

Report of the Presiding Member

Council – 9 September 2014

AMENDMENTS TO THE COUNCIL CONSTITUTION – LOCAL AUTHORITIES (STANDING ORDERS) (WALES) (AMENDMENT) REGULATIONS 2014

Purpose:	To make amendments in order to simplify, improve and / or add to the Council Constitution / Councillors Handbook in relation to the Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2014.
Policy Framework:	None.
Reason for Decision:	A decision of Council is required to change the Council Constitution.
Consultation:	Finance, Legal
Recommendation(s):	It is recommended that:
1)	The recommendations listed in Appendices A, B and C be approved and adopted.
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1. Introduction

- 1.1 In compliance with the Local Government Act 2000, the City & County of Swansea has adopted a Council Constitution. A number of issues have arisen since adoption and in order to maintain the aims, principles and procedures set out in Articles 1 and 15 of the Council Constitution, it is proposed that the amendments set out below should be made to the Constitution.

2. Delegated Minor Corrections to the Council Constitution

- 2.1 There are no delegated minor corrections to the Council Constitution.

3. Amendments to the Council Constitution

- 3.1 This report outlines a number of suggested amendments to the Council Constitution. The amendments are within the following areas of the Council Constitution:

- a) Part 2 - Article 15 “Review and Revision of the Constitution”;
- b) Part 3 - Scheme of Delegation;
- c) Part 3 - Terms of Reference: Appointments Committee, Chief Executive’s Appraisal and Remuneration Committee;
- d) Part 4 - JNC Officer Appointment Procedure Rules;
- e) Part 4 - Chief Officers and Deputy Chief Officers Disciplinary Procedure Rules.

4. Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2014 - “The Regulations”

4.1 The Regulations amend the Local Authorities (Standing Orders) (Wales) Regulations 2006 (S.I. 2006/1275) and came into force on 1 July 2014. The Regulations must be implemented by each Local Authority within 10 weeks of that date i.e. 9 September 2014.

4.2 The 2006 Regulations require Local Authorities to include within their Standing Orders provisions covering the appointment of Chief Officers, recording of votes and the signing of minutes, provisions related to staff in Local Authorities with different types of Executive or Alternative Arrangements, and disciplinary action against certain senior post holders.

4.3 The 2014 Regulations amend the provisions of the 2006 Regulations relating to the process for appointing, dismissing and conducting disciplinary investigations of certain Officers of Authorities. They impose new requirements for procedures for determining the level to be paid to Chief Officers.

4.4 The amendments made by the 2014 Regulations are summarised as follows:

- i) Remove all reference to the “Mayor and Council Manager Executive Model”;
- ii) Remove all reference to the “Alternative Arrangements Model”;
- iii) The role of Head of Democratic Services be given the same status as the Head of Paid Service, Monitoring Officer and Chief Finance Officer as regards the process under which Local Authorities can take disciplinary action against them and how any allegation of misconduct is to be dealt with;
- iv) Amendment to Regulation 8 - Add the post of “Head of Democratic Services” to those posts that are given the protection listed above;
- v) Amendment to Regulation 9 which governs the procedure for dealing with allegations of misconduct against the postholders covered by Regulation 8;

- vi) Amendment to Regulations 8 and 9 to extend the protections given to Officers in relation to whom disciplinary action is proposed where the Officer was, but at the time of the proposed disciplinary action no longer is, an Officer with protected status under these Regulations and the alleged misconduct, or, as the case may be, the reason for the proposal for dismissal, occurred during the period when the Officer was an Officer with protected status;
- vii) Where an Authority proposes to appoint a Chief Officer and it is proposed to pay the Chief Officer annual remuneration of £100,000 or more, the post must be publically advertised. The only exemption to this requirement would be if an appointment were to be made for a period of no longer than 12 months;
- viii) The posts of Head of Democratic Services and Monitoring Officer be added to the list of those who are not subject to appointment or dismissal by the Head of Paid Service (or another Officer designated by them);
- ix) The posts of Head of Democratic Services and Monitoring Officer be added to the list of those whose appointment or dismissal should be conducted by a Committee, and that any Committee or Sub Committee of the Authority charged with this responsibility must include at least one member of the Executive in its membership;
- x) Any decision to determine or vary the remuneration of Chief Officers (or those to be appointed as Chief Officers) must be made by full Council, without the possibility of delegating it to a Committee of the Council.

4.5 The necessary amendments to comply with the 2014 Regulations are outlined in **Appendices A, B and C** of the report.

5. Equality and Engagement Implications

5.1 An Equality Impact Assessment (EIA) screening process took place prior to the consultation period. The outcome indicated that it was low priority and a full report was not required.

6. Financial Implications

6.1 There are no specific financial implications associated with this report.

7. Legal Implications

- 7.1 There are no specific legal implications associated with this report other than those referred to. The amended version of the Council Constitution will be available at www.swansea.gov.uk/Democracy

Background Papers: None.

Appendices:

Appendix A	Council Constitution Tracked Changes – Parts 2 and 3.
Appendix B	Council Constitution Tracked Changes – Part 4 – JNC Officer Appointment Procedure Rules.
Appendix C	Council Constitution Tracked Changes – Part 4 – Chief Officers and Deputy Chief Officers Disciplinary Procedure Rules.

Council Constitution Tracked Changes

Part 2 of the Council Constitution

a) Article 15 “Review and Revision of the Constitution”

Delete Paragraph 15.3.2:

“Changes from a Leader and Cabinet Form of Executive to a Mayoral Form of Executive or to alternative arrangements, or vice versa

The Council must take reasonable steps to consult with Local Electors and other interested persons in the area when drawing up proposals and must hold a binding referendum if the change proposed is any Mayoral option.”

