

## 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</b>	<p>The Chief Executive <del>will be the Head of Paid Service and</del> will have the responsibility for <u>keeping</u> the following <u>under review</u>:</p> <ul style="list-style-type: none"> <li>• Leading and managing the Executive and Senior Leadership Teams <u>and determining the way in which the Council's different functions are co-ordinated</u></li> <li>• Delivery of <del>Vision 2025</del><u>the Corporate Improvement Plan</u></li> <li>• Overall performance of the Council</li> <li>• With S151 officer, the oversight of <del>the</del><u>Financial Planning (including Medium Term Financial Strategy), asset management and risk management</u></li> <li>• With Monitoring Officer, the smooth running of democracy</li> <li>• Leadership of strategic partnerships and major structural collaborations/service mergers</li> <li>• <u>Performance management of Executive Directors, Section 151 Officer and Monitoring Officer.</u></li> <li>• <u>The number and grades of staff required by the Council for the exercise of its functions</u></li> <li>• <u>The organisation of the Council's staff</u></li> <li>• <u>The appointment of the Council's staff</u></li> <li>• <u>Arrangements for the management of the Council's staff (including arrangements for training and development)</u></li> </ul>

Post	Functions and Areas of Responsibility
<b>Executive Director – Economy and Environment</b>	<p>The Executive Director – Economy and Environment will share be responsible for leading and managing the Corporate Portfolio as follows:</p> <ul style="list-style-type: none"> <li>• Leadership of aspects of Vision 2025 (to be agreed with Chief Executive);</li> </ul>

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

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	<ul style="list-style-type: none"> <li>• Development of the Mid-Wales Growth Deal;</li> <li>• Leadership of the Council's overall approach to commercialisation;</li> <li>• Emergencies and business continuity;</li> <li>• Performance management of relevant Heads of Service.</li> </ul>
<b>Executive Director – People and Organisational Development</b>	<p>The Executive Director – People and Organisational Development will be responsible for leading and managing the Corporate Portfolio as follows:</p> <ul style="list-style-type: none"> <li>• This Executive Director will also be the Council's statutory Director of Social Services and the lead Director for Children and Young People;</li> <li>• Leadership of aspects of Vision 2025 (to be agreed with Chief Executive);</li> <li>• Outcomes for all children and young people and vulnerable adults;</li> <li>• Leadership of the Regional Partnership Board (RPB) and working with key strategic partners especially Education and Health;</li> <li>• Performance management of relevant Heads of Service;</li> <li>• Leading the Council's Workforce and Organisational Development, including Health and Safety and Welfare.</li> <li>• As Director of Social Services this post holder will be the Council's senior lead on Safeguarding.</li> </ul>

### Statutory Officers

11.3 The Council will designate the following posts as shown:

Designation	Post
<del>Head of Paid Service</del> Chief Executive <sup>2</sup>	Chief Executive
Monitoring Officer <sup>3</sup>	Head of Legal and Democratic Services
Chief Finance Officer (Section 151 Officer) <sup>4</sup>	Head of Finance
Director of Social Services	Executive <sup>5</sup> Executive Director – People and Organisational Development
Chief Education Officer	Director of Education <sup>6</sup>

<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

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<sup>7</sup> Lead Director for Children and Young People's Services	Executive – Executive Director – People and Organisational Development
Head of Democratic Services <sup>8</sup>	Scrutiny Manager
Data Protection Officer	Professional Lead – Data Protection

11.4 The posts set out in Rule 11.3 above will have the functions described in Rules 11.5 to 11.33.

### Functions of the ~~Head of Paid Service~~Chief Executive

#### 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~~Chief Executive. The ~~Head of Paid Service~~Chief Executive 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~~Chief Executive 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.

### 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~~Chief Executive 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.

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

<sup>8</sup> [Section 8 of the Local Government \(Wales\) Measure 2011 as amended by Section 161 of the Local Government and Elections \(Wales\) Act 2021.](#)

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### **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.

