, Leader of the Council, interviewed Ms Audrey Somerton-Edwards, a qualified social worker with significant senior management experience.

After consideration it was resolved to engage with Ms Somerton-Edwards' services for a period of six months as Interim Corporate Lead Officer – Porth Cynnal and Statutory Director of Social Services on an agency basis. The engagement in this role will start on 17 October 2022.

Recruitment to permanent role of Corporate Lead Officer - Porth Cynnal and Statutory Director of Social Services

The interim appointment will allow for a comprehensive recruitment campaign to be undertaken for the permanent appointment of a Corporate Lead Officer - Porth Cynnal and Statutory Director of Social Services. The appointment process will be as prescribed in Part 3.3 (Table 3) in the Constitution which requires that a Shortlisting Committee be established of 7 Elected Members. The Committee is required to produce a shortlist of qualified applicants for the role, to interview the applicants if needs be before recommending their appointment to Council for approval.

	Has an Integrated Impact Assessment been completed? If, not, please state why	No – not a policy or service change.
Wellbeing of Future Generations:	Summary: Long term: N/A Integration: N/A Collaboration: N/A Involvement: N/A Prevention: N/A	
Recommendation(s):	To note the engagement of Ms Audrey Somerton-Edwards services as Interim Corporate Lead Officer - Porth Cynnal and Statutory Director of Social Services on an agency basis for a 6-month period from 17 October 2022.	
Reasons for decision:	To notify Council of the appointment of an Interim Corporate Lead Officer- Porth Cynnal and Statutory Director of Social Services.	
Overview and Scrutiny:	N/A	
Policy Framework:	Council's Constitution	
Corporate Priorities:	To support the delivery of the Council's Corporate Priorities: <ul style="list-style-type: none">• Boosting the Economy• Investing in People's Futures	

- Enabling Individual and Family Resilience
- Promoting Environmental and Community Resilience

Finance and Procurement implications:

Ms Somerton-Edwards has been engaged on an agency basis, the rate needs to be classed as commercially sensitive. Consequently, the relevant information is contained in an exempt item (Appendix B - EXEMPT)

Legal Implications:

None

Staffing implications:

Appointment of an Interim Corporate Lead Officer - Porth Cynnal and Statutory Director of Social Services for a period of 6 months.

Property / asset implications:

None

Risk(s):

- Failure to appoint to a Statutory Director of Social Services will result in the Council not complying with Section 144 of the Social Service and Well-being (Wales) Act 2014, which will alert Care Inspectorate Wales, the social care sector Regulator.
- Failure to appoint an experienced social care senior manager will negatively impact the development of the Through age and Well-being programme at a critical time

Statutory Powers:

- Local Authorities (Standing Orders) (Wales) Regulations 2006 (as amended) Schedule 1, Part 1;
- Section 144 of the Social Service and Well-being (Wales) Act 2014.

Background Papers:

None

Appendices:

- A) Officer Employment Procedure Rules in Document H
- B) Exempt Item

Reporting Officer:

Eifion Evans, Chief Executive

Date:

10 October 2022

Document H

OFFICER EMPLOYMENT PROCEDURE RULES



Author and service:

Date approved by Council: 21 March 2019

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Review Date: March 2021

Officer Employment Procedure Rules

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OFFICER EMPLOYMENT PROCEDURE RULES

EXPLANATORY

These Procedure Rules are intended to comply with the provisions of the Local Authorities (Standing Orders) (Wales) Regulations 2006 as amended by the Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2014 (“the Regulations”).

In the event of any conflict between these Procedure Rules and the Regulations, the Regulations take precedence.

INTERPRETATION

“The 1989 Act”	the Local Government and Housing Act 1989;
“the 2000 Act”	the Local Government Act 2000;
“Chief Officer”	has the same meaning as in the Local Authorities (Standing Orders)(Wales) Regulations 2006, namely: the the Monitoring Officer (designated under s.5(1) of the 1989 Act); a statutory chief officer mentioned in paragraph (a), (c) or (d) of section 2(6) of the 1989 Act (which includes the Chief Finance Officer); or a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act; and also the Chief Executive (designated under s.54 of the Local Government and Elections (Wales) Act 2021).
“disciplinary action”	means any action occasioned by alleged misconduct which, if proved, would 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 an undertaking has already been given to renew such a contract;

1. RECRUITMENT AND APPOINTMENT

1.1 Declarations

1.1.1 The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or officer of the Council; or of the partner of such persons.