Part 3 of the Council Constitution

a) Scheme of Delegation

i) Paragraph 1.3.12 Miscellaneous Functions. **Amend** I3 to read as follows:

No	Function	Provision of Act or Statutory Instrument	Delegated To
I3	Appointment and Dismissal of staff <i>and the Designation of the Head of Democratic Services.</i>	<p>Section 112 of the Local Government Act 1972 and Sections 7 and 8 of the Local Government and Housing Act 1989.</p> <p>Note: Head of Democratic Services.</p> <p><i>Section 11 (1) (a) of the Local Government (Wales) Measure 2011 also applies.</i></p> <p><i>The Appointment of Head of Democratic Services is subject to the Democratic Services Committee subsequently Designating the selected person in that role.</i></p>	<ul style="list-style-type: none"> • Appointments Committee / Chief Officers Disciplinary Committee for Officers employed on JNC terms and conditions (Chief Officers <i>including Head of Democratic Services</i>). • Head of Paid Service for all other staff.

ii) Paragraph 1.3.12 Miscellaneous Functions. **Add** I16 as follows:

No	Function	Provision of Act or Statutory Instrument	Delegated To
I16	Determination of level and any change in level of remuneration to be paid to a Chief Officer (excluding the Head of Democratic Services)	Regulation 7 of the Local Authorities (Standing Orders) (Wales) Regulations 2006 as Amended by the 2014 Regulations.	Council

b) Terms of Reference

i) Appointments Committee

Add the following note at the end of the terms of reference of the Appointments Committee:

“Note:

- 1) Regulation 7 of the Local Authorities (Standing Orders) (Wales) Regulations 2006 as Amended by the 2014 Regulations states that the appointment of the Head of Paid Service is to be approved by Council itself. However, it has been customary within the City and County of Swansea for all Chief Officers to be appointed by Council and this will continue to be the case.
- 2) Section 11 (1) (a) of the Local Government (Wales) Measure 2011 states that the Democratic Services Committee shall Designate a person into the role of the Head of Democratic Services”.

ii) Chief Executive’s Appraisal and Remuneration Committee

Add the following note at the end of the terms of reference of the Chief Executive’s Appraisal and Remuneration Committee:

“Note: Where the Authority proposes to appoint a Chief Officer or Deputy Chief Officer, and the remuneration which it proposes to pay to the chief officer is £100,000 or more per annum, it must:

- a) Draw up a statement specifying:
 - i) The duties of the officer concerned, and
 - ii) Any qualifications or qualities to be sought in the person to be appointed;

- b) Make arrangements for the post to be publicly advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- c) Make arrangements for a copy of the statement mentioned in a) to be sent to any person on request.

The Authority is not required to publicly advertise, if it proposes to appoint the Chief Officer for a period of no longer than 12 months”.

iii) Chief Officers Disciplinary Committee

Amend the opening paragraph of the terms of reference of the Chief Officers Disciplinary Committee as follows:

“To deal with all matters of discipline relating to Officers employed under Joint Negotiating Committees (JNC) terms and conditions *(including Head of Democratic Services)*”.

iv) Chief Officers Disciplinary Appeals Committee

Amend the opening paragraph of the terms of reference of the Chief Officers Disciplinary Appeals Committee as follows:

“To deal with all matters of discipline relating to Officers employed under Joint Negotiating Committees (JNC) terms and conditions *(including Head of Democratic Services)*”.

Part 4 of the Council Constitution

- a) JNC Officer Appointment Procedure Rules. See **Appendix B**.
- b) Chief Officers and Deputy Chief Officers Disciplinary Procedure Rules. See **Appendix C**.

Council Constitution Tracked Changes

8 JNC OFFICER APPOINTMENT PROCEDURE RULES

1 Explanatory

- 1.1 These Procedure Rules are intended to comply with Regulation 3, Schedule 1 Part 1 and Regulation 5 (1) (b), Schedule 3, part 2 of the Local Authorities (Standing Orders) (Wales) Regulations 2006 *as amended by the Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2014 (“the Regulations”)*.
- 1.2 They are applicable in respect of Chief Officers, the Monitoring Officer, Heads of Service, *Head of Democratic Services* and any other officer to be employed on JNC terms and conditions only.
- 1.3 If there is a conflict between these Procedure Rules and the Regulations, the Regulations take precedence.
- 1.4 The Regulations are designed to be a statutory minimum and only dictate that the *appointment of the* Head of Paid Service is to be *approved* by Council itself (*Regulation 7*), but it has been customary within the City & County of Swansea for all Chief Officers to be appointed by Council and this will continue to be the case.
 - 1.4.1 *The Regulations also require that Council itself must determine the level, and any change in the level, of remuneration to be paid to a chief officer (Regulation 7) as defined in paragraph 2.2 below.*
- 1.5 The Appointments Committee is delegated authority to exercise the functions set out in Paragraph 2 (1) (a) & (b) of Schedule 1 Part 1 of the Regulations – interview and short-listing of candidates for the post of Chief Officer. It is also delegated authority to shortlist, interview and appoint Heads of Service who are Deputy Chief Officers within the meaning of Section 2 (8) of the Local Government and Housing Act 1989.
- 1.6 The Joint Appointment Sub Committee has the power to make joint JNC / Chief Officer appointments to the Authority. Where such appointments are being considered the substantive rules of the JNC Officer Appointment provisions will apply.
 - 1.6.1 Any joint appointment shall be made through the Joint Appointments Sub Committee. This Sub Committee shall be politically balanced and shall in respect of its membership comply with the Appointments Procedure set out in Paragraph 5 of the JNC Officer Appointment Procedure Rules, together with the application of these rules generally.

- 1.6.2 Further the Committee shall comprise of proportionate representation of all the joint partners to the appointment.
- 1.6.3 It is not envisaged that the Joint Appointments Sub Committee shall make any appointment under these rules that should require the sanction of the Council.
- 1.6.4 * For clarity should any disciplinary matters be progressed in respect of a joint appointment they shall be progressed via a Joint Disciplinary Sub Committee and any consequential amendment to the Constitution shall be made accordingly.
- 1.7 In respect of all other staff, the function of appointment ~~of staff and dismissal and taking disciplinary action under the disciplinary policy against that person~~ must be discharged by the Head of Paid Service, or by an Officer nominated by the Head of Paid Service and Members will not be involved in any of these processes except where such involvement is necessary for any investigation or inquiry into alleged misconduct. (Regulation 5 (1) (b), Schedule 43 Part 2 "Authority with Leader and Cabinet Executive").
- 1.8 In accordance with Section 7 of the Local Government and Housing Act 1989, all appointments to paid office within the Authority shall be on merit. However, there may be situations where a person is at risk of redundancy and the Authority will be required to attempt to re-deploy that person. Whilst no officer is entitled to be re-deployed so as to gain a promotion, it will be normal for that person to be given prior consideration or "ring fenced" to that post.
- 1.9 In such circumstances, the officer shall be required to undertake such assessment as may be considered necessary to ascertain their suitability for the post and will be interviewed by the Appointments Committee, who will then decide whether it is in a position to make an appointment. If it is not in a position to appoint then the post will be advertised, but the "at risk officer" will be entitled to re-apply for the post and compete with any other candidates.

2 Definitions

- 2.1 In these rules the following terms have the meaning prescribed by the Local Authority (Standing Orders) (Wales) Regulations 2006 *as amended by the Amendment Regulations 2014*, and "the 1989 Act" means the Local Government and Housing Act 1989
- 2.2 "chief officer", means:
- a) The Head of Paid Service, designated under section 4(1) of the 1989 Act;
 - b) The Monitoring Officer;
 - c) A statutory chief officer mentioned in paragraph (a), (c) or (d) of section 2(6) of the 1989 Act, or

- d) A non-statutory chief officer (within the meaning of section 2(7) of the 1989 Act).

