

Mae'r ddogfen hon ar gael yn Gymraeg hefyd



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## **SECTION 12 - OFFICERS**

### **12.1 Officers**

#### **1. Management structure**

##### **a) Chief Executive and Strategic Directors**

The Chief Executive

There are two Strategic Directors: (1) Strategic Director (Finance and Resources and ; (2) Strategic Director (Social Care and Education).

The Chief Executive may appoint a Strategic Director to be Deputy Chief Executive to undertake such functions as the Chief Executive may determine.

The Chief Executive and Strategic Directors do not have direct service responsibility, but have over-all management responsibility for the Council, in particular focussing on external relationships, corporate risks, the performance management of services, service modernisation, economic development and major projects.

##### **(b) Senior Management Team (SMT)**

The SMT comprises the Chief Executive, the Strategic Directors, all Heads of Service and Senior Managers as required by the Chief Executive and is the primary management team of the Authority.

##### **(c) Strategic Leadership Team**

The Strategic Leadership Team is responsible for day to day corporate management comprising of:-

- Chief Executive
- The Strategic Directors
- Monitoring Officer
- Head of People and Performance
- Head of Environment, Roads and Facilities
- Head of Education
- Such other Heads of Service as the Chief Executive shall determine

##### **(d) Report Review Group**

The role of the Report Review Group will be to review Cabinet and Council reports as a quality assurance mechanism prior to reports being submitted to the political process. The Group comprises: -

- Chief Executive
- The Strategic Directors
- Head of Law & Governance
- The Leader
- Such other Heads of Service as the Chief Executive shall determine.

## **2 Statutory designations.**

- (a)** The Council must designate specific officers to the following statutory roles:

Designation:

- Chief Executive
- Monitoring Officer
- Chief Finance Officer (S151 Officer)
- Chief Education
- Director of Social Services
- Lead Director for Children's Services
- Head of Democratic Services

The Chief Executive, the Monitoring Officer and the Chief Finance Officer will have the functions and responsibilities described below. The functions of the other statutory officers referred to in the table above and other formal designations shall be set out in the Scheme of Delegation to Officers in [Part 14](#)

## **3. Functions of the Chief Executive**

**Discharge of functions by the Council.** The Chief Executive will report to the Council on the manner in which the discharge of the Council's functions is coordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

With responsibility for:

- a) leading the management team or equivalent, in particular in securing a corporate approach
- (b) securing the provision of advice on the forward planning of objectives and services
- (c) ensuring the efficient and effective implementation of the council's programmes and policies across all services and the effective deployment of the authority's resources to those ends.

For these purposes the chief executive has authority over all other employees of the council.

- (ii) Advising the council, its executive and its committees on all matters of general policy and all other matters upon which his or her advice is necessary, with the right of attendance at all committees of the council and all subcommittees and working parties.
- (iii) Advising the leader or elected mayor of the council, or where appropriate the party group leaders, on any matter relevant to the council's functions.
- (iv) Representing and negotiating on behalf of the council on external bodies and networks.

- (v) Advising or making suitable arrangements for advising the Chair of the council on all matters within the duties of that office.

**(Restrictions on functions.** The Chief Executive may not be the Monitoring Officer or the Head of Democratic Services, but may hold the post of Chief Finance Officer if a qualified accountant.

#### **4. Functions of the Monitoring Officer**

- (a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Chief Executive and the Chief Finance Officer, the Monitoring Officer will report to the Council if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration.  
  
Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- (d) **Receiving reports.** The Monitoring Officer will receive and act on reports made by the Ombudsman and decisions of the case tribunals.
- (e) **Conducting investigations.** The Monitoring Officer will conduct investigations into matters referred by the Ombudsman and make reports or recommendations in respect of them to the Standards Committee.
- (f) **Proper officer for access to information.** The Monitoring Officer will ensure that decisions, together with the reasons for those decisions, and relevant officer reports and background papers are made publicly available as soon as possible.
- (g) **Advising whether decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.
- (h) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles
- (i) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Chief Executive.

