

## SECTION 11 – OFFICERS

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### Management Structure

#### General

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

#### Chief Officers

11.2 The Full Council will engage persons for the following posts, who will be designated Chief Officers<sup>1</sup>, which designation includes persons acting temporarily in such capacity:

Post	Functions and Areas of Responsibility
<b>Chief Executive (and Head of Paid Service)</b>	Statutory Role: <ul style="list-style-type: none"><li>• Head of Paid Service</li><li>• Interim Chief Education Officer</li></ul> <ul style="list-style-type: none"><li>▪ Overall corporate management and operational responsibility including overall management responsibility for all Officers.</li><li>▪ Principal adviser to the Council on general policy.</li><li>▪ The provision of professional and impartial advice to all parties in the decision making process to the Cabinet, to the Full Council, Scrutiny Committees, and other Committees.</li><li>▪ Together with the Monitoring Officer, responsibility for a system of record keeping for all the Authority's decisions (executive or otherwise).</li><li>▪ Representing the Authority on partnership and external bodies (as required by statute or the Council).</li><li>▪ Service to the whole Council, on a politically neutral basis.</li><li>▪ Communications including Member Support</li><li>▪ Local Service Board and Partnerships</li><li>▪ Emergency / Contingency / Business Continuity Planning</li><li>▪ Regional Teams – Lead Chief Executive Officer on Social Services and Health for the Mid and West Region.</li></ul>

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<sup>1</sup> Defined in Section 2, 2.2

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Post	Functions and Areas of Responsibility
<b>Strategic Director People.</b>	<p><u>Statutory Role:</u></p> <ul style="list-style-type: none"> <li>▪ Statutory Director of Social Services.</li> <li>▪ Lead Director for Children and Young People’s Services</li> </ul> <p><u>Service Area Responsibility:</u></p> <ul style="list-style-type: none"> <li>▪ Adults</li> <li>▪ Children</li> <li>▪ Commissioning for Directorate</li> <li>▪ Housing</li> <li>▪ Safeguarding</li> <li>▪ Social Care</li> <li>▪ Vulnerable People</li> <li>▪ Wellbeing</li> </ul>

Post	Functions and Areas of Responsibility
<b>Strategic Director – Place</b>	<p><u>Service Area Responsibility:</u></p> <ul style="list-style-type: none"> <li>▪ Arts and Culture- including: <ul style="list-style-type: none"> <li>▪Arts Development,</li> <li>▪Arts Strategy,</li> <li>▪Galleries,</li> <li>▪ Libraries and Archives (Public Library Service, Schools Library Service, Archives)</li> <li>▪Museums,</li> <li>▪Theatr Powys / Powys Dance</li> <li>▪Theatres,</li> </ul> </li> <li>▪ Commissioning for Directorate</li> <li>▪ Corporate Property and Design Services</li> <li>▪ Countryside Services – including <ul style="list-style-type: none"> <li>▪Biodiversity,</li> <li>▪Catering and Cleaning.</li> <li>▪Commons Registration,</li> <li>▪Maintenance,</li> <li>▪National Trails,</li> <li>▪Open Access,</li> <li>▪Rights of Way,</li> </ul> </li> <li>▪ Economic Development</li> <li>▪ Environmental Health</li> <li>▪ Highways (including highways strategy and design)</li> <li>▪ Leisure and Recreation - including the following: <ul style="list-style-type: none"> <li>▪ Leisure (Recreation and Leisure policy, Leisure and Sports Centres, Outdoor Pursuits Centres, Indoor Bowling Centre, Health Intervention Programme, Exercise on Prescription, Cardiac Rehabilitation).</li> </ul> </li> </ul>

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	<ul style="list-style-type: none"> <li>▪ Outdoor Recreation (Parks and Open Spaces, Playgrounds, Sports Pitches – Bowls, Football, Rugby, Woodland Management, Sports Pavilions, Allotments, Landscape Design)</li> <li>▪ Sports Development (Generic Sports Development, Sports Specific Sports Development – Football, Rugby, Cricket, Netball, Hockey, Disability Sport)</li> <li>▪ Young Farmers Clubs</li> <li>▪ Youth service</li> <li>▪ Local Environmental Services</li> <li>▪ Planning and Building Control</li> <li>▪ Regeneration</li> <li>▪ Trading Standards and Public Protection</li> <li>▪ Transport</li> <li>▪ Waste and Recycling</li> </ul>
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Post	Functions and Areas of Responsibility
<b>Strategic Director - Resources</b>	<p><u>Statutory Role:</u></p> <ul style="list-style-type: none"> <li>▪ Chief Financial Officer (Section 151)</li> </ul> <p><u>Service Area Responsibility:</u></p> <ul style="list-style-type: none"> <li>▪ Anti-Fraud</li> <li>▪ Audit Services</li> <li>▪ Commercial Services</li> <li>▪ Commissioning for Directorate</li> <li>▪ Emergency Planning</li> <li>▪ Employment Services</li> <li>▪ Finance               <ul style="list-style-type: none"> <li>▪ Accountancy</li> <li>▪ Accounts Closure</li> <li>▪ Capital Planning</li> <li>▪ Financial Advice</li> <li>▪ Financial Planning</li> <li>▪ Treasury Management including investments</li> </ul> </li> <li>▪ Human Resources</li> <li>▪ Income and Awards               <ul style="list-style-type: none"> <li>▪ Benefits</li> <li>▪ Council Tax Collection</li> </ul> </li> <li>▪ Pension Administration</li> <li>▪ Pension Committee Support</li> <li>▪ Payments to Suppliers</li> <li>▪ Payroll Services</li> </ul> <p><u>Temporarily Transferred from the Director – Change and Governance:</u></p> <ul style="list-style-type: none"> <li>▪ Commissioning.</li> <li>▪ Complaints Management</li> </ul>

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|  | <ul style="list-style-type: none"><li>▪ Customer Services</li><li>▪ Information Technology, Management and Compliance,</li><li>▪ Organisational Development</li><li>▪ Performance Management</li></ul> |
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### Statutory Officers

11.3 The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service <sup>2</sup>
Solicitor to the Council	Monitoring Officer <sup>3</sup>
Strategic Director Resources	Chief Finance Officer (Section 151 Officer) <sup>4</sup>
Strategic Director - People <sup>5</sup>	Director of Social Services
Chief Executive <sup>6</sup>	Chief Education Officer
Strategic Director - People	<sup>7</sup> Lead Director for Children and Young People's Services
Scrutiny Manager	Head of Democratic Services

11.4 The posts set out in Rule 11.3 above will have the functions described in Rules 11.5 to 11.32.

### Functions of the Head of Paid Service

#### Discharge of Functions by the Council

11.5 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.

#### Restrictions on Functions

11.6 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.

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<sup>2</sup> Section 4 – Local Government and Housing Act 1989.

<sup>3</sup> Section 5 – Local Government and Housing Act 1989.

<sup>4</sup> Section 151 – Local Government Act 1972.

<sup>5</sup> Section 6 – Local Authority Social Services Act 1970

<sup>6</sup> Section 532 – Education Act 1996

<sup>7</sup> Section 27 – Children Act 2004

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### **Functions of the Monitoring Officer**

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

### **Maintaining the Constitution**

11.8 The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is available to Members, staff and the public.

### **Ensuring Lawfulness and Fairness of Decision Making**

11.9 After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Full Council or to the Cabinet in relation to any function if s/he 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.

### **Supporting the Standards Committee**

11.10 The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

### **Receiving Reports**

11.11 The Monitoring Officer will receive and act on reports made by the Public Services Ombudsman for Wales (“the Ombudsman”) and decisions of the case tribunals.

### **Conducting Investigations**

11.12 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.

### **Proper Officer for Access to Information**

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

### **Advising whether decisions of the Cabinet are within the Budget and Policy Framework**

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

### **Providing Advice**

11.15 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.

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### **Power to Appoint to Committees and Outside Bodies.**

11.16 The Council has authorised the Monitoring Officer to make an appointment to fill a vacancy on a committee or outside body where the appointment must reflect the wishes of a political group and the appointment reflects such wishes of that political group to whom the committee seat or position on the outside body remains allocated.

### **Restrictions on Posts**

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

### **Functions of the Chief Finance Officer**

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

### **Ensuring Lawfulness and Financial Prudence of Decision Making**

11.19 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 Cabinet in relation to an Executive Function and the Council's external auditor if s/he 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.

### **Administration of Financial Affairs**

11.20 The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

### **Contributing to Corporate Management**

11.21 The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

### **Providing Advice**

11.22 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 and in particular will advise whether decisions of the Cabinet or Full Council are in accordance with the budget.

### **Give Financial Information**

11.23 The Chief Finance Officer will provide financial information to the media, members of the public and the community.

### **Advising whether Decisions of the Cabinet are within the Budget and Policy Framework**

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

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### **Restrictions on Posts**

11.25 The Chief Finance Officer cannot be the Monitoring Officer or the Head of Democratic Services.

### **Functions of the Director of Social Services**

#### **Protocol – Responsibility for Social Services Functions**

11.26 The areas of responsibility of the Director of Social Services are detailed in the protocol contained in Section 25 of this Constitution.

