

ITEM 1
PART 1 SECTION A

AMENDMENTS TO CONSTITUTION

1.1. Purpose of Report

To advise Members of changes which are required to the Council's Employment Procedure Rules as a result of new Welsh Government Regulations and to review Standing Orders in relation to the Standards Committee to bring them into line with existing Regulations and to obtain approval for amendment to the Constitution in both cases.

1.2. Officer Employment Procedure Rules

1.2.1. In 2006 a set of Regulations were introduced which required Local Authorities to make certain provisions in their Standing Orders relating to the employment and discipline of various posts and grades of staff concentrating on Chief Officers. The Welsh Government have now introduced the Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2014 which amend the Regulations of 2006.

1.2.2. The changes required by the Regulations are a statutory requirement and the Council has no discretion but to apply these changes.

1.2.3. The new Regulations require all decisions on the remuneration of Chief Officers to be taken by full Council. Where the Council proposes to appoint a Chief Officer and the remuneration it proposes to pay is over £100,000 per annum the vacancy must be advertised externally. This does not apply where the Authority proposes to appoint a Chief Officer for a period of no longer than twelve months.

1.2.4. The Regulations also make some more minor changes in relation to disciplinary action against the Monitoring Officer or Head of Democratic Services.

1.2.5. The proposed new officer Employment Procedure Rules are set out in the appendix to this report. Although the Head of Human Resources has had an opportunity to look at this draft it is my intention to undertake a more thorough review to see whether we can improve the presentation and readability of these Rules although we do have to follow the statutory wording.

1.2.6. Members will know that there has been a certain amount of publicity recently about officers preparing and presenting reports which affect them in some way either by way of benefit or dis-benefit. In the absence of any clear guidance from the Wales Audit Office on this issue generally and in light of the fact that these changes are mandatory, then I can see no objection to this report being prepared and presented by and in the presence of officers affected by it in some way.

1.3. Recommendation

That Council adopt the Officer Employment Procedure Rules set out in the Appendix to the report in substitution for the existing Officer Employment Procedure Rules.

1.4. Background Papers

Officer Employment Procedure Rules.

1.5. Wards Affected

All

1.6. Officer Contact

For further information on this report please contact:-
Mr. D. Michael, Head of Legal Services and Monitoring Officer Tel. No. 763368 or e-mail d.michael@npt.gov.uk

APPENDIX

Officer Employment Procedure Rules

These Rules are designed to conform with the requirements of the Local Authorities (Standing Orders) (Wales) Regulations 2006 (“the Regulations”) as amended by the Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2014 (“the Amending 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 and Amending Regulations, copies of which are 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 (“the 1989 Act”); a non-statutory Chief Officer within the meaning of Section 2(7) of the 1989 Act above; the Monitoring Officer and Head of Democratic Services; 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.
- (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.
- (e) “Head of Democratic Service” means the officer designated under Section 8 of the Local Government (Wales) Measure 2011.
- (f) “Deputy Chief Officer” means a person within the meaning of Section 2(8) of the 1989 Act.

(g) “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. ¹

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

(i) “remuneration” has the same meaning as in Section 43(43) of the Localism Act 2011

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.

1.2.1. 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.

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

1.2.3. 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.

¹ This definition derives from Regulation 2 of the Regulations
COUN-030914-REP-FS-DM

2. **Recruitment of Chief Officers**

- 2.1. Where the Council propose to appoint a Chief Officer within the terms of the Regulations and the remuneration which it proposes to pay to the Chief Officer is £100,000 or more per annum it shall take the steps set out in paragraph 2.2.3.
- 2.2. Where the Council proposes to appoint a Chief Officer and where it is not proposed to pay to the Chief Officer the remuneration mentioned in paragraph 2.1. and it is not proposed that the appointment be made exclusively from among its existing officers it shall take the steps set out in paragraph 2.2.3.
 - 2.2.3. The Council shall:-
 - (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.
 - 2.2.4. The requirement to advertise contained in paragraph 2.2.3. (b) does not apply where the proposed appointment under paragraph 2.1. is for a period of no longer than twelve months.
- 2.3.1. Where the Chief Executive (acting on the advice of the Head of Human Resources) considers that the number of qualified applicants for a vacancy make it difficult for the Special Appointments Committee to prepare a final shortlist for consideration by Council then the Chief Executive may compile and submit an initial list of qualified applicants for consideration by the Special Appointments Committee.
- 2.3.2. In exercising the delegation set out in rule 2.3.1. the Chief Executive shall consider the views of the Head of Human Resources, the Leader of Council and the Leader of the largest non-executive political group.

