



SPECIAL COUNCIL

MINUTES OF THE MEETING HELD AT PENALLTA HOUSE, YSTRAD MYNACH ON THURSDAY, 21ST MARCH 2013 AT 5.00 P.M.

PRESENT:

Councillor Mrs. G.D. Oliver - Mayor
Councillor D.M. Gray - Deputy Mayor

Councillors:

Miss. L. Ackerman, M. Adams, Mrs. E.M. Aldworth, H.A. Andrews, A.P. Angel, Mrs. G. Bevan
J. Bevan, P.J. Bevan, L. Binding, Mrs. A. Blackman, D.G. Carter, Mrs. A. Collins,
Mrs. P. Cook, C.J. Cuss, H.W. David, W. David, H.R. Davies, D.T. Davies, R.T. Davies,
K. Dawson, N. Dix, C. Durham, Mrs. D. Ellis, C. Elsbury, Mrs. C. Forehead, Ms E.E.
Forehead, L. Gardiner, N. George, C.J. Gordon, R.W. Gough, Mrs. P. Griffiths, D.T. Hardacre,
D. Havard, C. Hawker, A.G. Higgs, M.P. James, G. Johnston, Mrs. B.A. Jones, G. Jones,
Ms. J.G. Jones, S. Kent, G. Kirby, A. Lewis, C.P. Mann, S. Morgan, Mrs. R. Passmore,
D.V. Poole, D.W.R. Preece, M.J. Prew, Mrs. D. Price, J. Pritchard, J.A. Pritchard, D. Rees,
K.V. Reynolds, J.E. Roberts, R. Saralis, Mrs. M.E. Sargent, Mrs. E. Stenner,
Mrs. J. Summers, J. Taylor, L.G. Whittle, T.J. Williams, R. Woodyatt

Together with:-

N. Barnett (Acting Chief Executive), S. Aspinall (Acting Deputy Chief Executive), D. Street
(Acting Director of Social Services), G. Williams (Principal Solicitor), L. Donovan (Education
and Leisure Personnel Manager), R.J. Thomas (Committee Service Officer)

1. APOLOGIES

Apologies for absence were received from Councillors Mrs. K.R. Baker, D. Bolter,
J.E. Fussell, Mrs. J. Gale, G.J. Hughes, K. James and K. Lloyd.

2. ACTING CHIEF EXECUTIVE'S ANNOUNCEMENT

Mr. Barnett, Acting Chief Executive, referred to the separate but linked reports and reminded
Members of previous advice given in regards to the Wales Audit Office Public Interest Report
and subsequent investigations. He added that legal advice and guidance had also been
received from Geldards LLP Solicitors.

He reiterated the need for impartiality and fairness in the proposed processes and of the
importance in adhering to the following legal advice:

- “That comments about the merits of the case against officers and any derogatory comments are likely to contravene the duty Members have, as employer in this situation, to act in good faith towards all employees. A failure to have sufficient regard to this obligation could lead to a valid complaint of constructive unfair dismissal and/or breach of contract”.
- “The significant risk that adverse comments might prejudice the fairness of the investigation process. This could make it difficult to appoint Members to the Investigating and Disciplinary Committee if Members have involved themselves in discussions that would reveal a lack of impartiality or some other conflict of interest.”

In closing, he added that Mrs. Gail Williams, Principal Solicitor, would withdraw from the Chamber during discussions on the first agenda item (Interim Governance Arrangements) as she had a pecuniary interest in the matter.

A Member sought further clarification as to the extent of permissible questioning and Mr. Barnett reminded Members that the reports before Council were in relation to processes and constitutional affairs, and not in regard to the Wales Audit Office Public Interest Report.

3. DECLARATIONS OF INTEREST

Councillor D.T. Hardacre declared an interest in the report relating to Statutory Officers and Other Chief Officers’ Disciplinary Process, while the Principal Solicitor declared an interest in the report relating to the Interim Governance Arrangements.

Details are minuted with the respective items.

4. INTERIM GOVERNANCE ARRANGEMENTS

The Principal Solicitor declared an interest as she had a pecuniary interest in the matter. During consideration of the report, she left the Chamber.

Consideration was given to the report that, in response to the Wales Audit Office Public Interest Report, sought Members’ approval to implement effective interim governance measures and procedures across the Council, for a period of six months from the date of the meeting.

The Acting Chief Executive highlighted the need to undertake a thorough review of the governance processes and for the separation of governance arrangements from disciplinary processes. In order to comply with its statutory duties, the Council would also have to have a Monitoring Officer.

Members noted the potential financial implications, and indefinite timescales for these arrangements due to ongoing investigations.