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

11.13 The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and officer under investigation 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.

### **Power to Appoint to Committees and Outside Bodies and Amendments to the Constitution.**

11.16.1 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.

11.16.2 The Council has authorised the Monitoring Officer to make minor amendments to the Constitution in accordance with Rule 2.7 and Council confirms that changes to the titles and roles of the Senior Leadership Team and Proper Officers are minor changes which can be made by the Monitoring Officer provided that they are reported to the Democratic Services Committee and the next Full Council meeting for information.

### **Restrictions on Posts**

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

### **Functions of the Chief Finance Officer (Section 151 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~~ Chief Executive 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.

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### **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.

### **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:

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- 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:
  - 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~~Chief Executive, ~~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).

### Functions of the Data Protection Officer.

- 11.33.1 To monitor internal compliance with GDPR, to inform and advise the Council on its data protection obligations, to provide advice regarding Data Protection Impact Assessments (DPIAs) and act as a contact point for data subjects and the supervisory authority.

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11.33.2 To monitor compliance with the GDPR and other data protection laws, the Council’s data protection policies, awareness-raising, training, and audits.

11.33.3 To act as the contact point for the ICO, and to co-operate with the ICO in all matters.

**Duty to Provide Sufficient Resources to the ~~Head of Paid Service~~ Chief Executive, Monitoring Officer, Chief Finance Officer, Head of Democratic Services and Data Protection Officer**

11.34 The Council will provide the ~~Head of Paid Service~~ Chief Executive, the Monitoring Officer, the Chief Finance Officer, the Head of Democratic Services and the Data Protection Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

**Deputy Chief Officers.**

11.35 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.

Post	Functions and Areas of Responsibility
<b>Director of Education</b>	<ul style="list-style-type: none"> <li>• Statutory Director of Education and will be accountable for the effective and efficient delivery of educational services to young people across Powys</li> <li>• Lead and Manage Education Services providing educational leadership and oversight of major strategic priorities</li> <li>• Strategic Responsibility for:               <ul style="list-style-type: none"> <li>• Adult and Community Learning</li> <li>• ALN / SEN</li> <li>• Cross networking with Powys Teaching Local Health Board</li> <li>• Schools Service</li> <li>• School Transformation</li> <li>• Standards in schools and School Improvement</li> <li>• Regional and National Partnerships</li> <li>• Youth Services</li> </ul> </li> </ul>

Post	Functions and Areas of Responsibility
Head of Finance	<ul style="list-style-type: none"> <li>▪ Council’s statutory s151 officer, the statutory officer for all financial matters and the proper administration of the Council’s financial affairs, as defined by section 151 of the Local Government Act 1972</li> <li>▪ Section 151 Officer for the Powys Pension Fund</li> <li>▪ Income and Awards</li> <li>▪ Commercial Services</li> <li>▪ Risk</li> </ul>



