

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

**COUNCIL  
21 February, 2018**

**REPORT OF THE CHIEF EXECUTIVE**

**SECTION A – MATTER FOR DECISION  
WARDS AFFECTED: ALL**

**CHANGES TO THE AUTHORITY’S CONSTITUTION**

**Purpose of the Report**

To make amendments to the Authority’s Constitution in order to more properly reflect the balance between Executive and non Executive Members on the Special Appointments Committee. The Officer Employment Procedure Rules are proposed for amendment by the Monitoring Officer and are attached hereto for approval.

**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 Regulations under which the Rules are made cannot be amended other than by legislation. In these Rules, the following terms have the meanings prescribed below:

- (a) A “Chief Officer” in NPTCBC means the following Officers:
  - (i) The Head of its Paid Service under Section 4(1) of the Local Government & Housing Act 1989 (“the 1989 Act”);

- (ii) The Statutory Chief Officers set out in paragraph (a), (c) or (d) of Section 2(6) of the 1989 Act above;
- (iii) The Non-statutory Chief Officers within the meaning of Section 2(7) of the 1989 Act above;
- (iv) The Monitoring Officer under Section 5(1) of the 1989 Act above; and
- (v) The Head of Democratic Services under Section 8 of the Local Government (Wales) Measure 2011;

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) The Head of Paid Service referred to in (a)(i) above is the Authority's Chief Executive.
- (c) The Statutory Chief Officers referred to in (a)(ii) above are the Authority's following officers:-
  - (i) The Director of Education, Leisure & Lifelong Learning;
  - (ii) The Director of Social Services, Health & Housing;
  - (iii) The Director of Finance & Corporate Services (who is the Chief Finance Officer for the purposes of Section 151 of the Local Government Act 1972).
- (d) The Non-statutory Chief Officers referred to in (a)(iii) above are the Authority's following officers:-
  - (i) The Director of Environment;
  - (ii) The Head of Human Resources (by virtue of direct reporting arrangements to the Chief Executive).
- (e) The Monitoring Officer referred to in (a)(iv) above is the Authority's Head of Legal Services.
- (f) The Head of Democratic Services referred to in (a)(v) is the Authority's Assistant Chief Executive.
- (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.

- (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 of the Localism Act 2011

## **1. General Recruitment Provisions**

### **1.1 Declarations**

The Council will require any candidate for appointment to state in writing whether they are a 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 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.

### **1.3 Advertising of Chief Officer Posts**

1.3.1 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 1.3.3 below.

1.3.2 Where the Council proposes to appoint a Chief Officer and where it is not proposed to pay to the Chief Officer the remuneration referred to in paragraph 1.3.1 above 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 1.3.3 below.

1.3.3 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) above to be sent to any person on request.

1.3.4 The requirement to advertise contained in paragraph 1.3.3(b) above does not apply where the proposed appointment under paragraph 1.3.1 above is for a period of no longer than twelve months.

## **2. Appointment of Chief Executive or Directors**

2.1 The decision to appoint the Authority's Chief Executive or any of its Directors must be taken by the full Council at a Council meeting.

- 2.2 The Special Appointments Committee shall primarily be responsible for preparing a short-list of qualified applicants for the posts of the Authority's Chief Executive or any of its Directors.
- 2.3 Where the Chief Executive (acting on the advice of the Head of Human Resources) considers that the number of qualified applicants for a vacancy of the Chief Executive or Director makes it difficult for the Special Appointments Committee to prepare a final shortlist for consideration by the full Council, then the Chief Executive may compile and submit an initial list of qualified applicants for consideration by the Special Appointments Committee who shall then prepare a final short-list from the Chief Executive's list.
- 2.4 In exercising the delegation set out in rule 2.3 above 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.
- 2.5 In cases other than as set out in rule 2.3 above the Chief Executive shall refer all qualified applicants to the Special Appointments Committee.
- 2.6 Following the Chief Executive's referral to it under rules 2.3 or 2.5 above, 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.
- 2.7 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.