1.1.2 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 him/her.

1.2 Seeking support for appointment

1.2.1 Subject to paragraph 1.2.3, 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.

1.2.2 Subject to paragraph 1.2.3 no Councillor will seek support for any person for any appointment with the Council.

1.2.3 Nothing in paragraphs 1.2.1 and 1.2.2 above will preclude a Councillor or the mayor from giving a written reference for a candidate for submission with an application for appointment.

1.3 Restriction on the Appointment of Members as Officers

1.3.1 An Officer of the Council is disqualified from being a Member of the Council while they remain an Officer.

2. RECRUITMENT OF CHIEF EXECUTIVE, CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS

Where the Council proposes to appoint a Chief Officer (as defined above) and it is proposed that the remuneration of the Chief Officer post be £100,000 or more per annum, the Council will:

2.1 draw up a statement specifying:

2.1.1 the duties of the officer concerned; and

2.1.2 any qualifications or qualities to be sought in the person to be appointed;

2.2 subject to paragraph 2.4 below make arrangements for the post to be publicly advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

2.3 make arrangements for a copy of the statement mentioned above to be sent to any person on request.

2.4 Sub-paragraph 2.2 above will not apply in the event that the Council proposes to appoint a Chief Officer for a period of no longer than 12 months.

2.5 Where a post has been advertised the Council must –

2.5.1 interview all qualified applicants for the post, or

2.5.2 select a short-list of qualified applicants and interview those included on the short list.

2.6 Where no qualified person has applied, or if the Council decides to re-advertise the appointment, the Council may make further arrangements in accordance with paragraph 2.2 above.

2.7 Full Council must approve the appointment of the Chief Executive.

2.8 Full Council must approve the level, and any change in the level of remuneration to be paid to a Chief Officer.

3. DISCIPLINARY PROCEDURE

1. The Regulations set out mandatory requirements in respect of disciplinary, capability or other similar issues arising in relation to the Chief Executive, the Monitoring Officer, the Section 151 Officer and the Head of Democratic Services (“a relevant officer”). This procedure is intended to give effect to the Regulations.
2. For the avoidance of doubt, this procedure also applies to any alleged breakdown of trust and confidence between the relevant officer and the Council.
3. 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.

General

4. The principles of natural justice will govern the conduct of any proceedings against a relevant officer. Due regard will be had to the principles of the ACAS Code of Practice on Disciplinary and Grievance Procedures.
5. The parties recognise that from time to time it may be necessary to depart from the provisions of this procedure, according to the particular circumstances of the case.
6. This procedure does not form part of a relevant officer’s contract of employment and may be amended at any time, subject to compliance with the Regulations.
7. The relevant officer will be entitled to be accompanied at all stages of this procedure.

Procedure

Initial allegations

8. Any allegations of misconduct should be notified to the Corporate Lead Officer People & Organisation who will be the responsible officer for this purpose.
9. The responsible officer will then make arrangements for an investigating & disciplinary committee to be appointed to consider the alleged misconduct.

Investigating and disciplinary Committee

Ceredigion County Council Constitution - Part 4 Rules of Procedure

PART 4 DOCUMENT H Officer Employment Rules

Approved by Council 21 March 2019. Updated July 2022

10. The investigating & disciplinary committee must:-
 - 10.1 consist of a minimum of 3 members;
 - 10.2 include at least one member of the Council's Cabinet; and
 - 10.3 be politically balanced in accordance with s.15 of the 1989 Act.
11. The responsible officer will prepare a report with regard to the allegations and send a copy to the relevant officer and the investigating & disciplinary committee. A date will be set for the committee to meet.
12. The investigating & disciplinary committee must, within 1 month of its appointment, meet to consider the allegation of misconduct and decide whether it should be further investigated.