RESOLVED that, for the reasons contained in the report the following interim governance arrangements be approved for a period of six months from the date of the meeting:-

- (i) the Head of Legal and Governance relinquish the role of the Council’s Monitoring Officer. For the avoidance of doubt the current postholder will continue to undertake his duties as Head of Legal Services and will continue to be afforded the statutory protection afforded to the post of Monitoring Officer;

- (ii) the Council's Deputy Monitoring Officer/Head of Democratic Services assumes the role of Monitoring Officer and relinquishes the role of Head of Democratic Services. (Legislation prevents an officer from holding the role of Monitoring Officer and Head of Democratic Services);
- (iii) the Council's Head of Legal Services assumes the role of Head of Democratic Services. This change to be reported to the Democratic Services Committee at the next meeting;
- (iv) a Solicitor be seconded internally to support and assist the Monitoring Officer in the review of governance to be undertaken.

5. STATUTORY OFFICERS AND OTHER CHIEF OFFICERS' DISCIPLINARY PROCESS

Councillor D.T. Hardacre declared an interest as a family member worked for the Authority as a Head of Service. In accordance with the advice of the Monitoring Officer he left the Chamber when the item was being discussed.

The report sought approval for the establishment of a standing Investigating and Disciplinary Committee for the purposes of the JNC Conditions of Service for Chief Officers and for the Local Authorities (Standing Orders) (Wales) Regulations 2006; and requested that Council adopt disciplinary procedures for the statutory officers of the Council and other Chief Officers as set out in appendices A and B respectively, as attached to the report.

Members noted that while the Authority had disciplinary procedures in place, should Council adopt the proposed procedure, using the model contained in the JNC Conditions of Service for Chief Officers, this would formalise arrangements. In addition, the proposed Investigating and Disciplinary Committee, will be empowered to discharge all relevant functions associated with the disciplinary process, including investigatory powers.

The report confirmed that the Investigating and Disciplinary Committee must consist of no fewer than three elected Members, be politically balanced and must include a member of the Executive.

Full discussions ensued that included further clarification on the potential impact of the proposed Disciplinary Procedures, the statutory nature of a number of the proposals and the political composition of any Standing Investigating and Disciplinary Committee, if approved.

The addition of a further recommendation, in regard to the political composition of the Investigating and Disciplinary Committee, together with the six original recommendations detailed within the report, were moved and seconded:

- (i) that the Disciplinary Procedure for Statutory Officers, appendix A to the report, be approved and adopted;
- (ii) that the Disciplinary Procedure for Chief Officers, appendix B to the report, be approved and adopted;
- (iii) a Standing Investigating and Disciplinary Committee comprising of at least three elected Members, being politically balanced in composition and in compliance 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), be established;

- (iv) that the Investigating and Disciplinary Committee comprise of 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;
- (v) further to the two recommendations above, to ensure all parties have an active role, a Labour seat be offered to the Independent Party, thus making the political composition - four Labour, two Plaid Cymru and one Independent. Should this be declined, the political composition revert to five Labour and two Plaid Cymru;
- (vi) that the Investigating and Disciplinary Committee be delegated authority to review the Disciplinary Procedures attached at appendices A and B to the report 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;
- (vii) 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.

Amendments were moved and seconded that the Investigating and Disciplinary Committee comprise of six or eight Members and for greater credibility, the political composition consist of an equal number of Members from the two majority groups (i.e. Labour and Plaid Cymru). In addition any decision/recommendation of the Investigating and Disciplinary Committee be brought before Council for discussion and confirmation, rather than for information purposes.

The amendments were declared lost by a show of hands. By a further show of hands the motion, with the additional recommendation was declared carried.

RESOLVED that:

- (i) the Disciplinary Procedure for Statutory Officers, appendix A to the report, be approved and adopted;
- (ii) the Disciplinary Procedure for Chief Officers, appendix B to the report, be approved and adopted;
- (iii) a Standing Investigating and Disciplinary Committee comprising of at least three elected Members, being politically balanced in composition and in compliance 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), be established;
- (iv) the Investigating and Disciplinary Committee comprise of 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;
- (v) further to the two recommendations above, to ensure all parties have an active role, a Labour seat be offered to the Independent Party, thus making the political composition - four Labour, two Plaid Cymru and one Independent. Should this be declined, the political composition revert to five Labour and two Plaid Cymru;

- (vi) the Investigating and Disciplinary Committee be delegated authority to review the Disciplinary Procedures attached at appendices A and B to the report 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;
- (vii) the Council's Monitoring Officer be authorised to amend the Council's Constitution, as necessary to give effect to the recommendations in this Report.

The meeting closed at 5.45 p.m.

Approved as a correct record and subject to any amendments or corrections agreed and recorded in the minutes of the meeting held on 23rd April 2013 they were signed by the Mayor.

MAYOR