(For the avoidance of doubt, this definition so far as Swansea is concerned includes all members of the Corporate Management Team in its current format but excludes Heads of Service. Any reference to an appointment or purported appointment of a Chief Officer includes a reference to the engagement or purported engagement of such an officer under a contract of employment);

- 2.3 “**chief finance officer**” means the officer having responsibility, for the purposes of section 151 of the Local Government Act 1972 (financial administration) for the administration of the local authority’s financial affairs;
- 2.4 “**deputy chief officer**” has the meaning referred to in section 2(8) of the 1989 Act. These are currently referred to as Heads of Service in Swansea.
- 2.5 “**head of the authority’s paid service**” means the officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service);
- 2.6 “**member of staff**” means a person appointed to or holding a paid office or employment, under a relevant authority;
- 2.7 “**monitoring officer**” means the officer designated under section 5(1) of the 1989 Act (designation and reports of monitoring officer);
- 2.8 “**head of democratic services**” means the officer designated under section 8 of the Local Government (Wales) Measure 2011;
- 2.9 “**remuneration**” has the same meaning as in section 43(3) of the Localism Act 2011 i.e. it means:
- a) The chief officer’s salary or, in the case of a chief officer engaged by the authority under a contract for services, payments made by the authority to the chief officer for those services,
 - b) Any bonuses payable by the authority to the chief officer,
 - c) Any charges, fees or allowances payable by the authority to the chief officer,
 - d) Any benefits in kind to which the chief officer is entitled as a result of the chief officer’s office or employment,
 - e) Any increase in or enhancement of the chief officer’s pension entitlement where the increase or enhancement is as a result of a resolution of the authority,
 - f) Any amounts payable by the authority to the chief officer on the chief officer ceasing to hold office under or be employed by the authority, other than amounts that may be payable by virtue of any enactment.

3 Declarations

- 3.1 The Council will draw up a statement requiring any candidate for appointment as an Officer to state in writing whether they have a personal connection with an existing Councillor or Officer of the Council; or of the partner of such persons. Although not an exhaustive list, examples of these are; parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece.
- 3.2 No candidate so related or connected to a Councillor or an Officer will be appointed without the certification of the relevant Responsible Officer or an Officer nominated by him/her that the Council's recruitment Procedures have been followed and no conflict of interest has arisen during the recruitment process.

4 Seeking support for appointment

- 4.1 Subject to paragraph (4.3), 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.
- 4.2 Subject to paragraph (4.3), no Councillor will seek support for any person for any appointment with the Council.
- 4.3 Nothing in paragraphs (4.1) and (4.2) above will preclude a Councillor or the Lord Mayor from giving a written reference for a candidate for submission with an application for appointment.

5 Appointments Procedure

- 5.1 Part One to Schedule Three, paragraph 4(2) of the Regulations, provides that:
- “Where a committee...is discharging on behalf of the...authority the function of the appointment of... [a Chief Officer or Deputy Chief Officer]
- a. At least one member of the executive must be a member of that Committee; and
 - b. Not more than half of the members of that committee are to members of the executive of the authority”
- 5.2 This must be given a literal interpretation and must be taken to mean any meeting of the Appointments Committee to deal with the appointment of a Chief Officer or Head of Service. It must also be taken to relate directly to the composition of the Committee on the day that it meets and not as a whole.

6 General

6.1 All Members must have undertaken an appropriate training course.

6.2 All Members must declare any knowledge of or relationship with any of the applicants or applicant's families.

6.3 Short Listing

6.3.1 Members of the Appointments Committee **MUST** be present throughout all of the meetings that take place to shortlist, any candidates.

6.3.2 Interviewing and Appointing Candidate(s)

Members of the Appointments Committee must be present throughout all of the meetings that take place to interview and appoint any candidates, in order to vote on the appointment.

This note does **NOT** apply to:

- 1) Any selection centres or assessment processes that the candidate may be required to undertake;
- 2) Any informal meetings organised with the candidates which take place outside of the formal process.

6.3.3 Members shall consider at the commencement of the process whether they are able to commit to attending all the relevant formal meetings and if they are unable to do so, should absent themselves at the start of the process.

6.4 All stages of the appointments process will be advised by the Head of Paid Service or a nominated deputy, Human Resources officer and Legal Officer. In the case of an appointment of the Head of Paid Service, an independent consultant will be retained to carry out this function.

6.5 A Legal Officer must be present throughout all of the appointment process involving elected Members with the exception of informal meetings organised with the candidates which take place in an informal setting.

6.6 Where the Authority proposes to appoint a Chief Officer or Deputy Chief Officer, and the remuneration which it proposes to pay to the chief officer is £100,000 or more per annum, ~~other than exclusively from among their existing officers,~~ it must:

- a) Draw up a statement specifying:
 - i) The duties of the officer concerned, and
 - ii) Any qualifications or qualities to be sought in the person to be appointed;

b) Make arrangements for the post to be [publicly](#) advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

c) Make arrangements for a copy of the statement [mentioned in paragraphs \(a\) & \(b\) mentioned in \(a\)](#) to be sent to any person on request.

The Authority is not required to take the step set out in [6.6\(b\) i.e. to publicly advertise, if it proposes to appoint the chief officer for a period of no longer than 12 months.](#)

6.7 Where a post has been advertised as provided in these Standing Orders, the Authority must:

- a) Interview all qualified applicants for the post, or
- b) Select a short list of such qualified applicants and interview those included on the short list.

6.8 Where no qualified person has applied or if the authority intends to re-advertise, any appointment, it must make further arrangements for advertisement in accordance with paragraph 6.6. ([eb](#)).

6.9 The steps referred to under paragraphs 6.6 and 6.7 may be taken by a Chief Officer of the Authority or a person nominated for that purpose. In relation to an appointment of a Head of Paid Service, the Authority will instruct a professional consultant to carry out the steps in Paragraph 6.6.

6.10 The steps referred to under paragraph 6.7 shall be taken by the Appointments Committee.

6.11 Where the Local Authority proposes to appoint a Director of Social Services, regard be given to the recommended Competences for Appointment as Director of Social Services as laid out in the Statutory Guidance issued under Section 7 of the Local Authority Social Services Act 1970.