### **Lead Director for Children and Young People’s Services**

11.27 Strategic management responsibility for ensuring that the Authority meets the requirements of Section 27 of the Children Act 2004.

### **Functions of the Chief Education Officer**

11.28 Strategic management responsibility and provision of the Council’s education services in accordance with Section 532 of the Education Act 1996.

### **Functions of the Head of Democratic Services**

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

- 11.29.1 to provide support and advice to the authority in relation to its meetings, subject to Rule 11.31;
- 11.29.2 to provide support and advice to committees of the authority (other than the committees mentioned in Rule 11.29.5) and the members of those committees (subject to Rule 11.31);
- 11.29.3 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 Rule 11.31;
- 11.29.4 to promote the role of the Scrutiny Committees;
- 11.29.5 to provide support and advice to:
  - 11.29.5.1 the authority’s Scrutiny Committees ; and
  - 11.29.5.2 the authority’s Democratic Services Committee;
- 11.29.6 to provide support and advice in relation to the functions of the authority’s Scrutiny Committees to each of the following:
  - 11.29.6.1 Members and officers of the authority;
  - 11.29.6.2 members of the Cabinet of the authority;
- 11.29.7 to provide support and advice to each Member of the authority in carrying out the role of Member of the authority, subject to Rule 11.32;
- 11.29.8 to make reports and recommendations in respect of any of the following:

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- 11.29.8.1 the number and grades of staff required to discharge democratic services functions;
- 11.29.8.2 the appointment of staff to discharge democratic services functions;
- 11.29.8.3 the organisation and proper management of staff discharging democratic services functions;
- 11.29.9 such other functions as may be prescribed by law.

### Restrictions on Posts

- 11.30 The Head of Democratic Services cannot be the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer.
- 11.31 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 Scrutiny Committees and Democratic Services Committee.
- 11.32 Advice to a Member does not include advice in connection with their role as a Cabinet Member and does not include advice about a matter being or to be considered at a meeting (other than a meeting of a Scrutiny Committee or Democratic Services Committee).

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

- 11.33 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.

### Deputy Chief Officers.

- 11.34 The Employment and Appeals Committee will engage persons for the following Director and Heads of Service posts within the directorates indicated, who will be designated Deputy Chief Officers and such posts will have the functions and areas of responsibility set out below.

### Chief Executive Directorate.

Post	Functions and Areas of Responsibility
<ul style="list-style-type: none"> <li>▪ Director – Change and Governance incorporating Head of IM&amp;T at the Powys teaching Health Board</li> </ul> <p>(Currently seconded as Director – Powys County Council / Powys teaching</p>	<p><u>Service Area Responsibility:</u></p> <p><u>Temporarily Transferred to Strategic Director – Resources:</u></p> <ul style="list-style-type: none"> <li>▪ Commissioning.</li> <li>▪ Complaints Management</li> <li>▪ Customer Services</li> <li>▪ Information Technology, Management and Compliance,</li> <li>▪ Organisational Development</li> <li>▪ Performance Management</li> </ul> <p><u>Temporarily Transferred to Head of Law and Governance:</u></p>



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Health Board Integration Development)	<ul style="list-style-type: none"> <li>▪ Corporate Legal Team (including Solicitor to the Council, incorporating the roles of Monitoring Officer and Chief Legal Officer)</li> <li>▪ Electoral Registration</li> <li>▪ Members’ Standards and Ethical Issues.</li> <li>▪ Ombudsman.</li> <li>▪ Registration of Births, Deaths and Marriages</li> <li>▪ Scrutiny and Democratic Services (including Head of Democratic Services and Cabinet Business Manager)</li> </ul>
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Post	Functions and Areas of Responsibility
Head of Schools	<ul style="list-style-type: none"> <li>▪ Accountability Framework</li> <li>▪ Additional Learning Needs and Inclusion including Special Education Needs</li> <li>▪ Admissions</li> <li>▪ Adult and Community Learning</li> <li>▪ Attendance</li> <li>▪ Behaviour Management</li> <li>▪ Child Protection in Schools</li> <li>▪ Early Years Education</li> <li>▪ Education Psychology</li> <li>▪ Education Welfare Service</li> <li>▪ Elective Home Education</li> <li>▪ English as an additional language</li> <li>▪ Exclusions</li> <li>▪ 14-19 Learning Pathways.</li> <li>▪ Hearing Impaired / Visual Impaired / Multi Sensory Service</li> <li>▪ Home to School / College Transport</li> <li>▪ Migrant and Traveler Children</li> <li>▪ Monitoring, challenging support and intervention strategy.</li> <li>▪ Performance Management of the Schools Service.</li> <li>▪ Performance of Looked After Children,</li> <li>▪ Provision of and support for use of data</li> <li>▪ Pupil Referral Units / Education other than at School.</li> <li>▪ Qualified for Life Welsh Government Improvement Plan.</li> <li>▪ Race Equality in Schools</li> <li>▪ School Modernisation</li> <li>▪ Support for leadership and management including governance</li> <li>▪ Support for teaching and learning</li> <li>▪ Welsh Education scheme</li> <li>▪ Welsh Medium / Bilingual Education</li>   <li>▪ Regional Responsibilities:               <ul style="list-style-type: none"> <li>▪ Powys representative on ERW (Education Through Regional Working) Executive Board and Delivery Board</li> <li>▪ Powys representative on ADEW (Association of Directors</li> </ul> </li> </ul>

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	of Education Wales).
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Post	Functions and Areas of Responsibility
Head of Law and Governance	<p>Temporarily Transferred from the Director of Change and Governance:</p> <ul style="list-style-type: none"> <li>▪ Corporate Legal Team (including Solicitor to the Council, incorporating the roles of Monitoring Officer and Chief Legal Officer)</li> <li>▪ Electoral Registration</li> <li>▪ Members’ Standards and Ethical Issues.</li> <li>▪ Ombudsman.</li> <li>▪ Registration of Births, Deaths and Marriages</li> <li>▪ Scrutiny and Democratic Services (including Head of Democratic Services and Cabinet Business Manager)</li> </ul>

### People Directorate.

Post	Functions and Areas of Responsibility
Head of Children’s Services	<ul style="list-style-type: none"> <li>▪ Adoption.</li> <li>▪ Childcare.</li> <li>▪ Children and Young People’s Partnership</li> <li>▪ Children with Disabilities including Residential Respite Unit.</li> <li>▪ Children’s Social Work Teams.</li> <li>▪ Commissioning and Policy for Children’s Services.</li> <li>▪ Corporate Parenting</li> <li>▪ Family Placement Teams.</li> <li>▪ Leaving Care.</li> <li>▪ CYSUR (Children and Youth, Safeguarding and Unifying the Region) Board.</li> <li>▪ Powys Executive Safeguarding Group.</li> <li>▪ Out of Hours Service</li> <li>▪ Youth Offending Service.</li> </ul>

Post	Functions and Areas of Responsibility
Head of Housing	<ul style="list-style-type: none"> <li>▪ Homelessness.</li> <li>▪ Housing Strategy (Affordable Housing, Supporting People).</li> <li>▪ Private Sector Housing</li> <li>▪ Public Sector Housing (Landlord function).</li> <li>▪ Welsh Quality Housing Standard</li> </ul>

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Post	Functions and Areas of Responsibility
Head of Operations for Adult Services	<p>(Operational services for the delivery of Adult Social Care).</p> <ul style="list-style-type: none"> <li>▪ Adult Social Services Policy Interpretation and Development.</li> <li>▪ Adults with Disabilities.</li> <li>▪ Integrated Teams</li> <li>▪ Mental Health.</li> <li>▪ Older People.</li> <li>▪ Substance Misuse.</li> <li>▪ Safeguarding</li> <li>▪ Social Services Wellbeing (Wales) Act</li> <li>▪ Out of Hours Service</li> <li>▪ Integration with Health</li> </ul>
Head of Transformation for Adult Services	<ul style="list-style-type: none"> <li>▪ Commissioning and Contracting</li> <li>▪ Transformational change agenda within Adult Services</li> <li>▪ Social Services Wellbeing (Wales) Act</li> <li>▪ Carers Services.</li> <li>▪ Domiciliary Care Contracting and Monitoring</li> <li>▪ Integration with health</li> </ul>

### Place Directorate.

Post	Functions and Areas of Responsibility
Head of Regeneration, Property and Commissioning	<ul style="list-style-type: none"> <li>▪ Building Control, including dangerous structures.</li> <li>▪ Built Heritage Conservation.</li> <li>▪ Business and Community Regeneration</li> <li>▪ Corporate Property</li> <li>▪ Corporate Sustainability</li> <li>▪ County Farms Estate</li> <li>▪ Development and Planning Policy.</li> <li>▪ Development Management and Planning Enforcement.</li> <li>▪ Economic Development and Inward Investment</li> <li>▪ Environmental Health</li> <li>▪ European policy, advice and funding</li> <li>▪ External Grant advice and funding</li> <li>▪ Facilities Management and Energy Conservation</li> <li>▪ Grants for Community Groups</li> <li>▪ Major Building Projects</li> <li>▪ Minerals and Waste Planning.</li> <li>▪ National Estate Agency</li> <li>▪ Regulatory Services</li> <li>▪ Tourism and Marketing Services</li> <li>▪ Tourist Information Service</li> <li>▪ Trading Standards</li> <li>▪ Workshop Property Portfolio</li> </ul>