#### **5. Functions of the Chief Finance Officer**

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Chief Executive and the Monitoring Officer, the Chief Finance Officer will report to the Council and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

- (b) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the proper administration of the financial affairs of the Council.
- (c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take financial decisions, financial maladministration, financial impropriety, probity and budget issues to all councillors and will support and advise councillors and officers in their respective roles.
- (e) **Give financial information.** The Chief Finance Officer will be responsible for the provision of financial information to the media, members of the public and the community.
- (f) **Restrictions on posts.** The Chief Finance Officer cannot be the Monitoring Officer or the Head of Democratic Services.

**6 Duty to provide sufficient resources to the Monitoring Officer, Chief Finance Officer and the Head of Democratic Services**

The Council will provide the Monitoring Officer, Chief Finance Officer and the Head of Democratic Services with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

**7 Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations.

**8 Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules.

## **12.2 Officer Employment Procedure Rules**

### **(1) Recruitment and appointment**

#### **(a) Declarations**

- i) The Council will require any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, 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 Strategic Director or the Chief Executive where the post is in a service or function managed by him. In the event that the candidate is related to the Chief Executive or a Strategic Director, authority to appoint must be obtained from at least two of the following:-

Chief Executive  
Monitoring Officer  
Chief Finance Officer

None of the above shall authorise the appointment of an officer related to them.

#### **(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.

### **(2) Recruitment of Chief Executive and Strategic Directors**

#### **2.1 The Council will:**

- (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 above to be sent to any person on request.
- 2.2 Where a post has been advertised as provided in 2.1 above, the Council must: -
  - (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.
- 2.3 Where no qualified person has applied, or if the Council decides to re-advertise the appointment, the Council may make further arrangements for advertisements in accordance with 2 (1) (b) above.
- 2.4 Where the Authority proposes to appoint a chief officer and it is proposed to pay the chief officer annual remuneration of £100,000 or more, the post must be publicly advertised. The only exception to this requirement would be if an appointment were to be made for a period of no longer than 12 months.

**(3) Appointment of Chief Executive, Strategic Directors, Monitoring Officer, Head of Democratic Services**

The Council will make the appointment of the Chief Executive, Strategic Directors, Monitoring Officer and Head of Democratic Services following the recommendation of a short list for such an appointment by the Senior Employment Committee of the Council.

**(4) Appointment of Heads of Service**

The Senior Employment Committee will appoint Heads of Service from a shortlist to be drawn up by the relevant Strategic Director, or Chief Executive where the function is managed by him/her.

[Note: this provision reflects the rules made in Assembly Regulations. It means that elected members will appoint Directors, the Monitoring Officer, Head of Democratic Services and Heads of Service only.

**(5) Other appointments**

- (a) **Officers other than those in 3 and 4 above.** Appointment of these officers (other than assistants to political groups) is the responsibility of the Chief Executive or his/her nominee, and may not be made by councillors. Appointments will be made in compliance with the Council's approved Recruitment and Selection procedures.
- (b) Assistants to political groups. Appointment of an assistant to political group shall be made in accordance with the wishes of that political group.

**(6) Disciplinary action – Chief Executive, Chief Finance Officer, Monitoring Officer and Head of Democratic Services**

- (a) No disciplinary action (other than action to which paragraph (b) applies) in respect of the Chief Executive, its Monitoring Officer, Chief Finance Officer, or its Head of Democratic Services may be taken by the relevant authority, or by a committee, a sub-committee, a joint committee on which the relevant authority is represented or any other person acting on behalf of the relevant authority, 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) (Amendment) Regulations 2014 (investigation of alleged misconduct). The detailed rules appear in paragraph 7 below.
- (b) 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.

