

OFFICER EMPLOYMENT PROCEDURE RULES



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Officer Employment Procedure Rules

Page

Table of Contents

<u>EXPLANATORY</u>	<u>2</u>
<u>INTERPRETATION</u>	<u>2</u>
<u>1. RECRUITMENT AND APPOINTMENT</u>	<u>3</u>
<u>2. RECRUITMENT OF CHIEF EXECUTIVE, CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS (Chief Executive, Corporate Directors and Corporate Lead Officers)</u>	<u>4</u>
<u>3. RECRUITMENT OF CHIEF EXECUTIVE, CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS (Chief Executive, Corporate Directors and Corporate Lead Officers):</u>	<u>5</u>
<u>4. DISCIPLINARY PROCEDURE</u>	<u>76</u>
<u>EXPLANATORY</u>	<u>2</u>
<u>INTERPRETATION</u>	<u>2</u>
<u>1. RECRUITMENT AND APPOINTMENT</u>	<u>3</u>
<u>2. RECRUITMENT OF CHIEF EXECUTIVE, CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS</u>	<u>4</u>
<u>3. DISCIPLINARY PROCEDURE</u>	<u>5</u>

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 (Chief Executive, Corporate Directors and Corporate Lead 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.

2.5.3 a Shortlisting Committee made up of 7 Councillors and is politically balanced is arranged to determine the shortlist and to interview those included on the shortlist. The Shortlisting Committee will be nominated by the Group Leaders.

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.

2.9 Paragraphs 2.1 to 2.6 above will also apply where the Council proposes to permanently appoint a Chief Officer at any level of remuneration.

3. RECRUITMENT OF CHIEF EXECUTIVE, CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS (Chief Executive, Corporate Directors and Corporate Lead Officers):

- WHERE REMUNERATION IS GREATER THAN £100,000 FOR A PERIOD NO LONGER THAN 12 MONTHS; OR
- WHERE REMUNERATION IS LESS THAN £100,000 FOR A PERIOD NO LONGER THAN 24 MONTHS

Where the Council proposes to appoint a Chief Officer (as defined above):

- where remuneration is greater than £100,000 for a period no longer than 12 months; or
- where remuneration is less than £100,000 for a period no longer than 24 months,

the Council will:

3.1 draw up a statement specifying:

3.1.1 the duties of the officer concerned; and

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

3.2 make arrangements for the post to be internally and / or 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

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

3.4 Where a post has been advertised the Council must –

3.4.1 interview all qualified applicants for the post, or

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

3.4.3 an Appointments Panel made up of the Council's Group Leaders (or their nominated representatives) is arranged to interview those included on the short list

3.4.4 the Appointments Panel will appoint the successful candidate and determine their remuneration.

3.5 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 3.2 above.

3.6 The appointment of a Chief Executive, Chief Officers and Deputy Chief Officers (as defined above) where the remuneration is greater than £100,000 for a period no longer than 12 months; or where the remuneration less than £100,000 for a period no longer than 24 months, must be reported to the next available Full Council meeting, which will also include their remuneration and period of appointment.

43. 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

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.