7 Procedure at the Appointments Committee

7.1 Short listing

- 7.1.1 All applications are to be technically assessed by appropriate officers or any professional consultants engaged for that purpose. They will then be ranked for short listing. The relevant Chief Officer or the nominated representative and/or professional consultant will prepare short listing report outlining the technical assessments of candidates applications, their scores and any irregularities in any application.
- 7.1.2 This will be presented to the Appointments Committee by an officer or professional consultant, who will speak to the report and answer any questions that Members may have regarding the process.
- 7.1.3 The report itself will be accompanied by the application forms of those candidates recommended for short listing, but the application forms of all applicants will be available one hour prior to the meeting should any Member of the Appointments Committee wish to see them. Any Member of the Appointments Committee will be able to inspect application forms after the initial sift has been carried out by the Responsible Officer and Human Resources. This should be by appointment with the Head of Human Resources.
- 7.1.4 The Appointments Committee may then either accept the report of the Officer or professional consultant without further debate or inspect those applications not included on the shortlist.
- 7.1.5 In the event that the Appointments Committee accepts the report, then a vote will be taken as to which candidates are to proceed to the assessment stage. This vote will be on a show of hands.
- 7.1.6 Should the report not be accepted, then applications considered by the Officer or professional consultant to be technically competent, will be compared against the person specification and job description and with the assistance of the Officer or professional consultant, will be marked accordingly.
- 7.1.7 Those candidates that receive the highest score shall be short listed for assessment - where the score indicates the appropriate qualification and experience. Ordinarily it would be unusual to shortlist more than 6 candidates for one post.
- 7.1.8 If Members of the Appointment Committee wish to do so, they may meet, as a group, with candidates after short listing and prior to the assessment centre.

7.2. The Assessment Procedure

- 7.2.1 Candidates will initially be interviewed by the Chief Executive and/or by other Chief Officers and/or professional consultants. If a professional consultant is retained, then they will be expected to declare any knowledge of the candidate at the outset in order that the relationship can be considered and whether it is appropriate to continue to use the services of the consultant.
- 7.2.2 Candidates will be subject to such testing as is considered appropriate. The Officers and/or professional consultants who conduct the initial interviews and testing will evaluate the performance of the candidates and present a report to the Appointments Committee with their assessment and view as to which candidates should continue through the remaining stages of the procedure.
- 7.2.3 The Appointments Committee will then be advised by the professional consultant as to whether there should be a further short listing as a result of the assessment process. The Appointments Committee can then either agree to reduce the shortlist or whether the Committee wishes to interview all of the remaining candidates. This is essentially a matter for the Committee to decide on a case by case basis.
- 7.2.4 Prior to interview, all short listed candidates may then be invited to attend an informal social meeting with the Members of the Appointments Committee, and in the case of Chief Officer Appointments, all other Members. In the latter situation, only members of the Appointments Committee will meet the candidate for the first 30 minutes and then other members thereafter.

7.3 Interview by the Appointments Committee

- 7.3.1 Candidates will make a presentation to and be interviewed by the Appointments Committee. Candidate's application forms will be available to Members throughout the interview process.
- 7.3.2 Presentation topics and questions designed to test the areas of knowledge/weakness of the candidates shall be prepared by the Officer/professional consultant, together with model answers. The questions may be provided to the candidates in written format. The Chairperson of the Committee will put the questions to the candidate.
- 7.3.3 Supplementary questions to elicit further information relating to the set questions or to address specific issues pertinent to that candidate as a result of the assessment centre may be put. These will be drafted by the appropriate person prior to the interview if possible.

- 7.3.4 The Chief Executive, their nominated representative and/or any professional advisor will outline their opinion on the performance of each candidate after each candidate has made their presentation and been interviewed. Members of the Committee are required to evidence their provisional scoring of the candidates in writing during the interview process. For clarity the allocation of scores shall not be undertaken until after the advice of the professional advisor/Chief Executive has been given.
- 7.3.5 Members of the Appointments Committee will then allocate a final score for each candidate on their performance on a score of one to ten, one being poor and ten being excellent. This however is one of two considerations that Members must take into account when deciding whether they have a candidate that they can appoint or recommend to Council for appointment. The Members must also take into account the report of the Officer and/or the professional consultant and weigh up all of the information when coming to a decision. For the avoidance of doubt this will occur prior to members finalising their scores for each candidate.

8 Appointments

When all of the above process has been completed:

8.1 Appointments of Heads of Service

- 8.1.1 In the case of Heads of Service, the Appointments Committee may then take a vote as to whether they are in a position to make an appointment or whether the post ought to be re-advertised.
- 8.1.2 If the post is to be re-advertised, then the provisions of paragraph 6.6 apply.
- 8.1.3 If the vote to make an appointment is carried, then the Committee will proceed to appoint if there is one suitable candidate. If there are two suitable candidates, the Committee Members will vote for their chosen candidates and the candidate with the most votes will be appointed.
- 8.1.4 If there are more than two candidates, the following process is to be followed:
- a) A vote will be taken;
 - b) If there is a clear majority in favour of one candidate, that person shall be appointed;
 - c) If there is not a clear majority, the name of the person having the least number of votes will be struck off the list and a fresh vote shall be taken until an overall majority of votes is given in favour of one person.
- 8.1.5 The Appointments Committee will then make an appointment.

8.2 Appointments of Head of Paid Service and Chief Officers

- 8.2.1 In the case of Head of Paid Service and other Chief Officers, the Appointments Committee may then take a vote as to whether they are in a position to recommend candidates for interview by Council, or whether the post ought to be re-advertised.
- 8.2.2 If the post is to be re-advertised, then the provisions of paragraph 6.6 apply and the Chair of the Appointments Committee will make a report to Council as to why the Committee were not in a position to make a recommendation.
- 8.2.3 If the vote to make a recommendation is carried, then the Committee will proceed to recommend those candidates to Council.
- 8.2.4 The Appointments Committee is delegated the responsibility to carry out this process and no recommendation shall be invalidated purely by reason of the fact that there is only one suitable candidate. (The Regulations only stipulate that the appointment is confirmed by Council and therefore, there is not a statutory requirement for the Head of Paid Service and other Chief Officers to be interviewed and assessed by Council).
- 8.2.5 The Head of Paid Service or nominated deputy and/or the professional consultant will report to Council on their assessment of the candidates to be interviewed by Council. Candidate's application forms will be available in the Chamber for perusal by Members.
- 8.2.6 Candidates will then make a presentation to and be interviewed by Council. Questions will be put to the candidate by the Presiding Member and a list of themes that are expected to feature in the answers will be provided to Members.
- 8.2.7 Council will then carry out a ballot to determine whether it is in a position to make an appointment having heard the interview and considered the report from the Officers. This ballot will be in writing and will consist of one vote only which is either yes or no. Members can obviously abstain if they wish.
- 8.2.8 If the result of the ballot is that Council cannot make an appointment, then the provisions of paragraph 6.6 apply.
- 8.2.9 If Council is in a position to make an appointment, Members will vote for their preferred candidate. Again this will be in writing and by ballot and will consist of one vote for the candidate of the Members choice. Members can abstain from this vote if they wish.
- 8.2.10 If there are two suitable candidates, Members will vote for their chosen candidates and the candidate with the most votes will be appointed.