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Post	Functions and Areas of Responsibility
Head of Highways, Transport and Recycling	<ul style="list-style-type: none"> <li>▪ Car parks</li> <li>▪ Contract / Procurement / Administration and Supervision.</li> <li>▪ Fleet Management (including Fuel Management).</li> <li>▪ Grounds Maintenance (Operational).</li> <li>▪ Grounds Maintenance (Policy &amp; Strategy)</li> <li>▪ Highway Asset Management</li> <li>▪ Highways Development Control</li> <li>▪ Highways Maintenance (Technical Advice).</li> <li>▪ Highways Maintenance Operations (e.g. Winter Maintenance).</li> <li>▪ Highways Structures Design.</li> <li>▪ Land Drainage</li> <li>▪ Markets (Operational).</li> <li>▪ Markets (Policy &amp; Strategy)</li> <li>▪ Network management</li> <li>▪ Public Conveniences (Operational).</li> <li>▪ Public Conveniences (Policy &amp; Strategy)</li> <li>▪ Refuse Collection</li> <li>▪ Road safety</li> <li>▪ Servicing Contracts and testing.</li> <li>▪ Statistics and Analysis Research</li> <li>▪ Street Cleaning (Operational).</li> <li>▪ Street Cleaning (Policy &amp; Strategy)</li> <li>▪ TraCC (Trafnidiaeth Canolbarth Cymru / Mid Wales Transportation)</li> <li>▪ Traffic management</li> <li>▪ Transport Co-ordination</li> <li>▪ Transport Planning and Policy</li> <li>▪ Trunk Road Agency</li> <li>▪ Waste management</li> </ul>

### Resources Directorate.

Post	Functions and Areas of Responsibility
Head of Professional Services and Commissioning	<ul style="list-style-type: none"> <li>▪ Finance.</li> <li>▪ Human Resources – including:</li> <li>▪ Human Resources Advice, Strategy, and Policy Development.</li> <li>▪ Internal Audit</li> <li>▪ Land Charges.</li> <li>▪ Occupational Health and Safety.</li> <li>▪ Procurement</li> </ul>

Post	Functions and Areas of Responsibility
Head of Business Services	<ul style="list-style-type: none"> <li>▪ Administrative and Finance Business Support Services</li> <li>▪ Income and Awards</li> </ul>

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	<ul style="list-style-type: none"> <li>▪ Payroll Employment Services</li> <li>▪ Pensions Administration</li> </ul>
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### Departmental Structure.

11.35 The Head of Paid Service will recommend to Cabinet and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers.

### Appointment of Proper Officers

11.36 The posts set out below shall be the designated Proper Officer Posts for the Council and those posts shall undertake the specific responsibilities attached to the role of the specific Proper Officer.

11.37 In the event of any Officers mentioned below being unable to act in their post or the post becoming vacant, the Chief Executive or in his/her absence, the Monitoring Officer, and in the absence of both, the Chief Finance Officer, shall nominate an Officer to act in their stead.

11.38 Until the Council decides otherwise the Chief Executive is appointed the Proper Officer for the purpose of all statutory provisions, whether existing or future, in respect of which no express Proper Officer appointment has been made as set out in rule Rule 11.39 below.

11.39 The Council has designated the following Proper Officer Posts:

### Proper Officers

Legislation	Section	Provision	Proper Officer
Any reference to any enactment passed before or during the 1971-72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26th October 1972 to the Town Clerk of a Borough which, by virtue of any provision of the said Act, is to be construed as a reference to the Proper Officer of the Council.			Chief Executive
Any reference in any local statutory provision to the Clerk of the Council or similar which, by virtue of an order made under the Local Government Act 1972 or the Local Government Act 1992, is to be construed as a reference to the Proper Officer of the Council.			Chief Executive

Legislation	Section	Provision	Proper Officer
Local Government Act 1972	S89(1)(b)	Receipt of notice of casual vacancy from two local government electors	Chief Executive

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<b>Legislation</b>	<b>Section</b>	<b>Provision</b>	<b>Proper Officer</b>
The Local Elections (Parish and Communities) (England and Wales) Rules 2006	Rule 44	Receipt from Returning Officer of names of persons elected to Council	Chief Executive
The Local Elections (Parish and Communities) (England and Wales) Rules 2006	Rule 46, 47	Receipt from Returning Officer of election documents	Chief Executive
The Local Elections (Parish and Communities) (England and Wales) Rules 2006	Rule 48, 49, 51	Retention of election documents and making them available for public inspection	Chief Executive
The Local Elections (Parish and Communities) (England and Wales) Rules 2006		Receipt from Returning Officer of names of persons elected to Town and Community Councils in the County of Powys	Chief Executive
The Local Elections (Parish and Communities) (England and Wales) Rules 2006		Receipt from Returning Officer of election documents	Chief Executive
The Local Elections (Parish and Communities) (England and Wales) Rules 2006		Retention of election documents and making them available for public inspection	Chief Executive
Elections	N/A	Registration Officer for any constituency or part of a constituency coterminus with or contained in the County of Powys	Chief Executive
Elections	N/A	Returning Officer for the election of Councillors for the County Council of Powys	Chief Executive

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<b>Legislation</b>	<b>Section</b>	<b>Provision</b>	<b>Proper Officer</b>
Elections	N/A	Returning Officer for the election of Town and Community Councillors for Town and Community Councils in the County of Powys	Chief Executive
Local Government and Housing Act 1989	S2	Receipt of list of Politically Restricted Posts	Chief Executive
The Local Authorities (Standing Orders) (Wales) Regulations 2005	Regs 6 and Schedule 3, Part 4	Provisions relating to the appointment and dismissal of, and taking disciplinary action against, staff	Chief Executive or by an officer(s) nominated by the Chief Executive

<b>Legislation</b>	<b>Section</b>	<b>Provision</b>	<b>Proper Officer</b>
Local Government Act 1972	S115(2)	Receipt of money due from Officers	Chief Financial Officer
Local Government Act 1972	S146(1) (a) & (b)	Declarations and certificates with regard to securities	Chief Financial Officer
Local Government Act 1972	S210(6) & (7)	Charity functions of holders of offices with existing authorities transferred to holders of equivalent office with new authorities, or if there is no such office, to the Proper Officer	Chief Financial Officer
Local Government Act 1972	S228(3)	Accounts - to be open for inspection	Chief Financial Officer

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<b>Legislation</b>	<b>Section</b>	<b>Provision</b>	<b>Proper Officer</b>
Local Government Act 1972	N/A	Any reference in any local statutory provision to the Treasurer of a specified Council or the Treasurer of a specified Borough which, by virtue of order made under Section 254 of the Local Government Act 1972, or the Local Government Act 1992, is to be construed as a reference to the Proper Officer of the Council	Chief Financial Officer
Local Government Act 1972	N/A	Any reference in any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26th October 1972 to the Treasurer or a Treasurer of a Borough which virtue of any provision of the said Act is to be construed as a reference to the Proper Officer of the Council	Chief Financial Officer
Council Tax (Administration and Enforcement) Regulations 1992	Reg 7	Service of Attachment of Earnings Orders	Chief Financial Officer
Local Government Finance Act 1988	S114	Powers to prevent unlawful expenditure and an unbalanced budget	Chief Financial Officer



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<b>Legislation</b>	<b>Section</b>	<b>Provision</b>	<b>Proper Officer</b>
Proceeds of Crime Act 2002, Part 7 (Money Laundering)	S331	Money Laundering Reporting Officer	Head of Business Services Internal Audit Manager (Deputy)

<b>Legislation</b>	<b>Section</b>	<b>Provision</b>	<b>Proper Officer</b>
Registration Services Act 1953	S9(1) S3(b) S13(2)(h) S20(b)	Registration of Births, Deaths and Marriages	Monitoring Officer
Registration Services Act 1953		Registration of Births, Deaths and Marriages Regulations 1968 - 1994	Monitoring Officer

<b>Legislation</b>	<b>Section</b>	<b>Provision</b>	<b>Proper Officer</b>
Local Government Act 1974	S30(5)	Notice of Local Government Ombudsman report	Monitoring Officer
Local Government Act 1972	S83(1)-(4)	Witness and receipt of declaration of acceptance of office	Monitoring Officer
Local Government Act 1972	S84	Receipt of declaration of resignation of office	Monitoring Officer
Local Government Act 1972	S88(2)	Convening of meeting of Council to fill casual vacancy in office of Chair/Mayor	Monitoring Officer
Local Government Act 1972	S96(1)	Receipt of notices of pecuniary interests	Monitoring Officer
Local Government Act 1972	S94 & 96(2)	Keeping of record of disclosures and notice of pecuniary interests	Monitoring Officer
Local Government Act 1972	S100(B)(2)	Circulation of reports and agendas	Monitoring Officer
Local Government Act 1972	S100(B)(7)	Supply of papers to press	Monitoring Officer
Local Government Act 1972	S100(C)(2)	Summary of minutes	Monitoring Officer
Local Government Act 1972	S100(D)(1)(a)	Compilation of background papers	Monitoring Officer