- 2.3.3. In cases other than as set out in Rule 2.3.1. the Chief Executive shall refer all qualified applicants to the Special Appointments Committee.
- 2.3.4. The Special Appointments Committee shall either:-
- (a) Refer all qualified applicants submitted to it by the Chief Executive to full Council for selection, or
 - (b) Compile a shortlist of qualified applicants from the qualified applicants submitted to it by the Chief Executive and refer that shortlist to full Council for selection.
- 2.4. 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.
- 2.5. The Council shall interview all applicants referred to it for interview by the Special Appointments Committee in accordance with Paragraph 2.3.4.
- 2.6. 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 procedure rule 2.2(b).
- 2.7. 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 or section 20 Local Government Act 2000 and the authorities have agreed that it will be a joint appointment -
- 2.7.1 the steps taken under paragraph 2.2.3., 2.3.4., 2.5. and 2.6. above may be taken by a joint committee of those relevant authorities, a subcommittee of that committee or a chief officer of any of the relevant authorities concerned; and
 - 2.7.2. any chief officer may be appointed by such a joint committee, a subcommittee of that committee or a committee or sub-committee of any of those relevant authorities.
- 2.8 The Council shall determine the level, and any change in the level, of remuneration to be paid to a Chief Officer

2.9. The full Council shall make all decisions relating to the appointment of the Head of Paid Service.

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:-

4.3.1. Officers and Assistant Officers in Charge of Residential children's establishments and

4.3.2. 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, Chief Finance Officer, 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 For the purposes of Paragraphs 5.1 and 5.7, Chief Officers, Deputy Chief Officers and Chief Finance Officer shall be taken to include any officer identified in paragraph 5.1 who was, but at the time of the proposed disciplinary action no longer is, one of these officers and the alleged misconduct or, as the case may be, the reason for the proposal for dismissal, occurred during the period when the officer was an officer identified in paragraph 5.1
- 5.3 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.
- 5.4 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.
- 5.5 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 Council against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.
- 5.6 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.

- 5.7. In respect of the Head of Paid Service; Chief Finance Officer; Head of Democratic Services and Monitoring Officer, the following provisions shall apply:-
 - 5.7.1. In paragraph 5.7.2., “head of the authority’s paid service”; “chief finance officer”; “monitoring officer”; “head of democratic services” 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.
 - 5.7.2. No disciplinary action (other than action to which paragraph 5.7.3. applies in respect of the head of the authority’s paid service, the chief finance officer, the monitoring officer and the Head of Democratic Services, 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
 - 5.7.3. 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.
 - 5.7.4. 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, the monitoring officer or the Head of Democratic Services.
- 5.8. The full Council must determine any matter relating to the dismissal of the Head of Paid Service
- 5.9. 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

ITEM 2

PART 1 SECTION A

STANDARDS COMMITTEE

2.1. Purpose of Report

To advise Members of changes which are required to the Council's Employment Procedure Rules as a result of new Welsh Government Regulations and to review Standing Orders in relation to the Standards Committee to bring them into line with existing Regulations and to obtain approval for amendment to the Constitution in both cases.

2.2. Background

2.2.1. The Regulations covering the Constitution etc of Standards Committees in Wales are found in the Standards Committees (Wales) Regulations 2001 as amended in 2006. Recently we have looked at the term of office of the members of Standards Committee and have concluded that it would be appropriate to bring the Standing Orders in relation to our own Standards Committee into line with the maximum periods of office as set out in the Regulations.

2.3. Recommendations

1. That the Community Council member and any substitute should be appointed for no more than four years or until the next election of the Community Council of which they are a member whichever is the shorter subject to reappointment for one further consecutive term.
2. That independent members shall be appointed for not less than four year no more than six subject to one further consecutive term which cannot then exceed four years.
3. That the Chairperson and Vice Chairperson of the Standards Committee shall be elected by the members of that Committee from its independent members for a period of not less than four no more than six years or until the term of office of that person comes to an end. **Note** this would allow the Chair or Vice Chair to serve a second term as an independent member.

2.4. Background Papers

Standards Committees (Wales) Regulations 2001 as amended in 2006

2.5. Wards Affected

All

2.6. Officer Contact

For further information on this report please contact:-

Mr. D. Michael, Head of Legal Services and Monitoring Officer Tel. No. 763368 or e-mail d.michael@npt.gov.uk