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Head of Legal and Democratic Services	<ul style="list-style-type: none"> <li>▪ Monitoring Officer, the statutory officer with the specific duty to ensure that the Council, and its Elected Members and officers, maintain the highest standards of conduct in all they do, as set out in section 5 of the Local Government and Housing Act 1989, as amended by the Local Government Act 2000</li> <li>▪ Corporate Legal Team</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, Democratic Services and Member Support</li> </ul>
Head of Transformation, and Communications	<ul style="list-style-type: none"> <li>• Lead on improvement, performance and transformation</li> <li>• Lead delivery of the 21<sup>st</sup> Century Schools programme</li> <li>• Lead development of Corporate strategies, and plans including the Corporate Improvement Plan, the Strategic Equality Plan and the Public Service Board Wellbeing Plan</li> <li>• Lead Communications and Welsh Language Services</li> <li>• Lead the development and overall strategic Programme Management of the Council's Transformation</li> </ul>
Head of Economy and Digital Services	<ul style="list-style-type: none"> <li>▪ Customer Services</li> <li>▪ Digital Transformation of Council's services</li> <li>▪ Economic Growth</li> <li>▪ ICT Support Services and Cyber Security</li> <li>▪ Information Governance</li> </ul>
Head of Workforce and Organisational Development	<ul style="list-style-type: none"> <li>▪ Workforce strategy, planning and development</li> <li>▪ Health and Safety</li> <li>▪ Employment Services</li> <li>▪ Human Resources advice, guidance and support</li> <li>▪ Leadership, management and corporate development programme</li> </ul>
Head of Property, Planning and Public Protection	<ul style="list-style-type: none"> <li>▪ Building Control.</li> <li>▪ Community Safety</li> <li>▪ County Farms Estate</li> <li>▪ Corporate Property</li> <li>▪ Emergency Planning</li> <li>▪ Environmental Health</li> <li>▪ National Estate and Lettings Agency</li> <li>▪ Planning</li> <li>▪ Trading Standards</li> </ul>
Head of Highways, Transport and Recycling	<ul style="list-style-type: none"> <li>▪ Active Travel</li> <li>▪ Car parks</li> <li>▪ Countryside Services</li> <li>▪ Fleet Management</li> </ul>

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	<ul style="list-style-type: none"> <li>▪ Grounds Maintenance</li> <li>▪ Home to School / College Transport</li> <li>▪ Highways</li> <li>▪ Local Lead Flood Authority, Sustainable Approval Body &amp; Land Drainage</li> <li>▪ Markets</li> <li>▪ Public Conveniences</li> <li>▪ Public rights of way management and enforcement;</li> <li>▪ Public Transport</li> <li>▪ Road safety</li> <li>▪ Street Cleaning (</li> <li>▪ TraCC (Trafnidiaeth Canolbarth Cymru / Mid Wales Transportation)</li> <li>▪ Traffic Management</li> <li>▪ Waste &amp; Recycling Services</li> </ul>
<p>Head of Housing and Community Services</p>	<ul style="list-style-type: none"> <li>▪ Archives and Information Management</li> <li>▪ Arts</li> <li>▪ Catering and Cleaning</li> <li>▪ Housing</li> <li>▪ Leisure</li> <li>▪ Libraries</li> <li>▪ Museums</li> <li>▪ Sports Development</li> </ul>
<p>Head of Education</p>	<ul style="list-style-type: none"> <li>▪ Chief Education Officer</li> <li>▪ Overall strategic responsibility for:             <ul style="list-style-type: none"> <li>▪ Developing and maintaining strong relationships with school leaders</li> <li>▪ School improvement and effectiveness</li> <li>▪ Additional learning needs (ALN) and inclusion (0-25)</li> <li>▪ School transformation and organisation</li> <li>▪ School standards and school provision</li> <li>▪ Pupil attainment</li> <li>▪ Pupil exclusions and attendance</li> <li>▪ Central Support Services relating to education and Powys schools</li> <li>▪ Development of educational strategies and operating arrangements</li> <li>▪ School improvement aspects of 21<sup>st</sup> Century Schools (delivery lead of 21<sup>st</sup> Century Schools is Head of Transformation and Communications)</li> <li>▪ Education welfare and educational psychology</li> <li>▪ Education other than at school, including Pupil Referral Units</li> <li>▪ Children looked after's (CLA) educational needs</li> <li>▪ English as an additional language</li> <li>▪ Education provision for migrant and traveller children</li> </ul> </li> </ul>