**(7) Investigation of alleged misconduct – Chief Executive, Chief Finance Officer, Monitoring Officer and Head of Democratic Services**

- 1) Subject to paragraph (11), where it appears to the authority that an allegation of misconduct which may lead to disciplinary action has been made against-
  - (a) the Head of the Authority's Paid Service;
  - (b) its Monitoring Officer, or
  - (c) its Chief Finance officer, ("the relevant officer") as the case may be; or
  - (d) its Head of Democratic Services.

the relevant authority 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 relevant authority.
  - (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").
- 5) The designated independent person who is appointed:
  - (a) must be such person as may be agreed between the authority and the relevant officer within 1 month of the date on which the requirement to appoint the designated independent person arose: or
  - (c) where there is no such agreement, must be such person as is nominated for the purpose by the Senedd Cymru.
- 6) The designated independent person-
  - (a) may direct-
    - (i) that the authority 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 6 above:
    - (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 authority or any committee, sub-committee or officer acting on behalf of the authority) 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 authority, or which the authority has power to authorise the designated independent person to inspect:
  - (c) may require any member or member of staff of the authority to answer questions concerning the conduct of the relevant officer:
  - (d) must make a report to the authority-
    - (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 authority 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.
- 7) Subject to paragraph (8), the relevant officer and authority must, after consulting the designated independent person, attempt to agree a timetable within which the designated independent person is to undertake the investigation.
- 8) Where there is no agreement under paragraph (7), the designated independent person must set a timetable as that person considers appropriate within which the investigation is to be undertaken.
- 9) The authority must consider the report prepared by the independent person under paragraph (6) (d) above within 1 month of receipt of that report.
- 10) The authority will 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 these rules.
- 11) A disciplinary committee of the Council (excluding those persons who served on the investigation committee) will consider the report under paragraph (9) above along with representations from the officer against whom allegations are made, in accordance with the Council's detailed disciplinary procedures. An appeal will lie to the full Council from the decision of this committee, except in the case of the Chief Executive (in which case the Council will consider an appeal, or approve the recommendation of the committee if no appeal is made).

**(8) Disciplinary action –Strategic Director of Social Care and Education and Heads of Service**

The Chief Executive will be responsible for disciplinary action against the Strategic Director of Social Care and Education and Heads of Service.

**(9) Disciplinary action or dismissal**

- (1) Councillors will not be involved in the dismissal of any officer other than the Chief Executive, S.151 Officer, Monitoring Officer, and Head of Democratic Services except through the established appeals process.
- (2) That protection given by Regulations 8 and 9 of the 2006 Regulations be extended to Officers to whom disciplinary action is proposed where the officer was, but at the time of the proposed disciplinary action no longer is

an officer with protected status under those regulations 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 with protected status.

## **(10) Definitions**

(References to “the 1989 Act” are to the Local Government and Housing Act 1989)

“Chief Executive” means the officer designated as the authority’s Head of Paid Service under S.4 of the 1989 Act.

“Statutory Chief Officer” means: -

- (a) the Chief Education Officer or Director of Education appointed under S.532 of the Education Act 1996.
- (b) The Director of Social Services appointed under S.6 of the Local Authority Social Services Act 1970.
- (c) The officer having responsibility for the purposes of S.151 of the Local Government Act 1972, S.73 of the Local Government Act 1985 and S. 112 of the Local Government Finance Act 1988.
- (d) Head of Democratic Services appointed under Section 16 of the Local Government Measure 2011.

“Non-Statutory Chief Officer” means:-

- (a) a person for whom the Chief Executive is directly responsible:
- (b) a person who as respects all or most of the duties of the post is required to report directly or is directly accountable to the Head of the authority’s Paid Service:
- (c) any person who as respects all or most of the duties of the post is required to report directly or is directly accountable to the local authority themselves or any committee or sub-committee of the authority.

“Deputy Chief Officer” means a person who as respects all or most of the duties of the post is required to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers.

“Chief Finance Officer or” or “S.151 Officer” means the officer appointed for the purposes of S.151 of the Local Government Act 1972, S.73 of the Local Government Act 1985 or S.112 of the Local Government Finance Act 1988.

“Monitoring Officer” means the officer designated under S.5 (1) of the 1989 Act.

“Chief Officer” means:

- (a) the Chief Executive

- (b) the Monitoring Officer
- (c) the Head of Democratic Services
- (d) a statutory Chief Officer
- (e) a non-statutory Chief Officer

“Disciplinary action” means;-

In relation to a member of staff of a relevant authority any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the authority, 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 relevant authority has undertaken to renew such a contract.