8.2.11 If there are more than two candidates, the following process is to be followed:

- a) A vote will be taken;
- b) If there is a clear majority in favour of one candidate, that person shall be appointed;
- c) If there is not a clear majority, the name of the person having the least number of votes will be struck off the list and a fresh vote shall be taken until an overall majority of votes is given in favour of one person and that person may then be appointed.

Note: an overall majority exists when the person with most votes has more votes than the sum of the votes cast for the remaining persons.

Council Constitution Tracked Changes

9 CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS DISCIPLINARY PROCEDURE RULES

1 The Local Authorities (Standing Orders) (Wales) Regulations 2006 as amended by the Local Authorities (Standing Orders)(Wales) (Amendment) Regulations 2014 (“the Regulations”) set out mandatory requirements in respect of disciplinary proceedings relating to the Head of Paid Service, the Monitoring Officer ~~and~~, the Section 151 Officer and the Head of Democratic Services; they also apply to an officer who was, but at the time of the proposed disciplinary action no longer is such an officer, and where the alleged misconduct, or, as the case may be, the reason for the proposal for dismissal, occurred during the period when the officer was such an officer.

~~However, The~~ Council has also resolved that this procedure will apply to all officers employed on JNC terms and conditions.

2 This standing order is intended to give effect to the Regulations, but also sets out a prescriptive disciplinary procedure, which incorporates the JNC for Chief Executives for Local Authorities model procedure, with modifications, and which are to be applied in the event of an allegation against the officer/s. It will consist of initial guidance and then a procedure to be followed in all cases.

3 The interpretations below are those that are set out in the 2006 Regulations as amended and the relevant parts are replicated below. (Regulation 2):

- a) "The 1989 Act" ("Deddf 1989") means the Local Government and Housing Act 1989;
- b) "The 2000 Act" ("Deddf 2000") means the Local Government Act 2000;
- c) "chief officer" ("prif swyddog) means:
 - i) The head of paid service;
 - ii) Its monitoring officer;
 - iii) A statutory chief officer mentioned in paragraph (a), (c) or (d) of section 2(6) of the 1989 Act, or
 - iv) A non-statutory chief officer (within the meaning of section 2(7) of the 1989 Act);

and any reference to an appointment or purported appointment of a chief officer includes reference to the engagement or purported engagement of such an officer under a contract of employment;

- d) "chief finance officer" ("prif swyddog cyllid") means the officer having responsibility, for the purposes of section 151 of the Local Government Act 1972 (financial administration) for the administration of the local authority's financial affairs;
- e) "disciplinary action" ("camau disgyblu") in relation to a member of staff of the authority means any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the authority, be recorded on the member of staff's personal file, and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the authority has undertaken to renew such a contract;
- f) "head of democratic services" ("pennaeth gwasanaethau democrataidd") means the officer designated under section 8 of the Local Government (Wales) Measure 2011;
- g) "head of the authority's paid service" ("pennaeth gwasanaeth taledig yr awdurdod") means the officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service);
- h) "monitoring officer" ("swyddog monitro") means the officer designated under section 5(1) of the 1989 Act (designation and reports of monitoring officer);
- i) "working day" ("diwrnod gwaith") means any day which is not a Saturday, a Sunday, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday, a bank holiday in Wales or a day appointed for public thanksgiving or mourning (and "bank holiday" means a day to be observed as such under section 1 of and Schedule 1 to the Banking and Financial Dealings Act 1971).

4 The power to ~~approve the appointment of~~ confirm the dismissal of the head of the authority's paid service must be exercised by Council itself. (Regulation 7). In respect of the Monitoring Officer, ~~and~~ the Chief Financial Officer, the Head of Democratic Services and all other officers on JNC conditions, any disciplinary action may be taken ~~out~~ by the Chief Officers Disciplinary Committee and the Chief Officers Appeals Committee. (Part 2, Paragraph 4 (1) of Schedule 3).

5 At least one member of the Executive must be a member of the Chief Officers Disciplinary Committee and the Chief Officers Appeals Committee (Part 2, Paragraph 4 (2) (a) of Schedule 3) There is no such requirement in relation to the Investigation Committee, but this does not preclude a member of the executive from so sitting on that Committee.

- 6 Not more than half of the members of the Chief Officers Disciplinary Committee and the Chief Officers Appeals Committee are to be members of the executive of the authority (Part 2, paragraph 4 (2) (b) [of Schedule 3](#)).
- 7 No disciplinary action (other than action to which paragraph [618.5](#) applies) in respect of the officers to which this procedure applies may be taken by the relevant authority, or by a committee, a sub-committee, a joint committee on which the relevant authority is represented or any other person acting on behalf of the relevant authority, other than in accordance with a recommendation in a report made by a Designated Independent Person (DIP) under regulation 9 of the Local Authorities (Standing Orders) (Wales) Regulations 2006 [as amended](#). (investigation of alleged misconduct). (Regulation 8 and Schedule 4 paragraph 2 – verbatim).
- 8 The action to which this paragraph applies is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; provided such suspension is on full pay and terminates no later than the expiry of two months beginning on the day on which the suspension takes effect." (Schedule 4 Paragraph 3).
- 9 The Appeal & Awards Committee is delegated the authority to suspend the relevant officer.
- 10 The Appeal & Awards Committee will be the relevant Investigating Committee ([the "GPIC"](#)) and will perform the function of carrying out an initial investigation to consider the alleged misconduct.
- 11 For these purposes the [GPIC](#) must:
- a) Consist of a minimum of 3 members of the authority; (Regulation 9 (2) (a) & (b) – the committee will already have been set up at the first regular Council);
 - b) Be politically balanced in accordance with section 15 of the 1989 Act; and
 - c) Must, within 1 month of the referral of alleged misconduct to it, consider the allegation of misconduct and decide whether it should be further investigated. (Regulation 9 (2) (a) (b) & (c) – the committee will already have been set up at the first regular Council).