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<b>Legislation</b>	<b>Section</b>	<b>Provision</b>	<b>Proper Officer</b>
Local Government Act 1972	S100(D)(5)(a)	Identification of background papers	Monitoring Officer
Local Government Act 1972	S100(F)	Identification of confidential documents not open to Members	Monitoring Officer
Local Government Act 1972	S225(1)	Deposit of documents	Monitoring Officer
Local Government Act 1972	S229(5)	Deposit of documents - certification	Monitoring Officer
Local Government Act 1972	S234(1)	Authentication of documents	Monitoring Officer
Local Government Act 1972	S236(9) & (10)	Service of Byelaws on other Authorities	Monitoring Officer
Local Government Act 1972	S238	Certification of Byelaws	Monitoring Officer
Local Government Act 1972	Schedule 14 Para 25(7)	Certification of resolutions - Para 25	Monitoring Officer
Local Government Act 1972	S248 (2)	Keeping roll of Freeman	Monitoring Officer
Local Government Act 1972	Schedule 12 Para 4(2)(b)	Signature of summons to Council	Monitoring Officer
Local Government Act 1972	Schedule 12 Para 4(3)	Receipt of notices regarding addresses which Summons to meeting are to be sent	Monitoring Officer
Local Government (Miscellaneous Provisions) Act 1976	S41	Certification of copies of resolutions, Minutes, other documents	Monitoring Officer
Local Government and Housing Act 1989	S19	Members interests - notification	Monitoring Officer
Local Government and Housing Act 1989	S15, 16, 17	Receipt of notices relating to Political Groups	Monitoring Officer

<b>Legislation</b>	<b>Section</b>	<b>Provision</b>	<b>Proper Officer</b>
National Assistance Act 1948	All	Public Health (misc)	Head of Regeneration, Property and Commissioning
National Assistance (Amendment) Act	All	Public Health (misc)	Head of Regeneration, Property and

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1951			Commissioning
Local Authorities Cemeteries Order 1977	All		Head of Regeneration, Property and Commissioning
Public Health (Control of Diseases) Act 1984 (as amended by the Social Care Act 2008 and associated regulations)	All	Control of Diseases (various)	Head of Regeneration, Property and Commissioning
The Health Protection (Notification)(Wales) Regulations 2010	All	Infectious Diseases	Head of Regeneration, Property and Commissioning

<b>Legislation</b>	<b>Section</b>	<b>Provision</b>	<b>Proper Officer</b>
The Health Protection (Part 2A Orders)(Wales) Regulations 2010	All	Infectious Diseases	Head of Regeneration, Property and Commissioning
Weights and Measures Act 1985	All	Chief Inspector (Weights and Measures)	Professional Lead – Trading Standards
Environmental Protection Act 1990	All	Stray dogs	Head of Regeneration, Property and Commissioning
The Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014	All	National Estate Agents Enforcement Function	Head of Regeneration, Property and Commissioning

<b>Legislation</b>	<b>Section</b>	<b>Provision</b>	<b>Proper Officer</b>
Local Government Act 1972	S191	Functions in respect of Ordnance Survey	Head of Highways, Transport and Recycling
Highways Act	All		Head of Highways,

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1980			Transport and Recycling
Building Act 1984	S61(2)	To exercise the right to have free access to work undertaken in relation to emergency repairs of drains.	Head of Highways, Transport and Recycling

Legislation	Section	Provision	Proper Officer
Building Act 1984	All (except S61(2))		Strategic Director - Place

### Conduct

11.40 Officers will comply with the Code of Conduct for Employees (Section 20) and the Protocol on Officer/Member Relations (Section 21) set out in this Constitution.

### Employment

11.41 The recruitment, selection and dismissal of Officers will comply with the Officer Employment Procedure Rules set out below and the relevant employment policies contained on the Council's intranet..

### Indemnities for Officers

11.42 The former Board and the County Council<sup>8</sup> has under the Local Government Act 2000 and the Local Authorities (Indemnities for Members and Officers) (Wales) Order 2006 approved a form of indemnity for both Members and officers as set out in Section 26 of this Constitution.

### Officer Employment Procedure Rules

#### Recruitment and Appointment

##### *Declarations*

11.43.1 A candidate for an appointment as an Officer must state in writing whether they have any relationship with any Councillor or Senior Officer (i.e. Senior Management Grade or above) of the Council.

11.43.2 No candidate so related to a Councillor or a Senior Officer will be appointed without the authority of the relevant Chief Officer or an Officer nominated by him / her.

##### *Seeking Support for Appointment*

11.44.1 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.

11.44.2 No Councillor or employee of the Council will seek support for any person for any appointment with the Council.

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<sup>8</sup> Board Meeting 11<sup>th</sup> October, 2006 and Council Meeting 26<sup>th</sup> October, 2006.

## **SECTION 11 – OFFICERS**

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### **Recruitment and Appointment (Including Shortlisting) of Head of Paid Service, other Chief Officers,**

- 11.45 The Full Council will appoint the Head of Paid Service and any other Chief Officer as defined in Rule 11.2 above, from a shortlist of candidates prepared by the Employment and Appeals Committee or a Sub-Committee of that committee. The Employment and Appeals Committee or a Sub-Committee of that committee must include at least one Member of the Cabinet.
- 11.46 For the purposes of Rules 11.47 to 11.50 (inclusive) only Chief Officer means the Head of Paid Service, the Monitoring Officer, the Chief Education Officer or Director of Education, the Director of Social Services, the Section 151 Officer, Strategic Directors, Directors, the Solicitor to the Council and the Senior Manager, Chief Executive and Member Services.
- 11.47.1 Where it is proposed to pay a Chief Officer a remuneration of £100,000 or more per annum, the Full Council will determine the level, and any change in the level, of remuneration of such a Chief Officer.
- 11.47.2 Rule 11.47.1 above does not apply if the Authority proposes to appoint the Chief Officer for a period of no longer than 12 months.
- 11.48 Subject to Rule 11.47.2 above, where the Council proposes to appoint a Chief Officer and the remuneration it proposes to pay is £100,000 or more per annum the Full Council must–
- 11.48.1 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;
  - 11.48.2 make arrangements for the post to be publically advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
  - 11.48.3 make arrangements for a copy of the statement mentioned in Rule 11.48.1 to be sent to any person on request.
- 11.49 Where a post has been advertised as provided in Rule 11.48.2, the Full Council must interview those qualified candidates included on a short list prepared by the Employment and Appeals Committee or a Sub-Committee of that committee as referred to in Rule 11.45 above.
- 11.50 Where no qualified person has applied, or if the Council decide to re-advertise the appointment, the Council may make further arrangements for advertisement in accordance with Rule 11.48.2.
- 11.51 The power to approve the appointment of the Head of Paid Service must be exercised by the Full Council and accordingly section 101 of the Local Government Act 1972 (arrangements for discharge of functions by local authorities) does not apply to the exercise of that power.

### **Recruitment and Appointment (Including Shortlisting) of the Director of Change and Governance**

- 11.52 The Employment and Appeals Committee will appoint the Director of Change and Governance from a shortlist of candidates prepared by the Employment and Appeals Committee or a Sub-Committee of that committee. The

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- Employment and Appeals Committee or a Sub-Committee of that committee must include at least one Member of the Cabinet.
- 11.53 Where the Employment and Appeals Committee proposes to appoint the Director of Change and Governance and it is not proposed that the appointment be made exclusively from among its existing officers, the Authority must:
- 11.53.1 draw up a statement specifying:
    - 11.53.1.1 the duties of the officer concerned, and
    - 11.53.1.2 any qualifications or qualities to be sought in the person to be appointed;
  - 11.53.2 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
  - 11.53.3 make arrangements for a copy of the statement mentioned in Rule 11.53.1 to be sent to any person on request.
- 11.54 Where a post has been advertised as provided in Rule 6 11.53.2, the Council must interview those qualified candidates included on a short list prepared by the Employment and Appeals Committee or a Sub-Committee of that committee as referred to in Rule 6 11.45 above.
- 11.55 Where no qualified person has applied, or if the Authority decides to re-advertise the appointment, the Authority may make further arrangements for advertisement in accordance with Rule 11.53.2.

### **Recruitment and Appointment (Including Shortlisting) of Heads of Service.**

- 11.56 The Employment and Appeals Committee will appoint Heads of Service from a shortlist of candidates prepared by the Employment and Appeals Committee or a Sub-Committee of that committee . The Employment and Appeals Committee or a Sub-Committee of that committee must include at least one Member of the Cabinet.