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	<ul style="list-style-type: none"> <li>▪ Pupil admissions and links with school transport policy</li> <li>▪ School governance and Governor support</li> <li>▪ Early years education</li> <li>▪ Post – 16 provision</li> <li>▪ Youth Services</li> <li>▪ Adult continuing learning, training and skills</li> <li>▪ Relations with strategic partners</li> </ul>
<p>Head of Children Services</p>	<ul style="list-style-type: none"> <li>▪ Early Help Services</li> <li>▪ Children’s Services Front Door</li> <li>▪ Assessment Services</li> <li>▪ The local authority’s care and support provision for children with disabilities</li> <li>▪ Services for children in need of Care and Support</li> <li>▪ Services for children in need of Protection</li> <li>▪ Services for children in the care of Powys County Council</li> <li>▪ Care Leaver Services</li> <li>▪ Adoption Services</li> <li>▪ Fostering Services</li> <li>▪ RISCA regulated services</li> <li>▪ Intervention and Prevention Services</li> <li>▪ Youth Justice Services</li> <li>▪ Workforce Development for Adult and Children’s Social Services</li> <li>▪ Safeguarding Services</li> <li>▪ Emergency Duty Team for Adult and Children’s Social Services</li> <li>▪ Responsibility for delegated budget across Children’s Services</li> <li>▪ Systems to ensure children and young people in Powys are safeguarded and the management of associated risks</li> <li>▪ System leadership for the safety and wellbeing of children across the Startwell agencies</li> <li>▪ Strategic Oversight of the delivery of the Health and Care Strategy</li> </ul>
<p>Head of Adult Services</p>	<ul style="list-style-type: none"> <li>▪ Bodlondeb extra care support</li> <li>▪ Day services and day centres</li> <li>▪ Front Door (Assist)</li> <li>▪ Home support</li> <li>▪ Housing Wardens</li> <li>▪ Occupational Therapy</li> <li>▪ Provider services</li> <li>▪ Reablement and Domiciliary Care</li> <li>▪ Sensory Loss</li> <li>▪ Shared Lives</li> <li>▪ Social Services Emergency Duty Team</li> </ul>

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	<ul style="list-style-type: none"> <li>▪ Social Work Assessment Teams (Older Peoples, Disabilities and Mental Health)</li> <li>▪ Supported Living</li> </ul>
Head of Commissioning and Partnerships	<ul style="list-style-type: none"> <li>• Carers Services</li> <li>• Childcare and Support</li> <li>• Contract monitoring</li> <li>• Health and Care Equipment and Technology Enabled Care</li> <li>• Long-term support and care for children, adults, and older people</li> <li>• Partnership with the Powys Teaching Health Board and other external partners</li> <li>• Social care focussed accommodation and homelessness prevention</li> <li>• Social care emergency planning and social care business continuity</li> <li>• Strategic planning and Commissioning for adults and children’s services</li> <li>• Welsh language Champion for social services</li> </ul>

### Departmental Structure.

11.36 The ~~Head of Paid Service~~ Chief Executive 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

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

11.38 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.

11.39 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 11.40 below. In the absence of the Chief Executive, or otherwise being unable to act, the Monitoring Officer will act as the proper Officer.

11.40 The Council has designated the following Proper Officer Posts:

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### Proper Officers

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

### Building Act 1984:

Section	Provision	Proper Officer
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
All (except S61(2))		Head of Property, Planning and Public Protection

### Council Tax (Administration and Enforcement) Regulations 1992:

Section	Provision	Proper Officer
Reg 7	Service of Attachment of Earnings Orders	Chief Financial Officer

### Elections:

Section	Provision	Proper Officer
N/A	Registration Officer for any constituency or part of a constituency coterminus with or contained in the County of Powys	Chief Executive
N/A	Returning Officer for the election of Councillors for the County Council of Powys	Chief Executive
N/A	Returning Officer for the election of Town and Community Councillors for Town and Community Councils in the County of Powys	Chief Executive

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### Environmental Protection Act 1990:

Section	Provision	Proper Officer
All		Head of Property, Planning and Public Protection

### Estate Agents Act 1979 as amended and ancillary legislation:

Section	Provision	Proper Officer
All	National Trading Standards Estate and Letting Agency Team (“the Lead Enforcement Authority”)	Senior Manager – National Trading Standards Estate and Letting Agency Team