- 12 For the purpose of considering the allegation of misconduct, the investigation committee:
- a) May make such enquiries of the relevant officer or any other person it considers appropriate;
 - b) May request the relevant officer or any other person it considers appropriate to provide it with such information, explanation or documents as it considers necessary within a specified time limit; and
 - c) May receive written or oral representations from the relevant officer or any other person it considers appropriate.
- 13 Where it appears to the [GPIC](#) that an allegation of misconduct by the relevant officer should be further investigated, it must appoint a person ("the designated independent person" - [the DIP](#)) for the purposes of the standing order which incorporates the provisions in Schedule 4 (or provisions to the like effect). Regulation 9 paragraphs (3) & (4).
- 14 In deciding whether to appoint a DIP, the [GPIC](#) shall, in considering whether there is an allegation of misconduct against a relevant officer that requires further investigation, take into account the following factors:
- a) Is the allegation such that if it were proved it would lead to dismissal or other action which would be recorded on the officers personal file; and
 - b) There is evidence in support of the allegation sufficient to require further investigation.
- 15 In the event that this test is satisfied, the [GPIC](#) will proceed to appoint a DIP.
- 16 The [designated independent person](#)[DIP](#) who is appointed – (Regulation 9 paragraphs (5) to (11):
- a) Must be such person as may be agreed between the authority and the relevant officer within 1 month of the date on which the requirement to appoint the designated independent person arose; or
 - b) Where there is no such agreement, must be such person as is nominated for the purpose by the [National Assembly for Wales](#).[Welsh Ministers](#).

- | 17 The ~~designated independent person~~DIP –
- 17.1 May direct:
- a) That the authority terminate any suspension of the relevant officer;
 - b) That any such suspension is to continue after the expiry of the two month period referred to in 6;
 - c) That the terms on which any such suspension has taken place are to be varied in accordance with the direction; or
 - d) That no steps (whether by the relevant authority or any committee, sub-committee or officer acting on behalf of the relevant authority) 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 17.4.
- |
- 17.2 May inspect any documents relating to the conduct of the relevant officer which are in the possession of the relevant authority, or which the relevant authority has power to authorise the designated independent person to inspect;
- 17.3 May require any member or member of staff of the relevant authority to answer questions concerning the conduct of the relevant officer;
- | 17.4 Must make a report to the ~~relevant~~ authority–
- a) 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
 - b) Recommending any disciplinary action which appears appropriate for the relevant authority to take against the relevant officer, and
 - c) Must no later than the time at which the report is made under sub-paragraph ~~8.4~~17.4; send a copy of the report to the relevant officer.
- |
- 17.5 The relevant officer and the authority must, after consulting the designated independent person, attempt to agree a timetable within which the designated independent person is to undertake the investigation.
- | 17.6 Where there is no agreement under paragraph ~~4.17.5~~, the ~~designated independent person~~DIP must set a timetable as that person considers appropriate within which the investigation is to be undertaken.

- 17.7 The authority must consider the report prepared by the DIP within one month of receipt of that report by the authority.
- 17.8 The authority will pay reasonable remuneration to a designated independent person appointed by the GPIC and any costs incurred by, or in connection with, the discharge of functions under this regulation.
- 17.9 The procedure for receiving allegations of misconduct or capability or a breakdown in trust and confidence is set out below.

18 Procedure for Discipline in respect of JNC Officers

18.1 Introduction

- 18.1.1 This procedure is based upon the model disciplinary procedure contained in the Joint Negotiating Committee for Chief Executives of Local Authorities National Salary Structure and Conditions of Service Handbook.
- 18.1.2 If a matter is prescribed in the Local Authorities (Standing Orders) (Wales) Regulations 2006 [as amended](#) which is not referred to in this procedure or where there is a conflict, the Regulations take precedence.

18.2 General

- 18.2.1 Procedures are set out below for use in cases relating to discipline, and any proposal to dismiss on the basis of a breakdown in trust and confidence. The Joint Secretaries of the JNC should be notified as soon as it is proposed to use this procedure and the relevant officer and the authority will attempt to contact the appropriate side secretary as soon as possible to ascertain whether more detailed assistance may be desirable. A precedent for this purpose is set out in Schedule Two below.
- 18.2.2 In general, informal conciliation is to be preferred to invoking this formal procedure if it can bring about a mutually agreed solution to the problems that have arisen. Such solutions should make it clear what specific changes in behaviour and/or performance are expected and within what timescales. In the event that informal conciliation is not possible or practicable, the formal process will apply.
- 18.2.3 Any decisions in these matters must be in accordance with the requirements of the law in respect of the rules of natural justice and the relevant Standing Order Regulations in force at the time.

18.2.4 Any disciplinary procedures should be handled as quickly as possible but this must be measured against the need to investigate the case fully and to give the relevant officer an opportunity to reply fully to the complaints.

18.3 Procedure

18.3.1 Any allegations of misconduct should be notified to the Head of Human Resources who will be the responsible officer for this purpose. For the avoidance of doubt, the one month timescale referred to in paragraph ~~8.1.3~~ [16\(a\)](#) of the Standing Order above, begins to run from the day the allegation is received by the responsible officer.

18.3.2 The responsible officer will then prepare a report and forward it to both the Appeal & Awards Committee and the relevant officer or his or her representative. A date will be set for the Committee to meet as soon as the allegation is received.

18.3.3 In cases of urgency or where there is a serious allegation, the Committee may meet on short notice to consider the question of suspension only and the relevant officer will be given reasonable notice of the meeting.

18.4 The Investigation Meeting

18.4.1 The relevant officer will be permitted to respond both in writing and orally at the Investigation Committee Meeting save that the remit of the Committee is inquisitorial in nature and no cross examination will be permitted at the Meeting.

18.4.2 The relevant officer will be entitled to be represented by his or her trade union representative or some other person of his or her choice but this shall not be at the authority's cost.

18.4.3 The Committee will meet to consider the allegation in order to determine whether there is an allegation of misconduct by the relevant officer which requires further investigation by a Designated Independent Person (DIP).

18.4.4 The Committee will be advised by a legal officer at all times.

18.4.5 The procedure for the Committee Meeting will be as follows:-

- a) The Head of Human Resources or their nominated deputy will outline the allegation and introduce any evidence that the Authority wishes to rely on in support;
- b) Any witnesses for the authority will give their evidence and questions will be permitted;
- c) the relevant officer or his representative will present their defence;

- d) Any witnesses for the relevant officer will give their evidence and questions will be permitted;
- e) The Committee will then adjourn to deliberate and decide whether there is a case that merits further investigation;
- f) The Committee will re-convene to deliver their decision to the relevant officer.

18.4.6 The Committee will assess any evidence provided in support of the allegations and anything said in defence. The Committee will then decide whether it is in a position to dismiss the allegation. If it cannot, and further investigation is needed, the Committee must refer the matter to the DIP.

18.4.7 If the Committee decides that the matter is dismissed, then that will be an end to the allegation and no record will be made on the relevant officers' personal file.

18.2.8 If the matter is to be referred to a DIP, the Committee will draw up the charges that will form the basis of the remit of the DIP and these will be communicated to both the DIP and the relevant officer in writing.