### **Recruitment and Appointment (Including Shortlisting) of the Monitoring Officer and Section 151 Officer (if not to be appointed under Rules 11.47 to 11.50 above)**

- 11.57 The relevant Chief Officer or Deputy Chief Officer will appoint the Monitoring Officer and / or Section 151 Officer and Members must not be involved.
- 11.58 Where the relevant Chief Officer or Deputy Chief Officer proposes to appoint the Monitoring Officer and / or Section 151 Officer and it is not proposed that the appointment be made exclusively from among its existing officers, the Authority must:
- 11.58.1 draw up a statement specifying:
    - 11.58.1.1 the duties of the officer concerned, and
    - 11.58.1.2 any qualifications or qualities to be sought in the person to be appointed;

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- 11.58.2 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
- 11.58.3 make arrangements for a copy of the statement mentioned in Rule 11.58.1 to be sent to any person on request.
- 11.59 Where a post has been advertised as provided in Rule 11.58.2, the Authority must interview those qualified candidates included on a short list prepared by the relevant Chief Officer or Deputy Chief Officer.
- 11.60 Where no qualified person has applied, or if the Authority decides to re-advertise the appointment, the Authority may make further arrangements for advertisement in accordance with Rule 11.58.2.

### **Recruitment and Appointment (Including Shortlisting) of staff below Head of Service (other than Monitoring Officer and Section 151 Officer)**

- 11.61 The function of the recruitment and appointment (including shortlisting) of officers below Heads of Service are the responsibility of the relevant Head of Service or his/her nominee and Members must not be involved.

### **Dismissals of Chief Officers and Deputy Chief Officers**

- 11.62 In Rules 11.62 to 11.70 and in Appendices A and B:

“the Committee” means the Chief Officers’ Investigating and Disciplinary Sub-Committee of the Employment and Appeals Committee as constituted in accordance with Appendix B; and

“the Proper Officer” means the Head of Paid Service or the Solicitor to the Council (as appropriate).

- 11.63 The dismissal of the Head of Paid Service, Chief Finance Officer (Section 151 Officer), Monitoring Officer and Head of Democratic Services is the responsibility of the Full Council and the procedures set out in Appendix A to this Section of the Constitution shall apply.
- 11.64 The dismissal of the Chief Officers as defined in Rule 11.2 (with the exception of those identified in Rule 11.63 above) and Deputy Chief Officers as defined in Rule 11.34 is the responsibility of the Committee and the procedures set out in Appendix B to this Section of the Constitution shall apply.
- 11.65 Notice of the dismissal of an officer named in [Rule 11.61](#) and / or Rule 11.62 above must not be given by the Committee or Full Council (as appropriate) until the Authority has complied with Schedule 3 of the Local Authorities (Standing Orders) (Wales) Regulations 2006.

### **Other Officers**

- 11.66 Appointment and dismissal of officers below Chief Officer is the responsibility of the Chief Executive, Head of Paid Service or his / her nominee, and may not be undertaken by Councillors.
- 11.67 Councillors will not be involved in disciplinary action against any Officer below Chief Officer except where such involvement is necessary for any investigation

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or inquiry into alleged misconduct or where the Council's disciplinary, capability and related procedures, as adopted from time to time, allow a right of appeal to Councillors.

### **Disciplinary Action**

11.68 In Rules 11.62 to 11.70 and in Appendices A and B "disciplinary action" includes proposed dismissal for any reason other than redundancy, permanent ill health or failure to renew a fixed term contract, planned retirement and early retirement and unsatisfactory probationary periods.

### **Written Procedures**

11.69.1 Disciplinary action against the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer and the Head of Democratic Services will be taken in accordance with Appendix A.

11.69.2 Disciplinary action against all other Officers will be taken in accordance with the Disciplinary Policy (or such other document which supersedes the Disciplinary Policy).

### **Appeals**

11.70 None of the above shall prevent a Councillor serving as a member of an appeals committee or body established to consider an appeal in accordance with Appendices A and / or B.

## **APPENDIX A.**

### **Procedure for dismissal of the Head of Paid Service, Chief Finance Officer (Section 151 Officer), Monitoring Officer and the Head of Democratic Services.**

1. No disciplinary action (other than suspension under paragraphs 2 and 3) in respect of the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer or the Head of Democratic Services, may be taken by the Full 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).
2. Suspension of officers to which this Appendix applies (other than the Head of Paid Service) for the purpose of investigating alleged misconduct may be undertaken by the Proper Officer for the purposes of Rule 11.62 in conjunction with the Professional Lead – Human Resources Management and Development, and such suspension (subject to an extension in accordance with paragraph 4(6)(a)(ii) below) must terminate no later than the expiry of two months beginning on the day on which the suspension takes effect and will be on full pay<sup>9</sup>.

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<sup>9</sup> Paragraph 3 of Schedule 4 of the Local Authority (Standing Orders) (Wales) Regulations 2006



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3. Suspension of the Head of Paid Service (Chief Executive) may be undertaken only by the Chair or Vice Chair of the Employment and Appeals Committee following consultation with the Leader.<sup>10</sup>
4.
  - 4(1) Where it appears to the Authority that an allegation of misconduct which may lead to disciplinary action has been made against:
    - (a) the Head of Paid Service; or
    - (b) the Monitoring Officer; or
    - (c) the Chief Finance Officer; or
    - (d) the Head of Democratic Services.("the relevant officer"), as the case may be, the Full Council must appoint a committee ("an investigation committee") to consider the alleged misconduct.
  - 4(2) The investigation committee must:
    - (a) consist of a minimum of 3 Councillors; and
    - (b) be politically balanced in accordance with section 15 of the 1989 Act; andmust, within 1 month of its appointment, consider the allegation of misconduct and decide whether it should be further investigated.
  - 4(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; and / or
    - (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 / or
    - (c) may receive written or oral representations from the relevant officer or any other person it considers appropriate.
  - 4(4) Where it appears to the investigation committee that an allegation of misconduct by the relevant officer should be further investigated, the investigation committee must appoint a person ("the designated independent person") for the purposes of paragraph 1 above.
  - 4(5) The designated independent person who is appointed:
    - (a) must be such person as may be agreed between the investigation committee 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 Welsh Government.

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<sup>10</sup> County Council decision 4<sup>th</sup> March, 2013.

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- 4(6) Subject to paragraph 4(7) below, the relevant officer and the investigation committee must consult with the designated independent person, and attempt to agree a timetable within which the designated independent person is to undertake the investigation.
- 4(7) Where there is no agreement under paragraph 4(6) above, the designated independent person must set a timetable as that person considers appropriate within which the investigation is to be undertaken.
- 4(8) The designated independent person:
- (a) may direct:
    - (i) that the Authority terminate any suspension of the relevant officer; or
    - (ii) that any such suspension is to continue after the expiry of the period referred to in paragraph 2<sup>11</sup>.; or
    - (iii) that the terms on which any such suspension has taken place are to be varied in accordance with the direction of the designated independent person; or
    - (iv) that no steps (whether by the Full 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) below;
  - (b) may inspect any documents relating to the conduct of the relevant officer which are in the possession of the Authority, or which the Authority has power to authorise the designated independent person to inspect;
  - (c) may require any Member or member of staff of the Authority to answer questions concerning the conduct of the relevant officer;
  - (d) must make a report to the Full 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 Full Council to take against the relevant officer, and
  - (e) must no later than the time at which the report is made under sub-paragraph (d) above, send a copy of the report to the relevant officer.
- 4(9) The Full Council must consider the report prepared under paragraph 4(8) (d) above within 1 month of receipt of that report.

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<sup>11</sup> Regulation 9(6)(ii) of the Local Authority (Standing Orders) (Wales) Regulations 2006

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### **Pre-Disciplinary Hearing Procedure**

- 5.1 Within seven working days of receipt of the Investigation Report, the Chief Executive, or his nominee, shall send a copy to the Relevant Chief Officer. This shall be accompanied by a written indication if any further action is to be taken , and if so, notice of the specific allegations to be considered by the Investigating and Disciplinary Committee at the Disciplinary Hearing and any supporting documentation.
- 5.2 The Relevant Chief Officer shall, if they so wish, request further information and/or documents relating to the allegations within five working days of receipt of the Investigation Report.
- 5.3 Any additional information and documentation requested will be provided by the Investigator, where relevant, within seven working days or such other time as appropriate in the circumstances.
- 5.4 Once the period for requesting further information has elapsed or once a response has been provided by the Investigator further to paragraph 5.3 above, the Chief Executive or a nominee shall give the Relevant Chief Officer not less than ten working days written notice of the date of the Disciplinary Hearing with the Investigating and Disciplinary Committee. The notice shall include:-
  - 5.4.1 the time and place of the Disciplinary Hearing;
  - 5.4.2 who will be in attendance at the Disciplinary Hearing including the members of the Investigating and Disciplinary Committee;
  - 5.4.3 a copy of the Investigator’s Report and any supporting documentation (including any witness statements where relevant) and the allegations to be considered at the Disciplinary Hearing;
  - 5.4.4 confirmation that the Disciplinary Hearing is convened under this procedure and could result in disciplinary action, including dismissal ( where appropriate) ;
  - 5.4.5 confirmation that the Relevant Chief Officer may be accompanied at the Disciplinary Hearing by a local trade union representative, an official employed by a trade union or a fellow work colleague (“Companion”);
  - 5.4.6 confirmation that the Relevant Chief Officer may ask any person to be present as a witness or adduce any documents or written statements in support of his response, provided full details of such witnesses and details of the documents to be adduced at the hearing or witness statements are provided to the Chief Executive, or his nominee, at least five working days before the date of the Disciplinary Hearing, for distribution to all parties.
- 5.5 Within two working days of receipt of the notice under paragraph 9.4, the Relevant Chief Officer shall either agree the date for the Hearing or propose to the Chief Executive or a nominee, a postponement for the date of the Hearing for a period not exceeding ten working days setting out the reasons for the request. For the avoidance of doubt, the postponement includes any postponement due to the availability of the Relevant Chief Officer’s Companion. If the Relevant Chief Officer requests a postponement, the Chief Executive or a nominee and the Relevant Chief Officer (or his representative) shall agree the new date for the hearing. If they cannot agree the date within one working day,

