

THE CONSTITUTION - SECTION 11

11. OFFICERS

11.1 Management Structure

11.1.1 General

The Full Council may engage such staff (referred to as Officers) as it considers necessary to carry out its functions.

11.1.2 Senior Management Structure

The senior management team shall comprise the Chief Executive and 7 Chief Officers.

Chief Executive (and Head of Paid Service)

Functions and Areas of Responsibility

- Overall corporate management and operational responsibility including overall management responsibility for all Officers.
- Principal adviser to the Council on general policy.
- The provision of professional and impartial advice to all parties in the decision making process (to the Executive Board, to Overview and Scrutiny Committees, the Full Council and other Committees).
- Together with the Monitoring Officer, responsibility for a system of record keeping for all the Authority's decisions (executive or otherwise).
- Representing the Authority on partnership and external bodies (as required by statute or the Council).
- Service to the whole Council, on a politically neutral basis.
- Ensuring robust corporate governance
- Taking responsibility for overall corporate performance
- Promoting healthy Member/Officer relationships
- Acting as Returning Officer and Electoral Registration Officer

Other Chief Officer Posts

Chief Officer Education & Early Intervention

Chief Officer Environment & Technical

Chief Officer Finance & ICT

Chief Officer Governance & Customer

Chief Officer Housing

Chief Officer Economy & Planning

Chief Officer Social Care

11.1.3 Head of Paid Service, Monitoring Officer and Chief Finance Officer

The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service

Chief Officer Governance & Customer
Chief Officer Finance & ICT
Head of Service, Legal, Democratic & Registration

Monitoring Officer
Chief Finance Officer
Head of Democratic
Services

In addition to the corporate statutory officers referred to above, the Council will designate the following statutory officer posts as shown.

Post - Chief Officer Education & Early Intervention
Designation – Chief Education Officer
Statutory Functions - Section 532 Education Act 1996

Post – Chief Officer Social Care
Designation – Director of Social Services
Statutory Functions – Section 6 Local Authority Social Services Act 1970

11.2 Functions of the Head of Paid Service

- 11.2.1 Discharge of Functions by the Council
Section 4 of the Local Government and Housing Act 1989 imposes a duty on authorities to designate one of their officers as Head of Paid Service. The Head of Paid Service will report to Full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of Staff required for the discharge of functions, the organisation of the authority's staff and the appointment and proper management of the authority's staff.
- 11.2.2 Restrictions on Functions
The Head of Paid Service 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.

11.3 Functions of the Monitoring Officer

These are set out in section 5 of the Local Government and Housing Act 1989 as amended.

- 11.3.1 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.
- 11.3.2 Ensuring Lawfulness and Fairness of Decision Making
After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Full Council or to the Executive Board in relation to any Function 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.

11.3.3 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.

11.3.4 Receiving Reports

The Monitoring Officer will receive and act on reports made by the Ombudsman and decisions of the case tribunals.

11.3.5 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.

11.3.6 Proper Officer for Access to Information

The Monitoring Officer will ensure that Executive decisions, together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible.

11.3.7 Advising whether decisions of the Executive Board are within the Budget and Policy Framework

The Monitoring Officer will, in conjunction with the Chief Finance Officer, advise whether decisions of the Executive Board – are in accordance with the Budget and Policy Framework.

11.3.8 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 the Councillors.

11.3.9 Restrictions on Posts

The Monitoring Officer cannot be the Chief Finance Officer, the Head of Paid Service or the Head of Democratic Services.

11.4 Functions of the Chief Finance Officer

These are set out in section 6 of the Local Government and Housing Act 1989.

11.4.1 Ensuring Lawfulness and Financial Prudence of Decision Making

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Full Council or to the Executive Board in relation to an Executive Function 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.

- 11.4.2 **Administration of Financial Affairs**
The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- 11.4.3 **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.
- 11.4.4 **Providing Advice**
The Chief Finance 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.
- 11.4.5 **Give Financial Information**
The Chief Finance Officer will provide financial information to the media, members of the public and the community.
- 11.4.6 **Advising whether Decisions of the Executive Board are within the Budget and Policy Framework**
The Chief Finance Officer will, in conjunction with the Monitoring Officer, advise whether decisions of the Executive Board are in accordance with the Budget and Policy Framework.
- 11.4.7 **Restrictions on Posts**
The Chief Finance Officer cannot be the monitoring officer or the Head of Democratic Services.

