



COUNCIL – 7TH OCTOBER 2014

SUBJECT: LOCAL AUTHORITIES (STANDING ORDERS) (WALES) (AMENDMENT) REGULATIONS 2014 - CHANGES TO THE COUNCIL'S CONSTITUTION

REPORT BY: INTERIM HEAD OF LEGAL SERVICES AND MONITORING OFFICER

1. PURPOSE OF REPORT

- 1.1 To propose amendments to the Council's Constitution as shown in the track changed extracts at Appendix 1 (changes in italics) to this report, to reflect the additional requirements of the 2014 Regulations and as a result of a review of current procedures.
- 1.2 To ask Council to note the changes endorsed by the Investigating and Disciplinary Committee at its meeting on 15th September 2014 in relation to the disciplinary procedures forming part of its Terms of Reference as a result of changes introduced by The Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2014 ("the 2014 Regulations").
- 1.3 To seek approval for the Council's Interim Head of Legal Services and Monitoring Officer to make the changes to the Council's Constitution as identified in the track-changed extracts at Appendix 1, changes in italics.

2. SUMMARY

- 2.1 The 2014 Regulations came into force on 1 July 2014 and amended the Local Authorities (Standing Orders) (Wales) Regulations 2006 (the 2006 Regulations") relating to the process for appointing, dismissing and conducting disciplinary investigations of certain officers of authorities. They impose new requirements for procedures for determining the level of remuneration to be paid to chief officers.
- 2.2 The 2014 Regulations also make provision for certain amendments as a result of changes introduced by the Local Government (Wales) Measure 2011.
- 2.3 On 15th September 2014 the Investigating and Disciplinary Committee endorsed the recommendations in a Report received on proposed changes to the disciplinary procedures set out in its Terms of Reference (the background report refers).
- 2.4 This report seeks Council's approval to make the amendments to the Council's Constitution as shown in the track changed document at Appendix 1 (changes in italics) to this report, to reflect the additional requirements of the 2014 Regulations and as a result of the review of current procedures and additional amendments to deal with the matter raised at paragraph 2.2.

3. LINKS TO STRATEGY

- 3.1 The Council's Constitution governs the operation of the Authority and as such requires updating to reflect changes to legislative requirements.

4. THE REPORT

- 4.1 The 2014 Regulations came into force on 1st July 2014 and amended the 2006 Regulations relating to the process for appointing, dismissing and conducting disciplinary investigations of certain officers of authorities. They also impose new requirements for procedures for determining the level of remuneration to be paid to chief officers.
- 4.2 Under the 2014 Regulations, the role of Head of Democratic Services will be given the same status as the Head of Paid Service, Monitoring Officer and Chief Finance Officer as regard the process under which authorities can take disciplinary action against them and how any allegation of misconduct is to be dealt with.

Further amendments are made to extend the protections given to officers in relation 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 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.

- 4.4 The 2006 Regulations made provision relating to the process for recruiting and appointing chief officers. Under the 2014 Regulations, where an authority now proposed 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 is where annual remuneration for a chief officer role is £100,000 or more and the proposed appointment is to be made for a period of no longer than 12 months. This exception will be useful in emergencies or if there were unforeseen departures. The requirement for public advertisement is intended to ensure that able candidates from outside the organisation have the opportunity to gain the position if found to be the most suitable.
- 4.5 Additional provision is made in the 2014 Regulations relating to remuneration of chief officers' pay. Any decision to determine or vary the remuneration of chief officers (or those to be appointed) must be made by full Council, without the possibility of delegating it to a committee of the Council.
- 4.6 The posts of Monitoring Officer and Head of Democratic Services are now added to the list of those who are not subject to appointment or dismissal by the Head of Paid Service (or another officer designated to them) and whose appointment or dismissal should be conducted by a committee, and that any committee or sub-committee of the authority charged with this responsibility must include at least one member of the executive.
- 4.7 The amendments to the Council's Disciplinary Procedures required as a result of the 2014 Regulations and internal review have been endorsed by the Council's Investigatory and Disciplinary Committee, as previously mentioned, at its meeting held on 15th September, 2014.
- 4.8 In addition and in order to provide additional clarification, it is proposed that the Terms of Reference of the Investigation and Disciplinary Committee are slightly amended.
- 4.9 It is proposed that the Council approve the amendments to the Council's Constitution as set out in Appendix 1 using tracked changes (in italics) to conform with the amendments made by the 2014 Regulations and the review undertaken of current procedures in light of the 2014 Regulations.
- 4.10 The 2014 Regulations also provide for the deletion for the Mayor and Council Manager form of executive arrangements and alternative arrangements models. The Council does not exercise these arrangements and where there is reference to those options in the Council's Constitution it is proposed that these be deleted (Article 15 of the Council's Constitution refers set out at Appendix 2).

5. EQUALITIES IMPLICATIONS

5.1 There are none arising from this Report.

6. FINANCIAL IMPLICATIONS

6.1 None arising from this Report.

7. PERSONNEL IMPLICATIONS

7.1 The personal implications as set out in this report.

8. CONSULTATIONS

8.1 The views of the consultees have been reflected in this report.

9. RECOMMENDATIONS

It is recommended that:

9.1 Council note the implementation of the 2014 Regulations and approve the changes to the Council's Constitution set out in the tracked changed document at Appendix 1, changes in italics to conform with the 2014 Regulations and review of procedures.

9.2 Council authorise the Interim Head of Legal Services and Monitoring Officer to make the required changes to the Constitution.

10. REASONS FOR THE RECOMMENDATIONS

10.1 To give effect to the Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2014, which the Council is legally obliged to implement.

11. STATUTORY POWER

11.1 Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2014.
Local Government Act 1972.

Author: Mrs. G. Williams, Interim Head of Legal Services/Monitoring Officers
Consultees: Councillor C. Forehead (Cabinet Member for Human Resources & Governance/Business Manager)
Councillor K. Reynolds
Councillor B. Jones
Councillor G. Jones
Mr. C. Burns, Interim Chief Executive
Mrs. S. Aspinall, Acting Deputy Chief Executive
Mrs. N. Scammell, Acting Director of Corporate Services
Mr. D. Street, Corporate Director - Social Services

Appendices:

Appendix 1 Track Changed extracts of the Council's Constitution
Appendix 2 Extract of Article 15 of the Council's Constitution

Background Papers

1. Report to Investigating and Disciplinary Committee dated 15th September 2014
2. Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2006 as amended by the Local Authorities (Standing Orders) (Wales) Amendment Regulations
3. Explanatory Memorandum 2014 to the Local Authorities (Standing Orders) (Wales) Regulations (Amendment) Regulations 2014