

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL
CYNGOR BWRDEISTREF SIROL CASTELL-NEDD PORT TALBOT

COUNCIL – 16TH AUGUST 2006

JOINT REPORT OF THE HEAD OF LEGAL SERVICES; THE
HEAD OF DEMOCRATIC SERVICES and THE HEAD OF
STRATEGIC PERSONNEL

THE LOCAL AUTHORITIES (STANDING ORDERS) (WALES)
REGULATIONS 2006

1. The Assembly has just made the above Regulations which will require all Local Authorities to introduce formal standing orders in relation to staff appointments and staff discipline, and also in relation to certain Council proceedings.
2. Some of the Regulations are already covered in the Council's Constitution eg procedures in respect of any disciplinary action against the Head of Paid Service, the Finance Officer or Monitoring Officer, including the requirement to engage an Independent Person; and recording of votes/signing of minutes – but some adjustments are needed in line with the new Regulations.
3. But under Regulation 5 and Part 2 of Schedule 3, the function of the appointment and dismissal of, and taking disciplinary action against, all other staff besides the Chief Executive, Chief Officers and Heads of Service (and school staff to whom regulations under the Education Act 2002 apply) must now be discharged by the Head of Paid Service or by an officer nominated by him – but not by Members. Thus the proposals in this respect of the Head of Paid Service are set out in paragraph 4 of the revised Officer Employment Procedure Rules as attached – in effect that the shortlisting and appointments for posts scp 39 and above (currently dealt with by the Member Appointments Sub Committee) be dealt with by the Corporate Director or Head of Service. The existing disciplinary procedures involving the discharge of functions by officers are also proposed by him to be affirmed. The exercise of these appointment and disciplinary arrangements will involve

specialist Personnel Officer support; consistent application of recruitment methodologies; and appropriate training.

4. However, while the Regulations also permit Heads of Service appointments to be made by Officers, the Regulations still allow a special Member Committee to deal with such matters (provided the Committee has at least one member of the executive, and that not more than half of the membership are executive members). And so the attached proposed local Rules continue with that Member arrangement, plus the appointment of Chief Officers by full Council.
5. On disciplinary matters, while the Regulations similarly permit Officers to deal with staffing appeals, the Regulations also allow Members to be involved in those appeals, so again there are no changes proposed to the current arrangements involving the Member Appeals Committee. For Chief Officers and Heads of Service, the Regulations will also allow Member involvement in disciplinary action through a special Committee, with a composition as set out in paragraph 4 above.
6. For the Head of Paid Service, the Finance Officer or Monitoring Officer, there are other special arrangements in force whereby any alleged misconduct must be considered by an Investigation Committee of 3 members, politically balanced; the process must also involve a designated Independent person; and any final decision regarding the Head of Paid Service can only be taken by full Council.
7. When the Regulations were first drafted for consultation, representations were made to the National Assembly to allow discretion to Authorities with regard to the extent of member involvement in appointments, as it was considered reasonable to have a Member Sub Committee dealing with appointments at scp 39 and above - and locally of course Members had already determined that Officers should deal with all appointments at scp 38 and below. However, the Regulations have now been made in the form as set out in this report, hence the recommendations in this report.

Recommendations

That the requirements for Standing Orders pursuant to the Local Authorities (Standing Orders) (Wales) Regulations 2006 be given effect by way of approval of Appendices 1 and 2 hereto – in particular

- (i) Appendix 1 “Officer Employment Procedure Rules” to replace the existing Rules;
- (ii) Appendix 2 “Council Procedure Rules” to replace the existing Rules 14.6 and 15.2.

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Background Papers – the Local Authorities (Standing Orders)
(Wales) Regulations 2006

Appendix 1 - new Rules to replace the existing

OFFICER EMPLOYMENT PROCEDURE RULES

These Rules are designed to conform with the requirements of the Local Authorities (Standing Orders) (Wales) Regulations 2006 (“the Regulations”). Some of the Rules are also locally determined but in the event of any conflict with the Regulations, the latter shall prevail. The Rules covered by the Regulations cannot be amended other than by legislation. These Rules need to be read in conjunction with the full Regulations, a copy of which is available from Legal Services.

