

## 4.8 OFFICER EMPLOYMENT PROCEDURE RULES

### 1. Recruitment and appointment

#### (a) Declarations

- (i) The Council will draw up a statement requiring any candidate for appointment as an officer, to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece or close personal friend of an existing councillor, officer, or of the partner of such persons.
- (ii) No candidate so related to a councillor or an officer will be appointed without the authority of the Head of Strategic HR or an officer nominated by him/her.

#### (b) Seeking support for appointment.

- (i) The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) No councillor will seek support for any person for any appointment with the Council or give a reference for any person for any appointment with the Council.

### 2. Recruitment of Chief Officers

- (1) Where the Council proposes to appoint a Head of Paid Service, a Corporate Director, Monitoring Officer, Chief Finance Officer or other statutory or non statutory Chief Officer as defined in Section 2(6) and (7) of the Local Government Act 1989 (Chief Officers) and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

#### (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;

- (b) make arrangements for the post to be 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.
  - (ch) where the post has been advertised as provided in paragraph (b):-
    - (i) interview all qualified applicants for the post or
    - (ii) select a short list of such qualified applicants and interview those included on the short list
  - (d) where no qualified person has applied, or if the Council decides to re-advertise the appointment, the Council will make further arrangements for advertisement in accordance with paragraph (b)
- (2) (a) The Council must take the steps set out in 2(i)(a) – (d) above wherever it proposes to appoint a Chief Officer and the remuneration which it proposes to pay to that Chief Officer is £100k or more per annum.
- (b) Paragraph 2(2)(a) does not apply if the period of the relevant appointment is for no longer than 12 months.

### **3. Appointment of Head of Paid Service, Corporate Directors, Monitoring Officer and Chief Finance Officer**

The full Council will make appointments to these posts although the Council may appoint a joint committee with one or more other councils where it is intended to make an appointment that will serve Denbighshire County Council and one or more other councils.

### **4. Other Appointments**

- (a) Subject to paragraph 3 and sub-paragraph (c), appointment of statutory and non-statutory chief officers as defined in Section 2(6) and (7) of the Local Government and Housing Act 1989 shall be made by an appointments panel consisting of not more than 5 councillors (at least one of, but not more than two of whom shall be Cabinet members), the Head of Paid Service (or his/her nominee) and the relevant Corporate Director.
- (b) The appointment of all other officers is the responsibility of the Head of Paid Service or his/her nominee.
- (c) Where an appointment described in sub-paragraph (a) is to be made by Denbighshire County Council but the person appointed will serve the council and one or more other councils, the appointment shall be made by a joint committee on which the number of councillors from Denbighshire

shall be equal to the number of councillors from each other council. The councillors from Denbighshire shall include a member or members of the Cabinet but shall not consist solely of members of the Cabinet. There shall also be equal representation on the committee by or on behalf of the Head of Paid Service of each council.

**5. Changes to Remuneration of Chief Executive, Corporate Directors and Chief Officers**

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

**6. Disciplinary Action**

The Head of Paid Service or an officer nominated by him will, subject to paragraphs 7 and 8 below, discharge the Council's functions in respect of dismissal of, and taking disciplinary action (as defined in the Local Authorities (Standing Orders) (Wales) Regulations 2006) against a member of staff other than a Chief Officer, an assistant for a political group or person to whom regulations made under Section 35(4) and (5) of the Education Act 2002 apply. Subject to this, the Council's disciplinary, capability, redundancy and grievance procedures, as adopted from time to time, set out councillors' and officers' involvement in such procedures, and may allow a right of appeal or representation in respect of action which has been taken.

**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 Council's Head of 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.

**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
- or
- (d) The Head of Democratic Services.

hereinafter referred to as 'the relevant officer', 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.