

## **APPENDIX A**

### **Officer Employment Procedure Rules**

#### **SECTION A**

#### **Recruitment, Appointment and Dismissal of, and taking Disciplinary Action against staff generally**

1. Subject to the following provisions of these Procedure Rules providing otherwise the recruitment, appointment and dismissal of and disciplinary action against all officers will follow the policies and procedures detailed in the relevant employment policies of the Council contained on the Powys County Council Intranet and (where relevant) the Employment Act 2002.
2. Subject to Rules 3 and 5, the function of the recruitment, appointment and dismissal of, and taking disciplinary action against, a member of staff 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 authority's paid service or by an officer nominated by the head of the authority's service.
3. Rule 2 does not apply to the appointment or dismissal of, or disciplinary action against:
  - (a) the officer designated as the head of the authority'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.
- 4.

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- (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 authority'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.
  - (2) Where a committee or a sub-committee of the relevant authority is discharging, on behalf of the relevant authority, the functions of the appointment or dismissal of any officer referred to in subparagraphs (a), (b), (c) or (d) of paragraph 3.
    - (a) at least one member of the executive must be a member of that committee or sub-committee; and
    - (b) not more than half the members of that committee or sub-committee are to be members of the executive of the relevant authority.
5. Nothing in Rule 2 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.

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### **SECTION B**

#### **Recruitment and Appointment ( Including Shortlisting) of Head of Paid Service and other Chief Officers**

6. (1) The full Council will appoint the Head of Paid Service and any other chief officer from a shortlist of candidates prepared by the Employment and Appeals Committee or a Sub-Committee of that committee .
- (2) The full Council will determine the level, and any change in the level, of remuneration of a chief officer.
- (3) Subject to Rule 6(4) below, where the Council proposes to appoint a chief officer and the remuneration it proposes to pay is £100,000 or more per annum the Council 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;

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- (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.
- (4) Rule 6(3)(b) above does not apply if the Council proposes to appoint the chief officer for a period of no longer than 12 months.

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7. (1) Where a post has been advertised as provided in Rule 6 (3) (b), the Council must interview all qualified candidates who have applied for the post or those qualified candidates included on a short list prepared by the Employment and Appeals Committee or a Sub- Committee of that committee as referred to in Rule 6 (1) above.
- (2) Where no qualified person has applied, or if the Council decide to re-advertise the appointment, the Council may make further arrangements for advertisement in accordance with Rule 6 (3) (b)."
8. The power to approve the appointment of the head of the authority'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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### **SECTION C**

#### **Recruitment and Appointment ( Including Shortlisting) of Heads of Service**

9. The function of the recruitment and appointment (including shortlisting) of Heads of Service shall be discharged by the Employment and Appeals Committee or a Sub-Committee of that committee .

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### **SECTION D**

#### **Recruitment and appointment ( Including Shortlisting) of staff below Head of Service**

10. The function of the recruitment and appointment (including shortlisting) of officers below Heads of Service are the responsibility of the relevant Head of Service or his/her nominee and members must not be involved.

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### **SECTION E**

#### **Disciplinary action against Head of Paid Service, Monitoring Officer , Chief Finance Officer and Head of Democratic Services**

11. No disciplinary action (other than action to which Rule 12 applies) in respect of the head of the authority's paid service, its monitoring officer its chief finance officer or Head of Democratic Services, may be taken by

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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) and Rule 13(6)(d)(ii).

12. 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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### **SECTION F**

#### **Investigation of alleged misconduct by Head of Paid Service, Monitoring Officer , Chief Finance Officer and Head of Democratic Services**

13.

- (1) Subject to paragraph (11) below, where 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 authority's paid service;
- (b) its monitoring officer; or
- (c) its chief finance officer, or
- (d) its Head of Democratic Services

("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 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.

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- (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 the Rule 11 above.
- (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 Rule 12.
    - (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,

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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.
- (7) Subject to paragraph (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.
- (8) Where there is no agreement under paragraph (7) above, the designated independent person must set a timetable as that person considers appropriate within which the investigation is to be undertaken.
- (9) The Council must consider the report prepared under paragraph (6) (d) above within 1 month of receipt of that report.
- (10) A 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.

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## **SECTION G**

## **PART 4 – RULES OF PROCEDURE**

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### **Disciplinary Action Against Chief Officers (other than Head of Paid Service)**

14. Disciplinary action against a Chief Officer (other than the Head of Paid Service, Monitoring Officer , Chief Finance Officer or Head of Democratic Services) shall be undertaken in accordance with the relevant employment policies of the Council contained on the Powys County Council Intranet.

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### **SECTION H**

#### **Disciplinary action against Heads of Service and staff below them**

15. Disciplinary action against a Head of service or any officer below a Head of Service shall be undertaken in accordance with the relevant employment policies of the Council contained on the Powys County Council Intranet.

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### **SECTION I**

#### **Interpretation**

17. In these Rules:

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

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

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

"chief officer" means:

- (a) the head of the Council's paid service; or
- (b) the Council's monitoring officer; or
- (c) a statutory chief officer within the meaning of paragraphs (a), (c) or (d) of section 2(6) of the 1989 Act ( ie Chief Education Officer, Director of Social Services and chief finance officer) , or
- (d) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act (ie Strategic Director or Director);

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;



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"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 local authority's financial affairs;

"deputy chief officer" means an officer within the meaning of section 2(8) of the 1989 Act - Head of Service;

"designated independent person" means a person appointed in accordance with regulation 9 of the Local Authorities (Standing Orders) (Wales) Regulations 2006 and Standing Order 13;

"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 unless the Council has undertaken to renew such a contract;

"executive" and "executive 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) – Chief Executive;

"Head of Democratic Services" means the officer designated under section 8 of the Local Government (Wales) Measure 2011

"joint committee", means a joint committee on which the Council is represented;

"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) – Strategic Director – Law and Governance;

"proper officer" means an officer appointed by the authority for the purposes of the provisions of these rules.

"remuneration" in relation to a chief officer has the same meaning as in section 43(3) of the Localism Act 2011 ie.

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- (a) The chief officer's salary or, in the case of a chief officer engaged by the authority under a contract for services payments made by the authority to the chief officer for those services,
- (b) any bonuses payable by the authority to the chief officer
- (c) any charges, fees or allowances payable by the authority to the chief officer;
- (d) any benefits in kind to which the chief officer is entitled as a result of the chief officer's office or employment;
- (e) any increase in or enhancement of the chief officer's pension entitlement where the increase or enhancement is as a result of a resolution of the authority; and
- (f) any amounts payable by the authority to the chief officer on the chief officer ceasing to hold office under or be employed by the authority, other than amounts that may be payable by virtue of any enactment.