### Health Protection (Notification)(Wales) Regulations 2010:

Section	Provision	Proper Officer
All	Infectious Diseases	Head of Property, Planning and Public Protection

### Health Protection (Part 2A Orders)(Wales) Regulations 2010:

Section	Provision	Proper Officer
All	Infectious Diseases	Head of Property, Planning and Public Protection

### Highways Act 1980:

Section	Provision	Proper Officer
All		Head of Highways, Transport and Recycling

### Local Authorities Cemeteries Order 1977:

Section	Provision	Proper Officer
All		Head of Property, Planning and Public Protection

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### Local Authorities (Standing Orders) (Wales) Regulations 2005

Section	Provision	Proper Officer
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

### Local Elections (Parish and Communities) (England and Wales) Rules 2006:

Section	Provision	Proper Officer
Rule 44	Receipt from Returning Officer of names of persons elected to Council	Chief Executive
Rule 46, 47	Receipt from Returning Officer of election documents	Chief Executive
Rule 48, 49, 51	Retention of election documents and making them available for public inspection	Chief Executive
	Receipt from Returning Officer of names of persons elected to Town and Community Councils in the County of Powys	Chief Executive
	Receipt from Returning Officer of election documents	Chief Executive
	Retention of election documents and making them available for public inspection	Chief Executive

### Local Government Act 1972:

Section	Provision	Proper Officer
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
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
S83(1)-(4)	Witness and receipt of declaration of acceptance of office	Monitoring Officer
S84	Receipt of declaration of resignation of office	Monitoring Officer
S88(2)	Convening of meeting of Council to fill casual vacancy in office of Chair/Mayor	Monitoring Officer
S89(1)(b)	Receipt of notice of casual vacancy from two local government electors	Chief Executive

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S94 & 96(2)	Keeping of record of disclosures and notice of pecuniary interests	Monitoring Officer
S96(1)	Receipt of notices of pecuniary interests	Monitoring Officer
S100(B)(2)	Circulation of reports and agendas	Monitoring Officer
S100(B)(7)	Supply of papers to press	Monitoring Officer
S100(C)(2)	Summary of minutes	Monitoring Officer
S100(D)(1)(a)	Compilation of background papers	Monitoring Officer
S100(D)(5)(a)	Identification of background papers	Monitoring Officer
S100(F)	Identification of confidential documents not open to Members	Monitoring Officer
S115(2)	Receipt of money due from Officers	Chief Financial Officer
S146(1) (a) & (b)	Declarations and certificates with regard to securities	Chief Financial Officer
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
S225(1)	Deposit of documents	Monitoring Officer
S228(3)	Accounts - to be open for inspection	Chief Financial Officer
S229(5)	Deposit of documents - certification	Monitoring Officer
S234(1)	Authentication of documents	Monitoring Officer
S236(9) & (10)	Service of Byelaws on other Authorities	Monitoring Officer
S238	Certification of Byelaws	Monitoring Officer
S248 (2)	Keeping roll of Freeman	Monitoring Officer
Schedule 12 Para 4(2)(b)	Signature of summons to Council	Monitoring Officer
Schedule 12 Para 4(3)	Receipt of notices regarding addresses which Summons to meeting are to be sent	Monitoring Officer
Schedule 14 Para 25(7)	Certification of resolutions - Para 25	Monitoring Officer
S191	Functions in respect of Ordnance Survey	Head of Highways, Transport and Recycling

### Local Government Act 1974:

Section	Provision	Proper Officer
S30(5)	Notice of Local Government Ombudsman report	Monitoring Officer



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### Local Government (Miscellaneous Provisions) Act 1976

Section	Provision	Proper Officer
S41	Certification of copies of resolutions, Minutes, other documents	Monitoring Officer

### Local Government and Housing Act 1989:

Section	Provision	Proper Officer
S2	Receipt of list of Politically Restricted Posts	Chief Executive
S15, 16, 17	Receipt of notices relating to Political Groups	Monitoring Officer
S19	Members interests - notification	Monitoring Officer

