



SPECIAL COUNCIL - 21ST MARCH 2013

SUBJECT: STATUTORY OFFICERS & OTHER CHIEF OFFICERS DISCIPLINARY PROCESS

REPORT BY: ACTING CHIEF EXECUTIVE OFFICER

1. PURPOSE OF REPORT

- 1.1 To seek approval for the establishment of a Standing Committee for the purposes of the JNC Conditions of Service for Chief Officers and for the Local Authorities (Standing Orders) (Wales) Regulations 2006.
- 1.2 To adopt disciplinary procedures for the statutory officers of the Council and other Chief Officers as set out in Appendices A & B respectively, attached to the Report.

2. LINKS TO STRATEGY

- 2.1 This proposal is linked to the Council's People Management Strategy.

3. THE REPORT

- 3.1 The Council's Employment Procedure Rules ('the Rules') outline the procedure to be followed in relation to disciplinary proceedings involving the Council's Statutory Officers, the Chief Executive as Head of Paid Service, the Monitoring Officer and the S.151 Officer.
- 3.2 The Rules, which are set out in the Council's Constitution, reflect the statutory regime as laid down in the Local Authorities (Standing Orders) (Wales) Regulations 2006. However the Rules do not include a detailed, clear procedure to deal with disciplinary issues in relation to Statutory Officers.
- 3.3 Rule 8, of the Rules, requires amendment, to reflect that any disciplinary action against Chief Officers (other than Statutory Officers) is now a matter to be determined in accordance with the JNC Conditions of Service for Chief Officers.
- 3.4 In order to avoid uncertainty in the future, detailed disciplinary procedures have now been drafted by the Council's external lawyers, Geldards LLP, for the Council's Statutory Officers (Appendix A) and other Chief Officers (Appendix B), attached to the Report.
- 3.5 Both procedures are based on the model disciplinary procedures contained in the JNC Conditions of Service for Chief Officers.
- 3.6 Members are asked to note that the Disciplinary Procedures reflect the requirement for the Council to establish an Investigation and Disciplinary Committee ('the Committee') which will be a standing committee of the Council. The Committee will be empowered to discharge all relevant functions associated with the disciplinary process as set out in the Disciplinary Procedures.

- 3.7 It is to be noted that the Disciplinary Procedure for Statutory Officers set out at Appendix A includes all of the additional statutory safeguards in existence for those officers. These statutory safeguards provide that the Committee cannot take disciplinary action against Statutory Officers other than in accordance with a recommendation by a 'Designated Independent Person'. Further in the case of the Head of Paid Service full Council approval is required to endorse any decision of the Committee to dismiss before notice of dismissal is given.
- 3.8 Members should note that the Committee must include no fewer than three elected members must be politically balanced, must include a member of the Executive and importantly should not include any member with any direct personal involvement with the complaint.
- 3.9 It is essential that members of the Committee receive training and support from the Council.
- 3.10 The Disciplinary Procedures also set out details of the power to suspend Statutory Officers and Other Chief Officers. Members will note that for Statutory Officers, the power to suspend is delegated to the Committee, except in an urgent situation, where the power is delegated to the Leader of the Council or Deputy Leader in the absence of the Leader. For other Chief Officers the power to suspend is delegated to the Chief Executive.
- 3.11 It is proposed that authority be delegated to the Committee to amend the Disciplinary Procedures from time to time, having regard to any changes to the model procedures outlined in the JNC Conditions of Service for Chief Officers that may be implemented in the future or in response to other relevant considerations.

4. FINANCIAL IMPLICATIONS

- 4.1 None, other than the costs of the training for members which can be met from existing budgets.

5. PERSONNEL IMPLICATIONS

- 5.1 None, other than those set out in the Report.

6. CONSULTATIONS

- 6.1 The Report reflects the views of the Consultees.

7. EQUALITIES IMPLICATIONS

- 7.1 None

8. RECOMMENDATIONS

- 8.1 That the Council formally approves and adopts the Disciplinary Procedure for Statutory Officers at Appendix A of this Report.
- 8.2 That the Council formally approves and adopts the Disciplinary Procedure for Chief Officers at Appendix B of this Report.
- 8.3 That the Council establishes a Standing Investigation and Disciplinary Committee comprising of at least three elected members, and be politically balanced in composition. In addition it must comply with the requirements of Schedule 3 (Part 2) of the Local Authorities (Standing

Orders) (Wales) Regulations 2006 in that the said Committee must comprise of at least one member of the Executive, but no more than half of the members of the said Committee are to be members of the Executive.

- 8.3.1 The Investigating and Disciplinary Committee comprises seven members and that authority be delegated to the Leader to appoint members to the Investigating and Disciplinary Committee, following receipt of nominations from other political group leaders across the Council.
- 8.4 That the Investigating and Disciplinary Committee be delegated authority to review the Disciplinary Procedures attached at Appendices A & B from time to time having regard to any changes to the model procedures outlined in the JNC Conditions of Service for Chief Officers that may be implemented in the future or in response to other relevant considerations.
- 8.5 That the Council's Monitoring Officer be authorised to amend the Council's Constitution, as necessary to give effect to the recommendations in this Report.

9. REASONS FOR RECOMMENDATIONS

- 9.1 To ensure the implementation of robust and clear process and procedure in relation to the disciplinary process for the Council's Statutory Officers and other Chief Officers.

10. STATUTORY POWERS

- 10.1 Local Government and Housing Act 1989
Local Government Act 2000
Local Authorities (Standing Orders) (Wales) Regulation 2006

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Consultees: Councillor H.A. Andrews, Leader
Gail Williams, Deputy Monitoring Officer/Principal Solicitor
Kim Howell, Geldards LLP, Cardiff

Appendices:
Appendix A Disciplinary Procedure for Statutory Officers
Appendix B Disciplinary Procedure for Other Chief Officers