In these Rules, the following terms have the meaning prescribed by the Regulations :

(a) “Chief Officer” means the Head of its Paid Service ; a statutory Chief Officer in paragraph (a), (c) or (d) of Section 2(6) of the Local Government and Housing Act 1989; a non statutory Chief Officer within the meaning of Section 2(7) of the 1989 Act above; the Monitoring Officer; and any reference to an appointment or purported appointment of a Chief Officer includes a reference to the engagement or purported engagement of such an Officer under a contract of employment

(b) “Head of Paid Service” means the officer designated under Section 4(1) of the 1989 Act above

(c) “Chief Finance Officer” means the officer having responsibility for the purposes of Section 151 of the Local Government Act 1972

(d) “Monitoring Officer” means the officer designated under Section 5(1) of the 1989 Act above

(e) “Deputy Chief Officer” means a person within the meaning of Section 2(8) of the 1989 Act above

(f) “disciplinary action” in relation to a member of staff of the Council means any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the Council, 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

(g) “member of staff“ means a person appointed to or holding a paid office or employment, under the Council.

1. Recruitment and appointment

1.1 Declarations

The Council will require any candidate for appointment 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 senior officer of the Council at Head of Service level or above; or of the partner of such persons.

1.2 Seeking support for appointment.

i) the Council will disqualify any applicant who directly or indirectly seeks the support of any officer involved in the appointments process (other than as referee) or councillor, for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

ii) no councillor will seek support for any person for any appointment with the Council.

iii) no councillor shall give a written or oral testimonial of the candidate’s ability, experience or character for submission to the Council with an application for an appointment.

2. Recruitment of Chief Officers

2.1 The full Council shall shortlist applicants and shall appoint Chief Officers ie in Neath Port Talbot the Chief Executive and Corporate Directors (but not the Monitoring Officer).

2.2 Where the Council proposes to appoint a Chief Officer (within the meaning of the Regulations) and it is not proposed that the appointment be made exclusively from among its existing officers, it must —

(a) draw up a statement specifying —

(i) the duties of the officer concerned, and

(ii) any qualifications or qualities to be sought in the person to be appointed;

- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
 - (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.
- 2.3 (i) Where a post has been advertised as provided in paragraph 2.2 (b), the Council shall -
- (a) interview all qualified applicants for the post, or
 - (b) select a short list of such qualified applicants and interview those included on the short list.
- (ii) Where no qualified person has applied, or if the Council decides to re-advertise the appointment, the Council may make further arrangements for advertisement in accordance with paragraph 2.2(b).
- 2.4 Where the duties of a chief officer include the discharge of functions of two or more relevant authorities in pursuance of section 101(5) of the Local Government Act 1972 —
- (a) the steps taken under paragraph 2.2 or 2.3 above may be taken by a joint committee of those relevant authorities, a sub-committee of that committee or a chief officer of any of the relevant authorities concerned; and
 - (b) any 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 relevant authorities.

3. Appointment of Monitoring Officer and Deputy Chief Officers

3.1 The Special Appointments Committee will shortlist applicants and appoint the Monitoring Officer and Deputy Chief Officers (ie in Neath Port Talbot the Heads of Service). The relevant Regulatory Committee Chair may also attend the Committee in an advisory capacity.

3.2 The Special Appointments Committee shall be constituted in accordance with the provisions of Paragraph 4 (2) of Part 2 of Schedule 3 of the Regulations – which means that at least one member of the executive must be a member of that Committee, but not more than half of the members of the Committee are to be members of the executive.

4. Other Appointments

4.1 The function of appointment of a member of staff of the Council (other than Chief Officers, Deputy Chief Officers, and persons to whom regulations made under Section 35(4) and (5) of the Education Act 2002 apply – teachers and other staff of schools) must be discharged, on behalf of the Council, by the Head of Paid Service or by an officer nominated by the Head of Paid Service. Accordingly, the following shortlisting and appointment arrangements shall apply in respect of all appointments below Deputy Chief Officer level:

<u>Posts</u>	<u>Method</u>
With pay scale commencing at scp 39 and above, or equivalent.	Chief Officer or Deputy Chief Officer
With pay scale commencing at scp 38 and below, or equivalent	Chief Officer or Deputy Chief Officer or Accountable Manager or Line Manager

Other appointment provisions

4.2 The starting salary for all posts, other than those graded in accordance with salary scale 1, will normally be at the minimum point of the scale, but the starting point may be other than the minimum at the discretion of the authorised Officer making the appointment.

