

## STANDING ORDERS RELATING TO THE APPOINTMENT AND DISMISSAL OF OFFICERS

### A. Interpretation

In these Standing Orders–

"the 1989 Act" means the Local Government and Housing Act 1989;

"the 2000 Act" means the Local Government Act 2000;

"the 2011 Measure" means the Local Government (Wales) Measure 2011;

"the 1993 Regulations" means the Local Authorities (Standing Orders) Regulations 1993;

"the 2006 Regulations" means the Local Authorities (Standing Orders) (Wales) Regulation 2006;

"the 2014 Regulations" means the Local Authorities (Standing Orders) (Wales) Regulation 2014

"Chief Officer" in relation to the Council, means –

- (a) the Head of its Paid Service;
- (b) its Monitoring Officer;
- (c) a statutory Chief Officer mentioned in paragraph (a), (c) or (d) of section 2(6) of the 1989 Act, or
- (d) a non-statutory Chief Officer (within the meaning of section 2(7) of the 1989 Act);

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;

"Chief Finance Officer" means the Officer having responsibility, for the purposes of Section 151 of the Local Government Act 1972 (Financial Administration) for the administration of the Council's financial affairs;

"Head of Democratic Services" means the officer designated under Section 8 of the 2011 Measure;

"disciplinary action" in relation to a member of staff of a 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 unless the Council has undertaken to renew such a contract;

"Cabinet", "Executive arrangements" and "Cabinet Leader" have the same meaning as in Part II of the 2000 Act;

"Head of the Authority's Paid Service" means the Officer designated under Section 4(1) of the 1989 Act (Designation and Reports of Head of Paid Service);

"member of staff" means a person appointed to or holding a paid office or employment under the Council;

"Monitoring Officer" means the officer designated under Section 5(1) of the 1989 Act (Designation and Reports of Monitoring Officer);

"relevant joint committee" in relation to the Council means a joint committee on which the Council is represented; and

Deleted: "Proper Officer" means an Officer appointed by the Council for the purposes of the provisions in these Standing Orders.¶

"remuneration" has the same meaning as in Section 43 (3) of the Localism Act 2011.

"working day" means any day which is not a Saturday, a Sunday, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday, a bank holiday in Wales or a day appointed for public thanksgiving or mourning (and "bank holiday" means a day to be observed as such under Section 1 of and Schedule 1 to the Banking and Financial Dealings Act 1971).

## **B. Standing Orders relating to the Appointment of Chief Officers**

1 The Council must take the steps set out in paragraph 2 below where:

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(a) it proposes to appoint a Chief Officer; and

(b) the remuneration which it proposes to pay to the Chief Officer is a £100K or more per annum;

Deleted: Where the Council proposes to appoint a Chief Officer (within the meaning of the Local Authorities (Standing Orders) (Wales) Regulations 2006), and it is not proposed that the appointment be made exclusively from among its existing officers, it must –

2 The steps are:

(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 publically 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.

3. Where 1 above applies the Council is not required to take the steps set out in 2 above if it proposes to appoint the Chief Officer for a period of no longer than 12 months

4. Where a post has been advertised as provided in paragraph 2(b) above, the relevant Council must –

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- (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.

5. 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(b) above.

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6. (a) the steps taken under paragraph 4 or 5 above may be taken by a committee, sub-committee or Chief Officer of the Council;  
(b) any Chief Officer may be appointed by a committee or sub-committee of the Council, or a relevant joint committee.

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7. Where the duties of a Chief Officer include the discharge of functions of two or more Councils in pursuance of Section 101(5) of the Local Government Act 1972 –

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- (a) the steps taken under paragraph 4 or 5 above may be taken by a joint committee of those Councils or a sub-committee of that committee or a Chief Officer of any of the relevant authorities concerned; and

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- (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 Councils.

### C Standing Orders relating to other Appointments and Dismissals of Officers

8. Any appointment in pursuance of Section 9 of the 1989 Act (Assistants for Political Groups) shall be made in accordance with the wishes of the political group in question.

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9. Subject to paragraphs 10 and 12, the function of appointment and dismissal of, and taking disciplinary action against, an employee of the Council must be discharged, on behalf of the Council, by the officer designated under Section 4(1) of the 1989 Act (Designation and Reports of Head of Paid Service) as the Head of the Council's Paid Service or by an officer

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nominated by the Head of the Council's Paid Service.

~~10.~~ Paragraph ~~9~~ does not apply to the appointment or dismissal of, or disciplinary action against –

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- (a) the Officer designated as the Head of the Council's Paid Service;
- (b) a statutory Chief Officer within the meaning of Section 2(6) of the 1989 Act (Politically Restricted Posts);
- (c) a non-statutory Chief Officer within the meaning of Section 2(7) of the 1989 Act;
- (d) a deputy Chief Officer within the meaning of Section 2(8) of the 1989 Act;
- (e) a person appointed in pursuance of Section 9 of the 1989 Act (Assistants for Political Groups); or
- (f) a person to whom regulations made under Section 35(4) and (5) (provision with respect to the appointment, discipline, suspension and dismissal of teachers and other staff of schools employed by the local education authority) of the Education Act 2002 apply.