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- the Chair of the Investigating and Disciplinary Committee, having taken appropriate advice, shall determine the date of the Disciplinary Hearing.
- 5.6 The Chief Executive or a nominee shall then formally give notice to the Investigating and Disciplinary Committee (and the Relevant Chief Officer if the Hearing has been postponed) of the date for the Disciplinary Hearing. The Investigating and Disciplinary Committee will be sent a full copy of all relevant documentation including the Investigation Report and supporting evidence and any written representations and witness evidence provided by the Relevant Chief Officer.
- 5.7 The Relevant Chief Officer and their Companion must make every effort to attend the Disciplinary Hearing (whether reconvened or otherwise). Failure to attend without good reason may be treated as misconduct in itself. If the Relevant Chief Officer fails to attend without good reason, or persistently fails to do so, the Disciplinary Hearing may proceed in their absence and a decision may be made based on the available evidence.
- 5.8 At least five working days before the date of the Disciplinary Hearing the Relevant Chief Officer shall give to the Chief Executive, or a nominee:-
- 5.8.1 Full details of any witnesses they wish to call together with copies of their witness statements (it shall be the responsibility of the Relevant Chief Officer to arrange for the attendance of their witnesses via the contact officer) ; and
  - 5.8.2 Copies of any documents which they wish to refer to in support of their response; and
  - 5.8.3 Any written statements or submissions which they wish to submit; and
  - 5.8.4 Details of the Companion they wish to bring to the Disciplinary Hearing. If the Relevant Chief Officer's choice of Companion is unreasonable, the Chief Executive or his nominee may request that another Companion be selected e.g. where the Companion may have a conflict of interest or prejudice the Disciplinary Hearing.
- 5.9 The Chief Executive or a nominee shall provide a copy of such documents and information to the Investigating and Disciplinary Committee as soon as reasonably practicable thereafter and no later than three working days prior to the Disciplinary Hearing.

### **The Investigating and Disciplinary Committee Hearing**

- 6.1 The procedure for the Disciplinary Hearing will be as follows:-
- 6.1.1 the Chair of the Investigating and Disciplinary Committee will explain the purpose of the Hearing and the procedure to be followed;
  - 6.1.2 the Investigating Officer will present the Investigation Report and introduce the evidence relating to each allegation and/or complaint, including documents and witness evidence either in person or in writing as previously notified;
  - 6.1.3 the Relevant Chief Officer or his/her Companion, and the Investigating and Disciplinary Committee and Independent Adviser, will have the opportunity to ask questions of the Investigating Officer including direct questions to any witnesses;

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- 6.1.4 the Relevant Chief Officer or their Companion will introduce evidence in support of their response to the allegations, including documents and witnesses as previously notified;
  - 6.1.5 the Investigating Officer, the Investigating and Disciplinary Committee and the Independent Adviser will have the opportunity to ask questions of the Relevant Chief Officer and/or their Companion, including direct questions to any witnesses;
  - 6.1.6 both sides will sum-up their presentations, commencing with the Investigating Officer.
- 6.2 The Companion can address the hearing, put and sum up the Relevant Chief Officer's case, make representations on behalf of the Relevant Chief Officer to any views expressed at the Disciplinary Hearing and confer with the Relevant Chief Officer during the Disciplinary Hearing. The Companion does not, however, have the right to answer questions on the Relevant Chief Officer's behalf.
- 6.3 The Disciplinary Hearing may be adjourned if the Investigating and Disciplinary Committee need any further investigations to be carried out, such as re-interviewing witnesses in the light of any new points which are raised at the Disciplinary Hearing. The Relevant Chief Officer will be given a reasonable opportunity to consider any new information obtained before the Disciplinary Hearing is reconvened.
- 6.4 When the Investigating and Disciplinary Committee has heard all of the evidence submitted they will adjourn to consider what, if any, further action should be taken. The range of options available to them include:-
- 6.4.1 taking no further action;
  - 6.4.2 recommending informal resolution or other appropriate procedures be followed;
  - 6.4.3 referring back to the Investigator for further investigation and a further report;
  - 6.4.4 taking disciplinary action against the Relevant Chief Officer in accordance with paragraph 6.5.
- 6.5 In the case of disciplinary action, this can include the following:-
- 6.5.1 a recorded or oral warning;
  - 6.5.2 a final written warning;
  - 6.5.3 a final written warning accompanied by:-
    - (a) suspension on half pay or no pay for a specified period; and/or
    - (b) relegation (i.e. reduction in salary) for a specified period and/or on specified terms; and/or
    - (c) demotion;
  - 6.5.4 dismissal (whether summary dismissal or on notice); and
  - 6.5.5 alternatively the Investigating and Disciplinary Committee may explore other alternatives such as but not limited to early retirement, secondment, or redeployment to a more junior post (provided that such a post is

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vacant) where there are issues relating to capability or loss of trust and confidence in the Relevant Chief Officer in their current role.

- 6.6 For the avoidance of doubt, the actions set out in paragraph 6.5.3 above shall only be applied in circumstances where the Investigating and Disciplinary Committee has decided that appropriate disciplinary action would include dismissal but that action short of dismissal would be more appropriate due to mitigating or other circumstances.
  - 6.7 A Final Written warning will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that period.
  - 6.8 All others present at the Disciplinary Hearing (other than the Independent Adviser) will withdraw while the Investigating and Disciplinary Committee consider their decision.
  - 6.9 Where practicable, the decision of the Investigating and Disciplinary Committee will be delivered orally after an adjournment with full reasons for the decision being given by letter within five working days of the Disciplinary Hearing. However, in order to ensure that the Investigating and Disciplinary Committee shall be afforded sufficient time to fully consider their decision, their decision may be deferred and issued to the Relevant Chief Officer in writing within five working days of the Disciplinary Hearing, or as soon thereafter as is reasonably practicable.
  - 6.10 The letter will outline the decision and the action, if any, to be taken and will set out the rights of appeal (“Decision Letter”).
7. The Authority 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 this regulation.

### **APPENDIX B**

**Procedure for the dismissal of the Chief Officers and Deputy Chief Officers with the exception of those identified in Appendix A.**

#### **DISCIPLINARY PROCEDURE FOR CHIEF OFFICERS**

##### **Scope of Procedure**

- 1.1 This procedure applies to “Relevant Chief Officers” which for the purposes of this Appendix B is defined as follows:  
“Relevant Chief Officers” means all Chief Officers (and Deputy Chief Officers) of the Authority other than the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer (Section 151 Officer) and the Head of Democratic Services.
- 1.2 This procedure has been adopted by the Full Council for the purpose of dealing with disciplinary, capability and other similar issues in relation to Relevant Chief Officers of the Authority.
- 1.3 Minor conduct issues can often be resolved informally. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).

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- 1.4 The objective of this procedure is to:-
  - 1.4.1 encourage employees to achieve and maintain acceptable standards of behaviour;
  - 1.4.2 provide a fair and consistent method of dealing with alleged failure to maintain acceptable standards of behaviour;
  - 1.4.3 minimise disagreements about disciplinary matters; and
  - 1.4.4 reduce the need for disciplinary action and dismissals.
- 1.5 Save where alternative arrangements have been agreed in advance between the Chief Executive and the Relevant Chief Officer the steps set out in this procedure should be followed. It is recognised that it may be necessary to depart from the procedure, from time to time, according to particular circumstances of a case. In such circumstances, the Chief Executive and the Relevant Chief Officer involved will give fair consideration to reasonable proposals to modify the procedure accordingly, and such modifications will be recorded in writing.
- 1.6 This procedure does not form part of a Relevant Chief Officer's contract of employment and it may be amended at any time.
- 1.7 Any disciplinary matters will be dealt with sensitively and with due respect for the privacy of any individuals involved. All individuals involved must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

### **Roles and Responsibilities**

- 2.1 Where it appears that an issue has arisen which, if proven, could result in disciplinary action being taken against a Relevant Chief Officer, the Chief Executive shall be responsible for conducting the preliminary investigation which is further referred to in paragraph 5 below. The Chief Executive may choose to appoint another Chief Officer or an independent person to carry out the preliminary investigation on his behalf and whosoever undertakes that role shall be referred to as the "Preliminary Independent Investigator" in this procedure.
- 2.2 The Chief Executive or nominee shall undertake a preliminary investigation into the allegations of conduct or capability, or other issues under investigation in order to determine whether a case to answer appears to exist which requires further consideration by an investigating and disciplinary committee as established as set out in paragraph 7 ("Investigating and Disciplinary Committee"). The Investigating and Disciplinary Committee shall be constituted in accordance with paragraph 7.2.
- 2.3 Save where the Chief Executive is satisfied, following a preliminary investigation, that the issue requires no further action or can be resolved informally, the matter must be referred to the Investigating and Disciplinary Committee, which shall be responsible for determining the matter.