For the purpose of considering the allegation of misconduct, the investigating & disciplinary committee:

 - 12.1 may make such enquiries of the relevant officer or any other person it considers appropriate;
 - 12.2 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
 - 12.3 may receive written or oral representations from the relevant officer or any other person it considers appropriate.
13. Where it appears to the investigating & disciplinary committee that an allegation of misconduct by the relevant officer should be further investigated, it must appoint a person ("the designated independent person").

Suspension

14. The investigating and disciplinary committee will need to consider whether suspension is appropriate. This may be necessary if an allegation is such that if proven it would amount to gross misconduct. It may also be necessary if the continuing presence of the relevant officer might compromise the investigation or impair the efficient exercise of the Council's functions.
15. In any case the relevant officer shall be informed of the reason for the proposed suspension and have the right to present information before any such decision is taken.

16. Any suspension must not last longer than 2 months unless the designated independent person has used his/her power to direct an extension to that period.

Designated Independent Person

17. The designated independent person

17.1 must 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

17.2 where there is no such agreement, must be such a person as is nominated for the purpose by the Welsh Ministers.

18. The designated independent person –

18.1 may direct –

- that the Council terminate any suspension of the relevant officer;
- that any such suspension is to continue after the expiry of the 2 month period referred to in paragraph 16 above or that the terms on which any such suspension has taken place are to be varied in accordance with the direction; or
- that no steps (whether by the Council or any committee, sub-committee or officer acting on behalf of the Council) 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 18.4;

18.2 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 power to authorise the designated independent person to inspect;

18.3 may require any member or member of staff of the Council to answer questions concerning the conduct of the relevant officer;

18.4 must make a report to the Council –

- 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

- recommending any disciplinary action which appears appropriate for the Council to take against the relevant officer, and

18.5 must no later than the time at which the report is made under subparagraph 18.4 send a copy of the report to the relevant officer.

19. Subject to paragraph 20, the relevant officer and investigating & disciplinary committee, after consulting the designated independent person, attempt to agree a timetable within which the designated independent person is to undertake the investigation.
20. Where there is no agreement under paragraph 19, the designated independent person must set a timetable as that person considers appropriate within which the investigation is to be undertaken.
21. The Council 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.
22. The designated independent person's report will be sent to the Council (via the Chair of the investigating & disciplinary committee) and to the relevant officer simultaneously.

Meeting of the Investigating & Disciplinary Committee

23. The investigating & disciplinary committee must meet to consider the report prepared under paragraph 18.4 within 1 month of receipt of that report, and is required to take a decision on the basis of the designated independent person's report. The Investigating Committee can impose a lesser sanction than that recommended by the designated independent person but cannot impose a greater sanction.
24. The relevant officer or his/her representative will be permitted to address the investigating & disciplinary committee meeting prior to it carrying out its deliberations.
25. The investigating & disciplinary committee may, having considered any other associated factors:-
 - take no further action;
 - recommend informal resolution or other appropriate procedures;
 - refer back to the designated independent person for further investigation and report;

- take disciplinary action against the relevant officer short of dismissal
 - propose dismissal of the relevant officer to the Council.
26. The decision of the investigating & disciplinary committee will be communicated to the parties in writing setting out the reasons for the decision.

Appeal Process

27. In the event that the investigating and disciplinary committee proposes dismissal, any such dismissal must be referred to full Council for approval before any such notice is issued. In view of this requirement the meeting of the full Council will fulfil the function of an appeal meeting.
28. The Council will consider the proposal from the investigating & disciplinary committee that the relevant officer should be dismissed. The relevant officer (or his/her representative) will have the opportunity to put his/her case to the council before a decision is taken. The decision taken by full Council will be final.
29. In the event that the investigating and disciplinary committee takes action short of dismissal, the relevant officer may appeal to the Appeals Committee. The Appeals Committee will consider the report of the designated independent person and any other relevant information considered by the investigating & disciplinary committee and the relevant officer will have the opportunity to state their case.
30. The Appeals Committee will give careful consideration to these matters and reach a decision. The decision of the Appeals Committee will be final.