18.2.9 A liaison officer will be appointed within the authority to assist the DIP with logistical arrangements and to keep the responsible officer informed of progress.

18.5 Suspension

18.5.1 When carrying out its deliberations, the Committee will also consider whether suspension is appropriate. In disciplinary cases, suspension may be appropriate where the relevant officers continuing presence at work might compromise the investigation or impair the efficient exercise of the authority's functions or where a repeat of the alleged offence could have serious consequences for the Authority.

18.5.2 In these circumstances, the suspension must be for a maximum period of two months from the date of the initial suspension and the officer will continue to receive full pay for all of the period of suspension.

18.5.3 For calculation purposes, the suspension period will be deemed to commence on the date which is the day before the Committee decides to suspend and then count forward two calendar months from this date.

18.5.4 If the Committee decides that suspension is appropriate, the reasons for the decision to suspend and the terms of any suspension will be communicated in writing to the relevant officer. In accordance with Regulation 9 of the Regulations, any suspension is subject to any direction of the DIP.

- 18.5.5 The authority is able to request that the DIP consider as to whether to authorise that the suspension may continue over the maximum two month period, but no continuation of the suspension is permissible unless expressly authorised by the DIP.
- 18.5.6 The necessity for suspension should be reviewed by the Head of Human Resources at regular intervals and where possible lengthy periods of suspension are to be avoided. Consideration may also be given to home working as an alternative to suspension, but this is dependant on the allegation and the feasibility of such an arrangement.
- 18.5.7 Whilst suspension is a neutral act and is in no way an indication of guilt or pre-determination, in cases of potential gross misconduct the relevant officer should normally be suspended pending the investigation by the DIP.

19 Appointment of the Designated Independent Person

- 19.1 The DIP will be appointed by the Committee or a person nominated by to do so. It will be preferable for both parties to agree a DIP the Committee and the LGA or the joint secretaries of the JNC will be able to provide the names of suitable candidates for appointment. A draft letter of engagement is included at Schedule One of this procedure.
- | [19.2](#) The parties must agree a DIP within a period of one month from the date of the Committee determination. In the event of a failure to agree the DIP must be such person who is nominated for the purpose by the [National Assembly for Wales Welsh Ministers](#).

20 Investigation by the DIP

- 20.1 It is the duty of the DIP to prepare a report. The report will state an opinion as to whether the evidence obtained supports any allegation of misconduct against the officer.
- 20.2 In order to prepare the report the DIP will carry out a comprehensive investigation into any allegations. The relevant officer, the authority and the DIP must attempt to agree a timescale for the investigation. In the event that no agreement can be reached, the DIP will set a timescale as he or she considers appropriate.
- 20.3 The relevant officer will be given not less than ten (10) working days notice of the commencement of the investigation and should at the same time be provided with full details of the allegations being investigated.

- 20.4 The relevant officer has the right to request:-
- a. Further details of the allegations made, and
 - b. A postponement of the investigation for a period to be agreed between the parties, or in default of agreement for a period not exceeding fourteen (14) days.
- 20.5 It will be for the DIP to decide on the format of the investigation in consultation with the parties. The DIP may hear evidence from one party in the absence of the other if he/ she consider it expedient.
- 20.6 The authority will make available all facilities that it is required to do by virtue of Regulation 9 of the Standing Orders (Wales) Regulations [as amended](#) (reproduced in full above).
- 20.7 If the DIP decides to conduct the investigation by means of a hearing, then the relevant officer will be entitled to attend and be represented on the same basis as referred to in paragraph ~~7.1~~[18.4](#) above. It shall be for the authority to submit evidence of the allegations against the relevant officer by means of witnesses and the submission of relevant documents.
- 20.8 The authority will engage the services of an independent lawyer to present the case on its behalf.
- 20.9 Any witnesses tendered by either party will be open to cross examination by or on behalf of the relevant officer or the authority.

21 The Report of the DIP

- 21.1 At the conclusion of the investigation, the DIP will present a report to the Chief Officer Disciplinary Committee (["CODC"](#)) which will meet as soon as is practicable, but in any event, no later than one month after receipt of the report. A copy of the report will be sent to the relevant officer as soon as it is submitted to the CODC.
- 21.2 This report will state an opinion as to whether the allegation of misconduct is made out and recommend any disciplinary action which appears appropriate for the authority to take against the relevant officer.
- 21.3 Possible recommended sanctions are set out below, but this is not an exhaustive list:
- a) Recorded oral warning;
 - b) Written warning;
 - c) Suspension on no pay or half pay;
 - d) Dismissal with or without notice.

22 The Meeting of the Chief Officer Disciplinary Committee

- 22.1 The Chief Officer Disciplinary Committee (["CODC"](#)) will meet to consider the report and shall accept the recommendations of the DIP. If the DIP recommends no disciplinary action, the Committee is bound by that recommendation. If however the DIP recommends dismissal or some other disciplinary sanction, the decision as to whether to impose a lesser sanction than dismissal remains that of the Chief Officer Disciplinary Committee.
- 22.2 The relevant officer or his or her representative will be permitted to address the CODC prior to it carrying out its deliberations. However under normal circumstances, no evidence will be permitted to be called.
- 22.3 There may however be circumstances where new evidence has emerged since the investigation which should be admitted in the interests of fairness. It is anticipated that such circumstances should be rare and the CODC will give full consideration to any representations that new evidence ought to be admitted.
- 22.4 The CODC will then deliberate and decide on what action to take, if any and this will then be communicated to the parties at the meeting if practicable, but in any event in writing setting out the reasons for the decision and informing the relevant officer of their right to appeal.

23 Right of Appeal

- 23.1 The relevant officer will have the right of appeal against the decision of the Chief Officers Disciplinary Committee. Such appeal will be in writing and will comprehensively set out the ground/s of appeal. This is to be delivered to the Head of Human Resources within 5 working days of the date that the decision is communicated to him/her.
- 23.2 The appeal will take the form of a review of the previous decision and will be considered by the following bodies in accordance with the 2006 Regulations [as amended](#):
- a) In respect of the Head of Paid Service the appeal will be to Council. In which event, any members who have had any previous involvement in the process either as witnesses or as members of the Chief Officer Disciplinary Committee will be required to refrain from attending;
 - b) In respect of all other Officers, the appeal will be to the Chief Officer Appeals Committee;
 - c) The relevant officer or his or her nominated representative will be permitted to address Council/the COAC, but will not be permitted to adduce new evidence other than in accordance with the considerations referred to in paragraph 22.43;

- d) The COAC/Council will then deliberate and decide on what action to take, if any, and this will then be communicated to the parties at the meeting if practicable, but in any event in writing setting out the reasons for the decision;
- e) The decision of the COAC/Council is final and there is no further right of appeal;
- f) No grievance will be entertained in relation to this procedure or any decisions take by the Committees.