~~(g) the Council's Monitoring Officer.~~

~~(h) the Council's Head of Democratic Services.~~

~~11.~~ (1) Where a committee, sub-committee or officer is discharging, on behalf of the Council, the function of the appointment or dismissal of an officer designated as the Head of the Council's Paid Service, the Council must approve that appointment before an offer of appointment is made or, as the case may be, must approve that dismissal before notice of dismissal is given.

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(2) Where a committee or a sub-committee of the Council is discharging, on behalf of the Council, the function of the appointment or dismissal of any officer referred to in sub-paragraph (a), (b), (c) ~~(d), (g) or (h)~~ of paragraph ~~10~~ –

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- (a) at least one member of the Cabinet must be a member of that committee or sub-committee; and
- (b) not more than half of the members of that committee or sub-committee are to be members of the Cabinet of the Council.

~~12.~~ Nothing in paragraph ~~9~~ prevents a person from serving as a member of any committee or sub-committee established by the Council to consider an appeal by –

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- (a) another person against any decision relating to the appointment of that other person as a member of staff of the Council; or
- (b) a member of staff of the Council against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

13 The power to approve the appointment or dismissal of the Head of the Council's Paid Service must be exercised by the Council itself and accordingly Section 101 of the Local Government Act 1972 (Arrangements for Discharge of Functions by Local Authorities) does not apply to the exercise of that power.

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14 No disciplinary action (other than action to which paragraph 15 applies) in respect of the Head of the Council's Paid Service, its Monitoring Officer, its Chief Finance Officer, its Head of Democratic Services or any officer referred to in paragraph 16 below may be taken by the Council, or by a committee, a sub-committee, 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 Local Authorities (Standing Orders) (Wales) Regulations 2006 (Investigation of Alleged Misconduct).

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15 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.

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16. An officer in relation to whom disciplinary action is proposed where –

- (a) the officer was, but at the time of the proposed disciplinary action no longer is, an officer referred to in paragraph 14 above; and
- (b) the alleged misconduct or, as the case may be, the reason for the proposal for dismissal, occurred during a period when the officer was an officer referred to in paragraph 14.

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17 Investigation of Alleged Misconduct

(1) If it appears to the Council that an allegation of misconduct which may lead to disciplinary action has been made against –

- (a) the Head of the Council's Paid Service;
- (b) its Monitoring Officer; or
- (c) its Chief Finance Officer,

(d) its Head of Democratic Services

(e) an officer who was, but at the time the Investigation Committee

is appointed no longer is, an officer referred to in sub-paragraphs (a) to (d) above where the alleged misconduct occurred during the period when the officer was an officer referred to in those sub-paragraphs.

("the relevant officer"), as the case may be, the Council must appoint a committee ("an investigation committee") to consider the alleged misconduct.

- (2) The investigation committee must:
- (a) consist of a minimum of 3 members of the Council;
  - (b) be politically balanced in accordance with Section 15 of the 1989 Act; and

must, within 1 month of its appointment, consider the allegation of misconduct and decide whether it should be further investigated.

- (3) For the purpose of considering the allegation of misconduct, the investigation committee:
- (a) may make such enquiries of the relevant officer or any other person it considers appropriate;
  - (b) 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
  - (c) may receive written or oral representations from the relevant officer or any other person it considers appropriate.

- (4) Where it appears to the investigation committee that an allegation of misconduct by the relevant officer should be further investigated, it must appoint a person ("the designated independent person") for the purposes of paragraph 14.

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- (5) The designated independent person who is appointed –
- (a) 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
  - (b) where there is no such agreement, must be such person as is nominated for the purpose by the National Assembly for Wales.

- (6) The designated independent person –

- (a) may direct –
  - (i) that the Council terminate any suspension of the relevant officer;
  - (ii) that any such suspension is to continue after the expiry of the period referred to in paragraph 15;
  - (iii) that the terms on which any such suspension has taken place are to be varied in accordance with the direction; or
  - (iv) 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 (d);
- (b) 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;
- (c) may require any member or member of staff of the Council to answer questions concerning the conduct of the relevant officer;
- (d) must make a report to the Council –
  - (i) 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
  - (ii) recommending any disciplinary action which appears appropriate for the Council to take against the relevant officer, and
- (e) must no later than the time at which the report is made under sub-paragraph (d), send a copy of the report to the relevant officer.

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(7) Subject to 17(8) below, the relevant officer and Council must, after consulting the designated independent person, attempt to agree a timetable within which the designated independent person is to undertake the investigation.

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(8) Where there is no agreement under paragraph 17(7), the designated independent person must set a timetable as that person considers appropriate within which the investigation is to be undertaken.

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(9) The Council must consider the report prepared under paragraph 17(6) (d) above within 1 month of receipt of that report.

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(10) 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.

Deleted: (11) This regulation does not apply in relation to the Head of the Council's Paid Service if that person is also the Council manager.

**D. Standing Orders relating to Recruitment and Appointment of all Officers**

**18. (a) Declarations**

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1. Recruitment and Appointment¶

i) 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.

ii) 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.

(b) Seeking support for appointment.

i) Subject to paragraph (iii), 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.

ii) Subject to paragraph (iii), no Councillor will seek support for any person for any appointment with the Council.

iii) Nothing in paragraphs (i) and (ii) above will preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment.

**E. Standing Orders relating to the Remuneration of Chief Officers**

**19. Any decision to determine or vary the remuneration of Chief Officers (or those to be appointed Chief Officers) must be made by full Council and can not be delegated to a committee of the Council or to an officer.**