### Local Government Finance Act 1988:

Section	Provision	Proper Officer
S114	Powers to prevent unlawful expenditure and an unbalanced budget	Chief Financial Officer

### National Assistance Act 1948

Section	Provision	Proper Officer
All	Public Health (misc)	Head of Property, Planning and Public Protection

### National Assistance (Amendment) Act 1951:

Section	Provision	Proper Officer
All	Public Health (misc)	Head of Property, Planning and Public Protection

### Proceeds of Crime Act 2002, Part 7 (Money Laundering):

Section	Provision	Proper Officer
S331	Money Laundering Reporting Officer	Head of Finance (Section 151 Officer)

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### Public Health (Control of Diseases) Act 1984 (as amended by the Social Care Act 2008 and associated regulations):

Section	Provision	Proper Officer
All	Control of Diseases (various)	Head of Property, Planning and Public Protection

### Registration Services Act 1953:

Section	Provision	Proper Officer
S9(1) S3(b) S13(2)(h) S20(b)	Registration of Births, Deaths and Marriages	Monitoring Officer
	Registration of Births, Deaths and Marriages Regulations 1968 - 1994	Monitoring Officer

### Weights and Measures Act 1985:

Section	Provision	Proper Officer
Section 72	Chief Inspector (Weights and Measures)	Such other person(s) with the relevant qualification under the Act as nominated by the Chief Executive.

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### Conduct

- 11.41 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

- 11.42 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

- 11.43 The former Board and the County Council<sup>9</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**

- 11.44.1 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.
- 11.44.2 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**

- 11.45.1 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.
- 11.45.2 No Councillor or employee of the Council will seek support for any person for any appointment with the Council.

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

- 11.46 Subject to Rule 11.58 below, the Full Council will appoint the ~~Head of Paid Service~~ Chief Executive 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.
- 11.47.1 Where it is proposed to pay an 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 an Officer.

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<sup>9</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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- 11.47.2 Rule 11.47.1 above does not apply if the Authority proposes to appoint an 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 an 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 11.49.2, 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 11.49.2.
- 11.51 The power to approve the appointment of the ~~Head of Paid Service~~Chief Executive 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 non-Executive Directors**

- 11.52 Subject to Rule 11.58 below, the Employment and Appeals Committee will appoint the non-Executive Director 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.
- 11.53 Where the Employment and Appeals Committee proposes to appoint the non-Executive Director 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

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- 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 11.55.2, 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 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 Subject to Rule 11.59 below, the Employment and Appeals Committee will appoint Heads of Service from a shortlist of one or more 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 Joint Appointments with other organisations.**

- 11.5 In respect of recruitment and employment of joint appointments with other organisations, Rules 11.45 to 11.57 shall not apply and the method and process of recruitment and appointment (including shortlisting) shall be agreed between the ~~Head of Paid Service~~Chief Executive and the Chair of the Employment and Appeals Committee so as to ensure that a post appropriate process is achieved.
- 11.58 The recruitment process agreed pursuant to Rule 11.59 shall be reported for information purposes to the next meeting of the Employment and Appeals Committee.

### **Recruitment and Appointment (Including Shortlisting) of the Monitoring Officer and Section 151 Officer (if not to be appointed under Rules 11.47 to 11.51 above)**

- 11.59 The relevant Chief Officer or Deputy Chief Officer will appoint the Monitoring Officer and / or Section 151 Officer and Members must not be involved.
- 11.60 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:
- 11.61.1 draw up a statement specifying:
- 11.61.1.1 the duties of the officer concerned, and
  - 11.61.1.2 any qualifications or qualities to be sought in the person to be appointed;

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- 11.61.2 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
- 11.61.3 make arrangements for a copy of the statement mentioned in Rule 11.61.1 to be sent to any person on request.
- 11.62 Where a post has been advertised as provided in Rule 11.61.2, the Authority must interview those qualified candidates included on a short list prepared by the relevant Chief Officer or Deputy Chief Officer.
- 11.63 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 11.61.2.