- 2.8 The Council shall interview all applicants referred to it for interview by the Special Appointments Committee in accordance with Paragraph 2.2 or 2.6 above.
- 2.9 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 1.3.3(b).
- 2.10 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
- 2.11 The steps taken under paragraph 1.3.3, 2.6, 2.8 and 2.9 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
- 2.12 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.
- 2.13 The Council shall determine the level, and any change in the level, of remuneration to be paid to a Chief Officer.

### **3. Appointments of the Assistant Chief Executive, the Monitoring Officer, the Head of Human Resources and the Directorates' Heads of Services**

- 3.1 The Special Appointments Committee will be responsible for shortlisting applicants for the posts of Assistant Chief Executive, the Monitoring Officer, the Head of Human Resources and all of the Directorates' Heads of Services.

- 3.2 Following the process of shortlisting in 3.1 above the Special Appointments Committee shall be responsible for making the appointments to the posts referred to in rule 3.1 above. The relevant Regulatory Committee chair may also attend the Special Appointments Committee in an advisory capacity when they are carrying out this function.
- 3.3 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 or Directorate Heads of Service, 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 Directorate Heads of Service level:

<b>Posts</b>	<b>Method</b>
With pay scale commencing at SCP39 and above, or equivalent	Chief Officer or Head of Service
With pay scale commencing at SCP38 and below, or equivalent	Chief Officer or Head of Service or Accountable Manager or Line Manager

- 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 for making the appointment.

4.3 For appointment 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, Heads of Service, 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 Section 5.1 and 5.7, Chief Officers, Heads of Service 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 is no longer



one of these officers and the alleged misconduct or, as the case may be, the reason for the proposed 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 (i.e. the Chief Executive), 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 Head of Service within the meaning of these rules, 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 school 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 (i.e. Assistant Chief

Executive) 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 or 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.

Also attached, for Council's approval, is the proposed amendment to the Membership of the Special Appointments Committee

### **Financial Impact**

There are no financial impacts.

### **Equality Impact Assessment**

There are no Equality Impacts.

### **Workforce Impacts**

There are no Workforce Impacts.

### **Legal Powers**

Section 15 of the Local Government and Housing Act 1989.

### **Risk Management**

There are none.

### **Consultation**

There is no requirement under the Constitution for external consultation on this item.

### **Recommendation:**

That Council approves the above proposals.

### **Reason for Proposed Decision:**

To update the Council's Constitution and the membership arrangements of the Special Appointments Committee.

## **Implementation of Decision**

The decision is for immediate implementation.

## **List of Background Papers**

The Constitution.

## **Officer Contact**

Steve Phillips Chief Executive 01639 763306

## APPENDIX 1

SPECIAL APPOINTMENTS COMMITTEE (10/11)	
<b>Chairperson:</b>	D Jones
<b>Vice Chairperson:</b>	M.Harvey
<b>Members: Labour</b>	<p>M.Crowley, S.Paddison, S.Reynolds, A.Woolcock</p> <p>*and <b><u>one</u></b> of the following Cabinet Members for Heads of Service appointments: <b><u>two</u></b> of the following Cabinet Members for Corporate Directors appointments</p> <p><i>Chief Executive's and Finance and Corporate Services</i> <i>Social Care, Health and Well-being</i> <i>Education, Skills and Culture</i> <i>Regeneration and Sustainable Development</i> <i>Streetscene and Engineering</i></p> <p><i>*In relation to the post of Assistant Chief Executive this would include the Leader and the Deputy Leader. In relation to the Head of Social Work this would include the two relevant Cabinet Members.</i></p>
<b>Members: Plaid Cymru</b>	L.M.Purcell, R.Phillips
<b>Members: Independent Democrats</b>	S.Knoyle
<p><i>Note: the relevant Regulatory Chairs or relevant Scrutiny Chair to be invited to attend as a non-voting adviser as appropriate to the appointment</i></p>	