4.3 For appointments of:-

- (i) Officers and Assistant Officers in Charge of Residential childrens establishments and
- (ii) basic grade social workers working with children,

these appointments are to be carried out by a Panel of three Officers in accordance with the recommendations as set out in the Adrienne Jones and Warner Reports.

4.4 For joint appointments with schools, representative Headteachers will be involved in the appointment at shortlisting and interview stages.

4.5 The Director of Education, Leisure and Lifelong Learning is also required to give statutory advice to School Governing Bodies on the appointment and dismissal of persons to whom regulations made under section 35(4) and (5) of the Education Act 2002 apply.

5. Disciplinary action and Dismissal

5.1 The function of dismissal of, and taking disciplinary action against, a member of staff of the Council (other than Chief Officers, Deputy Chief Officers, and persons to whom regulations made under Section 35(4) and (5) of the Education Act 2002 apply – teachers and other staff of schools) must be discharged, on behalf of the Council, by the Head of Paid Service or by an officer nominated by the Head of Paid Service. Accordingly, the disciplinary procedures set out the Officer functions.

5.2 Where a Committee or Sub Committee or Officer is discharging on behalf of the Council, the function of dismissal of an officer designated as the Head of Paid Service, the Council must approve that dismissal before notice of dismissal is given. The power to approve the dismissal of the Head of Paid Service must be exercised by the Council itself, and accordingly Section 101 of the Local Government Act 1972 does not apply to the exercise of that power.

5.3 Where a Committee or Sub Committee is discharging on behalf of the Council the function of the dismissal of Head of Paid Service, Chief Officer or Deputy Chief Officer within the meaning of the Regulations, any such Committee or Sub Committee shall be constituted in accordance with the provisions of Paragraph 4 (2) of Part 2 of Schedule 3 of the Regulations – which means that at least one member of the executive must be a member of that Committee, but not more than half of the members of the Committee are to be members of the executive.

5.4 Nothing in the paragraphs above prevents a person from serving as a member of any Committee or Sub Committee established by the Council to consider an appeal by a member of staff of the of the Council against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

5.5 Disciplinary Action or dismissal of teachers and other staff of schools employed by the local education authority is dealt with by regulations made under Section 35(4) and (5) of the Education Act 2002.

5.6. In respect of the Head of Paid Service; Chief Finance Officer; and Monitoring Officer, the following provisions shall apply:-

(i) In paragraph (ii), “head of the authority’s paid service”; “chief finance officer”; “monitoring officer”; and “disciplinary action” have the same meaning as in Regulation 2 of the Regulations, and “designated independent person” has the same meaning as in Regulation 9 of those Regulations.

(ii) No disciplinary action (other than action to which paragraph (iii) applies) in respect of the head of the authority’s paid service, the chief finance officer or the monitoring officer, may be taken by the Council, or by a committee or a sub-committee (or a joint committee on which the Council is represented or any other person acting on behalf of the Council), other than in accordance with a recommendation in a report made by a designated independent person under Regulation 9 of the Regulations

(iii) 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 two months beginning on the day on which the suspension takes effect.

(iv) The procedures under Regulation 9 of the Regulations must apply in respect of any investigation of alleged misconduct against the head of the authority’s paid service, the chief finance officer or the monitoring officer.

5.7 All members of staff shall be subject to the relevant approved disciplinary procedures and every member of staff shall have rights of appeal as set out in those procedures against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

Appendix 2 – Replacement of existing Rules 14.6 and 15.2 by those below

COUNCIL PROCEDURE RULES

14.6 – Right to require individual vote to be recorded

(Mandatory provision under the Local Authorities (Standing Orders)(Wales) Regulations 2006)

Where, immediately after a vote is taken at a meeting, any member so requires, there must be recorded in the minutes of the proceedings of that meeting whether that person cast a vote for the question or against the question or whether that person abstained from voting. In this paragraph, a meeting means of the Council, a committee or sub-committee of the Council or a relevant joint committee or sub-committee of such a committee.

15.2 - Signing minutes – extraordinary meetings

(Mandatory provision under the Local Authorities (Standing Orders) (Wales) Regulations 2006)

Where in relation to any meeting of the Council, the next such meeting is a meeting called under paragraph 3 (extraordinary meetings) of Schedule 12 to the Local Government Act 1972, the next following meeting of the Council (being a meeting called otherwise than under that paragraph) must be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of that Schedule.