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

- 11.64 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**

- 11.65 In Rules 11.656 to 11.734 and in Appendices A and B:  
“the Investigatory means the Chief Officers’ Investigating and Disciplinary Committee” Sub-Committee of the Employment and Appeals Committee as constituted in accordance with Appendix B; and
- 11.66 The dismissal of the ~~Head of Paid Service~~ Chief Executive, 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.
- 11.67 The dismissal of the Chief Officers as defined in Rule 11.2 (with the exception of those identified in Rule 11.67 above) and Deputy Chief Officers as defined in Rule 11.34 is the responsibility of the Investigatory Committee and the procedures set out in Appendix B to this Section of the Constitution shall apply.
- 11.68 Notice of the dismissal of an officer named in Rule 11.64 and / or Rule 11.65 above must not be given by the Employment and Appeals Committee or the Investigatory 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**

- 11.69 Appointment and dismissal of officers below Chief Officer is the responsibility of the Chief Executive, ~~Head of Paid Service~~ Chief Executive or his / her nominee, and may not be undertaken by Councillors.
- 11.70 Councillors will not be involved in disciplinary action against any Officer below Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct or where the Council’s disciplinary, capability

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and related procedures, as adopted from time to time, allow a right of appeal to Councillors.

### Disciplinary Action

11.71 In Rules 11.65 to 11.73 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

- 11.72.1 Disciplinary action against the ~~Head of Paid Service~~Chief Executive, the Monitoring Officer, the Chief Finance Officer and the Head of Democratic Services will be taken in accordance with Appendix A.
- 11.72.2 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

11.73 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 Executive, 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~~Chief Executive, 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~~Chief Executive) for the purpose of investigating alleged misconduct may be undertaken by the ~~Head of Paid Service~~Chief Executive or Monitoring Officer (as appropriate) in conjunction with the Head of Workforce and Organisational 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>10</sup>.
3. Suspension of the ~~Head of Paid Service~~Chief Executive (Chief Executive) may be undertaken only by the Chair or Vice Chair of the Employment and Appeals Committee following consultation with the Leader.<sup>11</sup>

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<sup>10</sup> Paragraph 3 of Schedule 4 of the Local Authority (Standing Orders) (Wales) Regulations 2006

<sup>11</sup> County Council decision 4<sup>th</sup> March, 2013.

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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~~ Chief Executive; or
- (b) the Monitoring Officer; or
- (c) the Chief Finance Officer; or
- (d) the Head of Democratic Services.

the Full Council must appoint 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; and

must, 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 officer under investigation or any other person it considers appropriate; and / or
- (b) may request the officer under investigation 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 officer under investigation or any other person it considers appropriate.

4(4) Where it appears to the Investigation Committee that an allegation of misconduct by the officer under investigation 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 officer under investigation 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.

4(6) Subject to paragraph 4(7) below, the officer under investigation 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.



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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 officer under investigation; or
  - (ii) that any such suspension is to continue after the expiry of the period referred to in paragraph 2<sup>12</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 officer under investigation, (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 officer under investigation 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 officer under investigation;
- (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 officer under investigation; and
  - (ii) recommending any disciplinary action which appears appropriate for the Full Council to take against the officer under investigation, 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 officer under investigation.

4(9) The Full Council must consider the report prepared under paragraph 4(8) (d) above within 1 month of receipt of that report.