11.5 Functions of the Head of Democratic Services

These are set out in section 9 of The Measure. The functions of the Head of Democratic Services are:

- 11.5.1 to provide support and advice to the authority in relation to its meetings, subject paragraph 11.5.10;
- 11.5.2 to provide support and advice to committees of the authority (other than the committees mentioned in paragraph 11.5.5) and the members of those committees, subject to paragraph 11.5.10;
- 11.5.3 to provide support and advice to any joint committee which a local authority is responsible for organising and the members of that committee, subject to paragraph 11.5.10;

- 11.5.4 to promote the role of the authority's Overview and Scrutiny Committee;
- 11.5.5 to provide support and advice to:
- (a) the authority's Overview and Scrutiny Committees and the members of those committees; and
 - (b) the authority's Democratic Services Committee and the members of that committee;
 - (c) to provide support and advice in relation to the functions of the authority's Overview and Scrutiny Committee to each of the following:
 - (i) members of the authority;
 - (ii) members of the executive of the authority;
 - (iii) officers of the authority;
- 11.5.6 to provide support and advice to each member of the authority in carrying out the role of member of the authority, subject to paragraph 11.5.11;
- 11.5.7 to make reports and recommendations in respect of any of the following:
- (a) the number and grades of staff required to discharge democratic services functions;
 - (b) the appointment of staff to discharge democratic services functions;
 - (c) the organisation and proper management of staff discharging democratic services functions;
- 11.5.8 such other functions as may be prescribed by law.
- 11.5.9 Restrictions on Posts
- The Head of Democratic Services cannot be the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer.
- 11.5.10 The function of providing advice about whether or how the authority's functions should be, or should have been exercised, only applies to advice concerning the functions of the Overview and Scrutiny Committee and Democratic Services Committee.
- 11.5.11 Advice to a Member does not include advice in connection with their role as an Executive Member and does not include advice about a

matter being or to be considered at a meeting other than a meeting of an Overview and Scrutiny Committee or Democratic Services Committee.

11.6 Duty to Provide Sufficient Resources to the Head of Paid Service, Monitoring Officer, Chief Finance Officer and Head of Democratic Services

The Council will provide the Head of Paid Service, the Monitoring Officer, the 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.

11.7 Conduct

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Sections 20 and 21 of this Constitution.

11.8 Employment

The recruitment, selection and dismissal of Officers will comply with the Officer Employment Rules set out below.

11.9 Officer Employment Procedure Rules

11.9.1 Definitions

These Rules are designed to conform with the requirements of The Local Authorities (Standing Orders) (Wales) Regulations 2006 (as amended by *The Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2014*).

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

- (1) "Head of Paid Service" (Chief Executive) means the Officer designated as the Council's Head of Paid Service under S.4 of the 1989 Act.
- (2) "Chief Finance Officer" or "S151 Officer" (Chief Officer Finance & ICT) 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.
- (3) "Monitoring Officer" (Chief Officer Governance & Customer) means the Officer designated under S.5(1) of the 1989 Act.
- (4) A Statutory Chief Officer (Chief Officer Education & Early Intervention and Chief Officer Social Care) mentioned in paragraphs (a)(c) or (d) of section 2(6) of the Local Government and Housing Act 1989; or
- (5) A Non-statutory Chief Officer (within the meaning of section 2(7) of the Local Government and Housing Act 1989).

- (6) Head of Democratic Services means the Officer designated under Section 8 of the Local Government (Wales) Measure 2011.
- (7) Member of staff means a person appointed or holding a paid office or employment with the Council.
- (8) Disciplinary Action means :

In relation to a member of staff of the Council any action occasioned by alleged misconduct which if proved, would, according to the usual practice of the Council, receive a sanction under the Council's Disciplinary Policy and include any warning given for the period described, proposal for dismissal of a member of staff for any reason other than redundancy or permanent ill-health, 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.

11.9.2. Recruitment and Appointment

(a) Relatives of Members or Officers

- (1) Candidates for any appointment must state in their application if they are related to a Member or any person employed by the Council. Anyone who fails to do this will be disqualified or, if appointed, liable to instant dismissal on grounds of gross misconduct.
- (2) Members and Managers must inform the appropriate Chief Officer if they know a candidate is related to them. The Chief Officer must ensure the appointing body is made aware of the relationship.
- (3) Members and Managers must inform the appropriate Chief Officer in writing if a relative is appointed.
- (4) All candidates must be made aware of these rules.
- (5) For the purposes of the Standing Order, relative means:-
 - (a) person living as husband/wife or partner.
 - (b) parent or child.
 - (c) grandparent or grandchild.
 - (d) brother or sister.
 - (e) uncle or aunt.
 - (f) nephew or niece.
- (6) Any employee or Member on a Recruitment Panel who is involved in a recruitment and selection process must make a declaration to the relevant Chief Officer if an applicant is related to them or has a close

personal relationship. (That person must take no further part in the recruitment and selection process).

