

Council Constitution, Part 4.8 - Rules of Procedure (JNC Officer Appointment Procedure Rules)

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1 Explanatory

- 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”).
- 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.
- 3 If there is a conflict between these Procedure Rules and the Regulations, the Regulations take precedence.
- 4 The Regulations are designed to be a statutory minimum and only dictate that the appointment of the Chief Executive is to be approved by Council itself (Regulation 7).
 - a) 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.
- 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 – shortlist, interview and appoint candidates for the posts 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.
- 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.
 - a) 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.

- b) Further the Committee shall comprise of proportionate representation of all the joint partners to the appointment.
 - c) 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.
 - d) * 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.
- 7 In respect of all other staff, the function of appointment of staff must be discharged by the Chief Executive, or by an Officer nominated by the Chief Executive 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 3 Part 2 “Authority with Leader and Cabinet Executive”).
- 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.
- 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

- 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 “**chief officer**”, means:
- a) The Chief Executive, 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);

- 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;
- 4 “**deputy chief officer**” has the meaning referred to in section 2(8) of the 1989 Act, defined as a person who, as respects all or most of the duties of their post, is required to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers.
- 5 “**chief executive**” means the officer appointed under section 54 of the Local Government and Elections (Wales) Act 2021;
- 6 “**member of staff**” means a person appointed to or holding a paid office or employment, under a relevant authority;
- 7 “**monitoring officer**” means the officer designated under section 5(1) of the 1989 Act (designation and reports of monitoring officer);
- 8 “**head of democratic services**” means the officer designated under section 8 of the Local Government (Wales) Measure 2011;
- 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

- 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.

- 2 No candidate so related or connected to a Councillor or an Officer will be appointed without the certification of the relevant HR 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

- 1 The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council.
- 2 No Councillor will seek support for any person for any appointment with the Council.



5 Appointments procedure

- 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"
- 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

- 1 All Members must have undertaken an appropriate training course.
- 2 All Members must declare any knowledge of or relationship with any of the applicants or applicant's families in accordance with the Code of Conduct
- 3 **Short Listing**
 - a) Members of the Appointments Committee must be present throughout all of the meetings that take place to shortlist and appoint any candidates.

Interviewing and Appointing Candidate(s)

- b) 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. 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.

- 4 All stages of the appointments process will be advised by the Chief Executive or a nominated deputy, Human Resources officer and Legal Officer. In the case of an appointment of the Chief Executive, an independent consultant will be retained to carry out this function.
- 5 A Legal Officer must be present throughout all of the appointment process involving elected Members.
- 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, 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 take the step set out in 6(b) i.e. to publicly advertise, if it proposes to appoint the chief officer for a period of no longer than 12 months.

- 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.
- 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(b).
- 9 The steps referred to under paragraphs 6 and 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 Chief Executive, the Authority will instruct a professional consultant to carry out the steps in Paragraph 6.
- 10 The steps referred to under paragraph 7 shall be taken by the Appointments Committee.
- 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

1 Short listing

- a) All applications are to be technically assessed by appropriate officers or any professional consultants engaged for that purpose. This assessment could include a preliminary long-listing exercise to highlight further evidence on whether applicants meet the required criteria of the post. They will then be ranked for short listing. The relevant Chief Officer or the nominated representative and/or professional consultant will prepare a short-listing report outlining the technical assessments of candidates applications, their scores and any irregularities in any application.
- b) 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.
- c) 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 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 (person to whom the vacant post reports) and Human Resources. This should be by appointment with the Head of Human Resources.
- d) 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.
- e) 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.
- f) 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.
- g) Those candidates that receive the highest scores shall be short listed for assessment - where the score indicates the appropriate qualification and experience.

2 The Assessment Procedure and Interview by the Appointments Committee

- a) Candidates will make a presentation and be interviewed by the Appointments Committee as part of a full assessment centre procedure which may include the contribution of stakeholder panels. Any stakeholder panels involved in the assessment centre will present their findings to the Appointments Committee. Candidates application forms will be available to Members throughout the interview process. The Chief

Executive and/or other Chief Officers and/or professional consultants will attend and support the Appointments Committee in an advisory capacity. 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.

- b) 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 Appointments Committee will put the questions to the candidate.
- c) Supplementary questions to elicit further information relating to the set questions or to address specific issues pertinent to that candidate's application may be put. These will be drafted by the appropriate person prior to the interview if possible.
- d) The findings of any stakeholder panel exercises will be reported back to the Appointments Committee once all candidates have been assessed and interviewed. The Chief Executive, their nominated representative and/or any professional advisor will outline their opinion on the performance of each candidate after all feedback has been received. 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.
- e) 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. The Members must also take into account the advice and findings from 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:

- 1 **Appointments of Chief Officers (save Chief Executive) and Heads of Service**
 - a) In the case of Chief Officers and 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.
 - b) If the post is to be re-advertised, then the provisions of paragraph 6.6 apply.

- c) 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.
- d) If there are more than two candidates, the following process is to be followed:
 - i) A vote will be taken;
 - ii) If there is a clear majority in favour of one candidate, that person shall be appointed;
 - iii) 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.
- e) The Appointments Committee will then make an appointment.

2 **Appointment of Chief Executive**

- a) In the case of the Chief Executive, 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.
- b) If the post is to be re-advertised, then the provisions of paragraph 6.6 apply.
- c) If the vote to make a recommendation is carried, then the Committee will proceed to recommend those candidates to Council.
- d) 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 Chief Executive and other Chief Officers to be interviewed and assessed by Council).
- e) 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.
- f) 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.
- g) Council will then determine whether it is in a position to make an appointment having heard the interview and considered the report from the Officers.
- h) If the result of the vote is that Council cannot make an appointment, then the provisions of paragraph 6.6 apply.

- i) If Council is in a position to make an appointment, Members will vote for their preferred candidate. This will consist of one vote for the candidate of the Members choice.
- j) If there are two suitable candidates, Members will vote for their chosen candidates and the candidate with the most votes will be appointed.
- k) If there are more than two candidates, the following process is to be followed:
 - i) A vote will be taken;
 - ii) If there is a clear majority in favour of one candidate, that person shall be appointed;
 - iii) 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.