### **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 officer under investigation. 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

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<sup>12</sup> Regulation 9(6)(ii) of the Local Authority (Standing Orders) (Wales) Regulations 2006

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- Investigating and Disciplinary Committee at the Disciplinary Hearing and any supporting documentation.
- 5.2 The officer under investigation 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 five 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 officer under investigation 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 (date) 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, including any witnesses;
  - 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 officer under investigation 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 or professional representative ("Companion");
  - 5.4.6 confirmation that the officer under investigation 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 officer under investigation 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 officer under investigation's Companion. If the officer under investigation requests a postponement, the Chief Executive or a nominee and the officer under investigation (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.
- 5.6 The Chief Executive or a nominee shall then formally give notice to the Investigating and Disciplinary Committee (and the officer under investigation if the Hearing has been postponed) of the date for the Disciplinary Hearing. The

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- 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 officer under investigation.
- 5.7 The officer under investigation 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 officer under investigation 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 officer under investigation 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 officer under investigation 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 officer under investigation'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 officer under investigation 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;
  - 6.1.4 the officer under investigation 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

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- officer under investigation 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 officer under investigation's case, make representations on behalf of the officer under investigation to any views expressed at the Disciplinary Hearing and confer with the officer under investigation during the Disciplinary Hearing. The Companion does not, however, have the right to answer questions on the officer under investigation'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 officer under investigation 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 officer under investigation 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 vacant) where there are issues relating to capability or loss of trust and confidence in the officer under investigation 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

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- 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 officer under investigation 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 all Chief Officers and Deputy Chief Officers of the Authority other than the ~~Head of Paid Service~~ Chief Executive, 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 an officer under investigation of the Authority under Appendix B.
- 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).
- 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

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- 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 officer under investigation 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 officer under investigation 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 officer under investigation'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 officer under investigation, 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 the Chief Executive will decide whether or not the investigation can be carried out by an officer of the same grade or above or by an independent person ("Investigating Officer").
- 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 an Investigating and Disciplinary 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. 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. The Investigating and Disciplinary Committee 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 expeditiously by all parties in order to avoid unnecessary delay and prejudice to the interests of all parties.

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### **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 officer under investigation'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 officer under investigation in writing, of the reason for the proposed suspension and the officer under investigation shall have the opportunity to make written representations before a decision is taken.
- 4.4 The necessity for the officer under investigation 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 officer under investigation'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 officer under investigation. The contact officer should be another Chief Officer, with no direct relationship to the officer under investigation being suspended, and be someone whom the officer under investigation 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 officer under investigation, 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 their 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 officer under investigation in line with GDPR Guidance. The officer under investigation shall fully cooperate with the Preliminary Independent Investigator and shall make themselves available for such interviews and meetings and provide any relevant documentation or information as the Preliminary Independent Investigator deems necessary.

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- 5.5 The officer under investigation 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 officer under investigation 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 officer under investigation shall, if they so wish, make written representations in relation to the Preliminary Investigation Report, within five working days of receipt by the officer under investigation 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 officer under investigation 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 officer under investigation 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 officer under investigation 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.
- 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



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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 officer under investigation 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 officer under investigation. 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 officer under investigation 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 officer under investigation 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;
  - 9.4.2 who will be in attendance at the Disciplinary Hearing including the members of the Investigating and Disciplinary Committee;

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- 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 officer under investigation 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 officer under investigation 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 officer under investigation 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 officer under investigation’s Companion. If the officer under investigation 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 officer under investigation 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 officer under investigation 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 officer under investigation 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 officer under investigation 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 officer under investigation 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

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- 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 officer under investigation'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 officer under investigation 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 officer under investigation 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 officer under investigation 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 officer under investigation's case, make representations on behalf of the Relevant Chief Officer to any views expressed at the Disciplinary Hearing and confer with the officer under investigation during the Disciplinary Hearing. The Companion does not, however, have the right to answer questions on the officer under investigation'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 officer under investigation will be given a reasonable opportunity to consider any new information obtained before the Disciplinary Hearing is reconvened.

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- 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 officer under investigation 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 officer under investigation 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 officer under investigation in writing within five working days of the Disciplinary Hearing, or as soon thereafter as is reasonably practicable.

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- 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 officer under investigation 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 officer under investigation 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 officer under investigation 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 officer under investigation 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 officer under investigation, 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.
- 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.

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- 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 officer under investigation 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.