- (7) Similarly, any manager or supervisor who learns that a relative, or friend from outside the work environment, has applied for a post in a section under his/her control, must declare this fact to his/her Chief Officer. This applies whether or not that manager or supervisor intends to take part in the selection process.

(b) Canvassing of and Recommendation by Members and Officers.

- (1) Candidates for an appointment (internal or external) will be disqualified if they canvass Members in their favour.
- (2) A Member or Officer may not give written references to accompany an external application.
- (3) Under no circumstances must people who have agreed to act as referees for a candidate take part in the recruitment process (internal or external).
- (4) If a recruitment decision is challenged at any stage, or discussed in detail by a Member who is not directly involved, the relevant Officer must take a note of the conversation and be prepared to report it to the appropriate authority at a later stage, if necessary.

11.9.3. Appointment of Head of Paid Service

The Full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a committee or sub-committee of the Council. That committee or sub-committee must include at least one member of the executive, but must not comprise a majority of members of the executive. Where the remuneration is £100, 000 or more the post must be publicly advertised unless the period of appointment is no longer than 12 months.

11.9.4. Appointment of Chief Officers

- (1) Where a vacancy occurs in any existing office of Chief Officer the Executive Board shall consider a report from the Chief Executive and thereupon shall determine whether that office is necessary.
- (2) Where it is proposed to appoint a Chief Officer, the Chief Executive shall (removed reference to internal appointment)-
 - (a) draw up a Job Description and Person Specification 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 it is likely to bring it to the attention of persons who are qualified to apply for it. Where the remuneration is £100,000 or more the post must be publicly advertised unless the period of appointment is no longer than 12 months.
 - (c) make arrangements for copies of the Job Description and Person Specification mentioned in paragraph (a) to be sent to any person on request.
- (3) Where a post has been advertised as provided in paragraph 2 (b), a Committee appointed by the Council, advised by the Chief Executive shall:-
 - (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.
- (4) All appointments to Chief Officer posts shall be made by a Committee appointed by the Council, advised by the Chief Executive. Such Committee must include at least one member of the executive, but must not comprise a majority of the executive.

11.9.5 Other appointments

- (a) Officers below Chief Officer. Appointment of Officers below Chief Officer is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by councillors.
- (b) Assistants to Political Groups. Appointments of an assistant to a political group shall be made in accordance with the wishes of that political group.

11.9.6 Changes to Remuneration of Chief Executive, and Chief Officers

Decisions to determine or vary the remuneration of the Chief Executive and Chief Officers are to be made by Council and cannot be delegated to a committee.

11.9.7 Disciplinary action - Head of Paid Service, Monitoring Officer, Chief Finance Officer and Head of Democratic Services

- (1) No disciplinary action (other than action to which para (2) below applies) in respect of the Head of the Council's Paid Service, its Monitoring Officer, its Chief Finance Officer or Head of Democratic Services, 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), as amended by The Local Authorities (Standing Orders)(Wales)(Amendment) Regulations 2014. The detailed rules appear in Section 8 below.

- (2) 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.

11.9.8 Investigation of alleged misconduct – Head of Paid Service, Chief Finance Officer, Monitoring Officer and Head of Democratic Services.

- (1) 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 Council's Paid Service;
 - (b) its Monitoring Officer;
 - (c) its Chief Finance Officer ("the relevant officer") as the case may be
or
 - (d) The Head of Democratic Services.

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”).
- (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 relevant 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 Section 7 (2) 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 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 relevant 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 the 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), 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 by the independent person under paragraph (6) (d) above within 1 month of receipt of that report.
- (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 these rules.
- (11) A disciplinary committee of the Council: –
 - (a) consisting of a minimum of 3 members of the Council, and
 - (b) politically balanced in accordance with Section 15 of the 1989 Act (but 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 Head of Paid Service (in which case the Council will consider an appeal, or approve the recommendation of the Committee if no appeal is made).

11.9.9 Dismissal

Councillors will not be involved in the dismissal of any Officer below Chief Officer except where particular Members' involvement is necessary for any investigation or inquiry into alleged misconduct or

where the designated Head of Democratic Services is an Officer below Chief Officer level.