### **Timescale**

- 3.1 The procedure does not incorporate prescriptive timescales as it is recognised that these could be impracticable to achieve in the circumstances of a particular case. However, it is implicit that all stages of the procedure be operated

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expeditiously by all parties in order to avoid unnecessary delay and prejudice to the interests of all parties.

### **Suspension**

- 4.1 Suspension is not regarded as disciplinary action under this procedure but as a neutral act which may be implemented where, in the opinion of the Chief Executive, it is believed that the Relevant Chief Officer's continuing presence at work might compromise the investigation or otherwise impair the efficient exercise of the Authority's functions.
- 4.2 Suspension may also be necessary if an allegation is such that, if proven, it would amount to gross misconduct.
- 4.3 Prior to imposing suspension in any case, the Chief Executive shall inform the Relevant Chief Officer in writing, of the reason for the proposed suspension and the Relevant Chief Officer shall have the opportunity to make written representations before a decision is taken.
- 4.4 The necessity for the Relevant Chief Officer to remain suspended should be reviewed at monthly intervals and where possible lengthy periods of suspension should be avoided. Further specific consideration should be given as to whether alternative working arrangements might be implemented which could avoid the need for the Relevant Chief Officer's suspension, whilst avoiding any compromise to the investigation or to the efficient exercise of the Authority's functions.
- 4.5 Absence due to suspension shall be on full pay.
- 4.6 The Chief Executive will allocate a contact officer for the Relevant Chief Officer. The contact officer should be another Chief Officer, with no direct relationship to the Relevant Chief Officer being suspended, and be someone whom the Relevant Chief Officer should use as a point of contact for accessing any witnesses etc.

### **Preliminary Investigation**

- 5.1 The Chief Executive will be responsible for informing the Relevant Chief Officer, in writing, of the nature of the allegations or other issues under investigation. The date of this notification shall be the "commencement date" for the purpose of this procedure.
- 5.2 The Chief Executive shall be responsible for determining the arrangements for conducting a preliminary investigation, as set out in paragraph 2.2 above.
- 5.3 The Chief Executive shall, when appointing another to conduct the preliminary investigation on his behalf, determine the terms of appointment of the Preliminary Independent Investigator, agree any remuneration payable to the Preliminary Independent Investigator (if appropriate), provide facilities and all available information regarding allegations or other issues under investigation as are necessary to enable the Preliminary Independent Investigator to fulfil their role.
- 5.4 The Preliminary Independent Investigator will be entitled to interview witnesses and carry out such enquiries as they deem necessary. This may include examining the Authority's email, internet, and other IT systems, including the accounts of the Relevant Chief Officer. The Relevant Chief Officer shall fully cooperate with the Preliminary Independent Investigator and shall make themselves available for such interviews and meetings and provide any relevant



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- documentation or information as the Preliminary Independent Investigator deems necessary.
- 5.5 The Relevant Chief Officer shall be given reasonable facilities and access to the Authority's premises and systems as well as personal files/diary, etc. to allow them to prepare their responses on such terms as may be agreed by the Preliminary Independent Investigator.
- 5.6 The Preliminary Independent Investigator shall prepare a short report following their investigation which, save where the investigation is conducted by the Chief Executive, shall be submitted to the Chief Executive for consideration ("Preliminary Investigation Report"). A copy of the Preliminary Investigation Report shall be provided to the Relevant Chief Officer within seven working days of receipt by the Chief Executive or where completed by the Chief Executive within seven working days of its completion.
- 5.7 The Relevant Chief Officer shall, if they so wish, make written representations in relation to the Preliminary Investigation Report, within five working days of receipt by the Relevant Chief Officer of the Preliminary Investigation Report.
- 6.1 The Chief Executive will give careful consideration to the allegations or other issues, the Preliminary Investigator's Report, supporting evidence and any written representations put forward by the Relevant Chief Officer before taking further action.
- 6.2 The Chief Executive shall decide whether:
- 6.2.1 The issue requires no further formal action under this procedure (in which case they will consider what other steps, if any, should be taken) and would ordinarily lift any suspension immediately; or
- 6.2.2 The issue should be referred to the Investigating and Disciplinary Committee, in which case paragraphs 7 to 11 shall apply.
- 6.3 The Chief Executive shall inform the Relevant Chief Officer of the decision, in writing, as soon as practicable.

### **The Role of the Investigating and Disciplinary Committee and appointing an Investigator**

- 7.1 If the Chief Executive decides that the matter should be referred to the Investigating and Disciplinary Committee, the Chief Executive shall appoint another Chief Officer, or an independent person, to carry out any further investigation required into the allegations or other issues as soon as practicable ("the Investigator"). The Investigator can be the same person who carried out the preliminary investigation.
- 7.2 The Chief Executive shall determine the terms of appointment of the Investigator, agree the Investigator's remuneration (if appropriate), procure the necessary facilities and provide all available information about the allegations or other issues under investigation as shall be necessary to enable them to fulfil their role.
- 7.3 The Relevant Chief Officer will be informed that the matter has been referred to the Investigating and Disciplinary Committee, the members of the Committee and that an Investigator has been appointed who, subject to availability, may be the same person who carried out the preliminary investigation.

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- 7.4 The Investigating and Disciplinary Committee should include no fewer than three elected members made up of one member of the Cabinet plus members of the Employment and Appeals Committee and should not include any member with a direct personal involvement in the complaint or who has participated in the preliminary investigation. The Leader shall appoint the Cabinet Member and the members of the Employment and Appeals Committee shall be appointed in consultation with the Chair of that Committee.
- 7.5 The Investigating and Disciplinary Committee shall appoint a chair person to oversee the function of the Committee (“Chair”).
- 7.6 The Investigating and Disciplinary Committee shall be advised throughout by a suitable adviser who may be employed by or independent of the Authority, (“the Independent Adviser”) who shall ordinarily be accompanied by a member of the Council’s HR or Legal Teams, save in cases where a conflict of interest could arise, in which case the Chief Executive shall appoint a nominee.

### **Responsibilities of the Investigator**

- 8.1 It will be the responsibility of the Investigator to carry out a further investigation into the allegations or other issues under investigation and to prepare a report (“Investigation Report”):
  - 8.1.1 stating in his/her opinion whether (and if so, the extent to which) the evidence they have obtained supports any allegation of misconduct, or incapability or supports a need for action under this procedure for some other substantial reason; and
  - 8.1.2 recommending what, if any, disciplinary action or range of actions appears to be appropriate for the Authority, through its Investigating and Disciplinary Committee, to take against the Relevant Chief Officer having regard to all the circumstances of the case.

### **Pre-Disciplinary Hearing Procedure**

- 9.1 Within seven working days of receipt of the Investigation Report, the Chief Executive, or his nominee, shall send a copy to the Relevant Chief Officer. This shall be accompanied by a written indication if any further action is to be taken, and if so, notice of the specific allegations to be considered by the Investigating and Disciplinary Committee at the Disciplinary Hearing and any supporting documentation.
- 9.2 The Relevant Chief Officer shall, if they so wish, request further information and/or documents relating to the allegations within five working days of receipt of the Investigation Report.
- 9.3 Any additional information and documentation requested will be provided by the Investigator, where relevant, within seven working days or such other time as appropriate in the circumstances.
- 9.4 Once the period for requesting further information has elapsed or once a response has been provided by the Investigator further to paragraph 9.3 above, the Chief Executive or a nominee shall give the Relevant Chief Officer not less than ten working days written notice of the date of the Disciplinary Hearing with the Investigating and Disciplinary Committee. The notice shall include:-
  - 9.4.1 the time and place of the Disciplinary Hearing;

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- 9.4.2 who will be in attendance at the Disciplinary Hearing including the members of the Investigating and Disciplinary Committee;
  - 9.4.3 a copy of the Investigator's Report and any supporting documentation (including any witness statements where relevant) and the allegations to be considered at the Disciplinary Hearing;
  - 9.4.4 confirmation that the Disciplinary Hearing is convened under this procedure and could result in disciplinary action, including dismissal (where appropriate) ;
  - 9.4.5 confirmation that the Relevant Chief Officer may be accompanied at the Disciplinary Hearing by a local trade union representative, an official employed by a trade union or a fellow work colleague ("Companion");
  - 9.4.6 confirmation that the Relevant Chief Officer may ask any person to be present as a witness or adduce any documents or written statements in support of his response, provided full details of such witnesses and details of the documents to be adduced at the hearing or witness statements are provided to the Chief Executive, or his nominee, at least five working days before the date of the Disciplinary Hearing, for distribution to all parties.
- 9.5 Within two working days of receipt of the notice under paragraph 9.4, the Relevant Chief Officer shall either agree the date for the Hearing or propose to the Chief Executive or a nominee, a postponement for the date of the Hearing for a period not exceeding ten working days setting out the reasons for the request. For the avoidance of doubt, the postponement includes any postponement due to the availability of the Relevant Chief Officer's Companion. If the Relevant Chief Officer requests a postponement, the Chief Executive or a nominee and the Relevant Chief Officer (or his representative) shall agree the new date for the hearing. If they cannot agree the date within one working day, the Chair of the Investigating and Disciplinary Committee, having taken appropriate advice, shall determine the date of the Disciplinary Hearing.
- 9.6 The Chief Executive or a nominee shall then formally give notice to the Investigating and Disciplinary Committee (and the Relevant Chief Officer if the Hearing has been postponed) of the date for the Disciplinary Hearing. The Investigating and Disciplinary Committee will be sent a full copy of all relevant documentation including the Investigation Report and supporting evidence and any written representations and witness evidence provided by the Relevant Chief Officer.
- 9.7 The Relevant Chief Officer and their Companion must make every effort to attend the Disciplinary Hearing (whether reconvened or otherwise). Failure to attend without good reason may be treated as misconduct in itself. If the Relevant Chief Officer fails to attend without good reason, or persistently fails to do so, the Disciplinary Hearing may proceed in their absence and a decision may be made based on the available evidence.
- 9.8 At least five working days before the date of the Disciplinary Hearing the Relevant Chief Officer shall give to the Chief Executive, or a nominee:
- 9.8.1 Full details of any witnesses they wish to call together with copies of their witness statements (it shall be the responsibility of the Relevant Chief