Schedule One

STRICTLY PRIVATE & CONFIDENTIAL

Dear *,

**Re: Local Authorities (Standing Order) Regulations 2006 [\(as amended\)](#)
In the matter of an investigation into alleged misconduct by ***

On the * of * *, the Appeal & Awards Committee of the City & County of Swansea sitting as the Investigation Committee for the purposes of the above Regulations decided that a complaint of misconduct against the Head of Paid Service/Monitoring Officer/Chief Financial Officer/Head of Service required to be investigated.

You have kindly agreed to undertake the role of designated independent person pursuant to Regulation 9 of the above Regulations, to carry out an investigation and to thereafter make a report to the authority.

The authority would request that you commence your investigation at the earliest possible opportunity and inform me of the date on which you intend to commence.

The Officer is represented by * of * and I would be grateful if you would make contact with their representative to attempt to agree a timescale and format for your investigation. The Authority has designated a liaison officer to assist you and this is * whose direct dial is *

This letter sets out the terms of business between the Authority and you

These particulars, the conditions contained in clauses 1 to 11 below and any alterations agreed in writing contain the entire agreement and understanding between you and the authority.

I look forward to receiving one signed copy by return at which point, this agreement will be deemed concluded

Yours sincerely

Chair of Appeal & Awards Committee

Agreement

Role/title:	Designated Independent Person for the purposes of the Local Authorities (Standing Orders) Wales Regulations 2006.
Duties:	<p>To carry out a full and impartial investigation into the alleged misconduct of * in accordance with Regulation 9 of the Local Authorities (Standing Orders) Regulations 2006 ('the 2006 Regulations') as amended by the Amendment Regulations 2014, the Joint Negotiating Committee for Chief Executives Conditions of Service and in terms of any procedure agreed between the parties in consultation with you.</p> <p>To thereafter make a report to the authority in accordance with Regulation 9 of the 2006 Regulations. and to make any recommendations necessary</p> <p>To advise the authority in relation to the question of suspension as soon as is practicable.</p>
Fees:	
Notice of termination:	1 week by either party
Commencement Date:	*
Term	There is no set term, but it is an express term of this agreement that you will make yourself primarily available to the Authority and work on this matter until the completion and presentation of the report and then, upon reasonable notice to be available for a disciplinary and appeal hearing if applicable.

Engagement

Your engagement under this agreement starts on the Commencement Date and shall continue until the completion of the investigation, presentation of the report and, if applicable, any appeal hearing or the expiry of any Term or notice served under this agreement.

1 Duties and responsibilities

- 1.1 You are engaged to perform the duties outlined in these particulars and shall promptly give all advice and assistance within your power on any matter in the scope of your duties. Whilst carrying out the investigation, you are required to adhere to the statutory provisions and the JNC conditions.
- 1.2 When your work requires co-ordination with other persons working for us, you will make yourself available in our normal business hours.
- 1.3 This agreement is with you personally and you may not sub-contract or assign any of its rights or obligations without our prior written consent, but you may at your expense engage some other person acceptable to us to perform such of your duties as we agree and which you are unable to perform.

2 Place of work

There is no set place of work however; we anticipate that in an effort to avoid any disruption of the effective running of the Authority's functions that you will interview all staff members at or very near their place of work.

2.1 Fees

We shall pay your fees as shown in the particulars plus VAT (if applicable) within 30 days of receipt of your invoice, which you will render to us within one month of the end of each month.

2.2 Office Facilities

If appropriate we shall make available free of charge suitable office space and such other facilities as may be necessary to enable you to properly perform your duties.

2.3 **Expenses**

It is anticipated that the hourly rate agreed will be inclusive of all expenses, however, if there should be unusual expenses you will notify us of these in writing in advance of their being incurred for us to agree. If these expenses are agreed, we shall on the presentation of your invoice or other evidence of actual payment reimburse you for all expenses reasonably and properly incurred in the discharge of your duties and agreed in advance by us.

2.4 **Confidential information**

Except as authorised or required by your duties you shall keep secret and shall not use or disclose and shall use your best endeavours to prevent the use or disclosure of any of our confidential information. This shall include but is not limited to information relating to our business organisation, transactions, finances, technology, processes, specifications, methods, designs, formulae, technology or other of our business activities or affairs or those concerning our customers and suppliers.

2.5 **Termination**

2.5.1 Your engagement may be terminated by you or us by serving one week's written notice to the other.

2.5.2 We shall in addition have the right to terminate this agreement immediately and without liability for compensation or damages if you:

2.5.3 Fail to comply with any express or implied obligations under this agreement;

2.5.4 Fail or cease to perform your duties under this agreement to our reasonable satisfaction;

2.5.5 Become unable or are prevented from carrying out your duties under this agreement because of illness or injury or any other cause.

3 **Tax and national insurance contributions**

3.1 You warrant to us that you operate in business on your own account and are therefore 'self-employed' (i.e. an independent contractor) for all purposes under this agreement and that in consequence any remuneration which we pay to you forms part of your profit chargeable to income tax under Schedule D.

3.2 You will pay all taxation or national insurance contributions payable in connection with remuneration received from us and shall fully compensate and indemnify us on demand for any liability which we may suffer in connection with them.

4 **Variation**

No variation of this agreement or oral promise or commitment related to it shall be valid unless made in writing and signed by or on behalf of both of us.

5 **Interpretation**

This agreement shall be governed by English law and you consent to the exclusive jurisdiction of the English courts in all matters regarding it.

Signed for and on behalf of the City & County of Swansea

.....
Chief Executive/Monitoring Officer

Date.....

Signed.....

*

Date.....

Schedule Two

Employers Secretary
Joint Negotiating Committee
Layden House
76-86 Turnmill Street
LONDON EC1M 5LG

STRICTLY PRIVATE AND CONFIDENTIAL ADDRESSEE ONLY

Dear Sir,

**Re: *, Chief Executive/Monitoring Officer/Chief Officer /Head of Service
City & County of Swansea**

In accordance with the JNC Conditions the Appeal & Awards Committee of the City & County of Swansea convened to carry out a preliminary investigation into allegations of misconduct against *. It was decided that there is a case that requires further investigation (and that * was to be suspended pending that investigation).

The authority and *'s representative, are currently attempting to agree a designated independent person to investigate and this letter is to inform you of the position pursuant to paragraph 16.15 of the JNC conditions.

I should be grateful if you would please acknowledge this letter by replying to The Chairman of the Appeal & Awards Committee at the above address.

Yours faithfully