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- Officer to arrange for the attendance of their witnesses via the contact officer) ; and
- 9.8.2 Copies of any documents which they wish to refer to in support of their response; and
  - 9.8.3 Any written statements or submissions which they wish to submit; and
  - 9.8.4 Details of the Companion they wish to bring to the Disciplinary Hearing. If the Relevant Chief Officer's choice of Companion is unreasonable, the Chief Executive or his nominee may request that another Companion be selected e.g. where the Companion may have a conflict of interest or prejudice the Disciplinary Hearing.
- 9.9 The Chief Executive or a nominee shall provide a copy of such documents and information to the Investigating and Disciplinary Committee as soon as reasonably practicable thereafter and no later than three working days prior to the Disciplinary Hearing.

### **The Investigating and Disciplinary Committee Hearing**

- 10.1 The procedure for the Disciplinary Hearing will be as follows:
- 10.1.1 the Chair of the Investigating and Disciplinary Committee will explain the purpose of the Hearing and the procedure to be followed;
  - 10.1.2 the Investigating Officer will present the Investigation Report and introduce the evidence relating to each allegation and/or complaint, including documents and witness evidence either in person or in writing as previously notified;
  - 10.1.3 the Relevant Chief Officer or his/her Companion, and the Investigating and Disciplinary Committee and Independent Adviser, will have the opportunity to ask questions of the Investigating Officer including direct questions to any witnesses;
  - 10.1.4 the Relevant Chief Officer or their Companion will introduce evidence in support of their response to the allegations, including documents and witnesses as previously notified;
  - 10.1.5 the Investigating Officer, the Investigating and Disciplinary Committee and the Independent Adviser will have the opportunity to ask questions of the Relevant Chief Officer and/or their Companion, including direct questions to any witnesses;
  - 10.1.6 both sides will sum-up their presentations, commencing with the Investigating Officer.
- 10.2 The Companion can address the hearing, put and sum up the Relevant Chief Officer's case, make representations on behalf of the Relevant Chief Officer to any views expressed at the Disciplinary Hearing and confer with the Relevant Chief Officer during the Disciplinary Hearing. The Companion does not, however, have the right to answer questions on the Relevant Chief Officer's behalf.
- 10.3 The Disciplinary Hearing may be adjourned if the Investigating and Disciplinary Committee need any further investigations to be carried out, such as re-interviewing witnesses in the light of any new points which are raised at the Disciplinary Hearing. The Relevant Chief Officer will be given a reasonable

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- opportunity to consider any new information obtained before the Disciplinary Hearing is reconvened.
- 10.4 When the Investigating and Disciplinary Committee has heard all of the evidence submitted they will adjourn to consider what, if any, further action should be taken. The range of options available to them include:
- 10.4.1 taking no further action;
  - 10.4.2 recommending informal resolution or other appropriate procedures be followed;
  - 10.4.3 referring back to the Investigator for further investigation and a further report;
  - 10.4.4 taking disciplinary action against the Relevant Chief Officer in accordance with paragraph 10.5.
- 10.5 In the case of disciplinary action, this can include the following:
- 10.5.1 a recorded or oral warning;
  - 10.5.2 a final written warning;
  - 10.5.3 a final written warning accompanied by:
    - (a) suspension on half pay or no pay for a specified period; and/or
    - (b) relegation (i.e. reduction in salary) for a specified period and/or on specified terms; and/or
    - (c) demotion;
  - 10.5.4 dismissal (whether summary dismissal or on notice); and
  - 10.5.5 alternatively the Investigating and Disciplinary Committee may explore other alternatives such as but not limited to early retirement, secondment, or redeployment to a more junior post (provided that such a post is vacant) where there are issues relating to capability or loss of trust and confidence in the Relevant Chief Officer in their current role.
- 10.6 For the avoidance of doubt, the actions set out in paragraph 10.5.3 above shall only be applied in circumstances where the Investigating and Disciplinary Committee has decided that appropriate disciplinary action would include dismissal but that action short of dismissal would be more appropriate due to mitigating or other circumstances.
- 10.7 A Final Written warning will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that period.
- 10.8 All others present at the Disciplinary Hearing (other than the Independent Adviser) will withdraw while the Investigating and Disciplinary Committee consider their decision.
- 10.9 Where practicable, the decision of the Investigating and Disciplinary Committee will be delivered orally after an adjournment with full reasons for the decision being given by letter within five working days of the Disciplinary Hearing. However, in order to ensure that the Investigating and Disciplinary Committee shall be afforded sufficient time to fully consider their decision, their decision may be deferred and issued to the Relevant Chief Officer in writing within five

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working days of the Disciplinary Hearing, or as soon thereafter as is reasonably practicable.

- 10.10 The letter will outline the decision and the action, if any, to be taken and will set out the rights of appeal (“Decision Letter”).

### **Appeal Process**

- 11.1 The Relevant Chief Officer shall have the right to appeal the Investigating and Disciplinary Committee’s decision, to an Appeals Committee consisting of no fewer than three elected members made up of one member of the Cabinet plus members of the Employment and Appeals Committee and should not include any member with a direct personal involvement in the complaint or who has participated in the preliminary investigation or the Disciplinary Hearing. The Leader shall appoint a Cabinet Member and the members of the Employment and Appeals Committee shall be appointed in consultation with the Chair of that Committee.
- 11.2 Any appeal must be made in writing to the Chief Executive or his / her nominee as set out in the Decision Letter within ten working days of the date of the Decision Letter including the grounds of appeal (“Notice of Appeal”).
- 11.3 Within five working days of submitting a Notice of Appeal the Relevant Chief Officer must inform the Chief Executive of the following details in relation to the Notice of Appeal and provide the following information:
- 11.3.1 whether the Relevant Chief Officer is to be accompanied at the appeal hearing by a Companion and if so by whom;
  - 11.3.2 whether they wish to call witnesses and if so, their names and copies of their statements if not already supplied for the purposes of the original Disciplinary Hearing;
  - 11.3.3 copies of any additional documents or information relevant to the appeal that was not provided at the Disciplinary Hearing;
- 11.4 Having considered the Notice of Appeal, the Appeals Committee in its absolute discretion will determine whether the appeal hearing will take the form of a full re-hearing or a review of the decision taken by the Investigating and Disciplinary Committee and will notify the Relevant Chief Officer of their decision in writing.
- 11.5 The Appeals Committee will consider the appeal as soon as reasonably practicable after the Notice of Appeal has been received. It will invite the following persons to be present at an appeal hearing:
- 11.5.1 the Relevant Chief Officer, who may be accompanied by a Companion; and
  - 11.5.2 the Chair of the Investigating and Disciplinary Committee or another members of the Committee if so nominated by the Chair, to explain their reasons for their decision and to answer any questions; and
  - 11.5.3 the Investigating Officer.
- 11.6 The procedure for convening the Appeal Hearing and the procedure at the Appeal Hearing will follow that set out above in relation to the Disciplinary Hearing.

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- 11.7 The Appeals Committee shall be advised by an independent adviser who shall not usually be the same adviser who advised the Investigating and Disciplinary Committee.
- 11.8 The Appeals Committee in its absolute discretion shall decide the extent to which (if any) it will take into account any additional information which has become available in relation to the allegations or other issues under investigation since the Disciplinary Hearing.
- 11.9 The Appeals Committee may decide to uphold/dismiss the original decision of the Investigating and Disciplinary Committee or impose a different sanction within the range of penalties as set out in paragraphs 10.4 and 10.5.
- 11.10 Where practicable, the decision of the Appeals Committee will be delivered orally after an adjournment with full reasons for the decision being given by letter within five working days of the Appeal Hearing. However, in order to ensure that the Appeal Committee shall be afforded sufficient time to fully consider their decision, their decision may be deferred and issued to the Relevant Chief Officer in writing within five working days of the Appeal Hearing, or as soon thereafter as is reasonably practicable.
- 11.11 The letter will outline the decision and the action, if any, to be taken.
- 11.12 The decision reached will be final and there is no further right of appeal.