Appendix 2

SECTION 11

11. Officers

11.1 Management Structure

11.1.1 General

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

11.1.2 Chief Executive, Monitoring Officer, Chief Finance Officer and Head of Democratic Services

The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Chief Executive
Head of Legal Services	Monitoring Officer
Head of Finance	Chief Finance Officer
Head of Strategy and Improvement	Head of Democratic Services

Such posts will have the functions described in Sections 11.2 to 11.5.

11.1.3 In this Section reference to "Chief Officer" means ~~a Chief Officer within the meaning of the Local Authorities (Standing Orders)(Wales) Regulations 2006.~~ an officer listed in 11.1.2 above, Corporate Directors and Heads of Department.

11.2 Functions of the Chief Executive

11.2.1 Discharge of Functions by the Council

(a) Section 4 of the Local Government and Housing Act 1989 imposes a duty on authorities to designate one of their officers as Chief Executive. The 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.

(b) The Chief Executive must keep the following matters under review:

(i) the manner in which the exercise by the Council of its different functions is co-ordinated;

(ii) the council's arrangements in relation to—

(A) financial planning,

(B) asset management, and

(C) risk management;

(iii) the number and grades of staff required by the Council for the exercise of its functions;

(iv) the organisation of the Council's staff;

(v) the appointment of the Council's staff; and

(vi) the arrangements for the management of the Council's staff (including arrangements for training and development).

11.2.2 If the Chief Executive considers it appropriate to do so, they must make a report to the Full Council setting out their approach to these matters. As soon as possible after preparing a report, the Chief Executive must arrange for a report to be sent to each Member of the Council.

11.2.3 Acting as one of the Council's Representatives on the Public Services Board

The Chief Executive shall be one of the Council's two representatives at meetings of the Public Services Board.

11.2.4 Restrictions on Functions

The 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.

11.3 Functions of the Monitoring Officer

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

11.3.1 Maintaining the Constitution

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

11.3.2 Ensuring Lawfulness and Fairness of Decision Making

After consulting with the 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 he or she 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.

11.3.3 Supporting the Standards Committee

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

11.3.4 Receiving Reports

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

11.3.5 Conducting Investigations

The Monitoring Officer will conduct investigations into matters referred by the Public Services Ombudsman for Wales and make reports or recommendations in respect of them to the Standards Committee.

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

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.

11.3.7 Providing Advice

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.

11.3.8 Restrictions on Posts

The Monitoring Officer cannot be the Chief Finance Officer or the Chief Executive.

11.4 Functions of the Chief Finance Officer

These are set out in section 151 of the Local Government Act 1972.

11.4.1 Ensuring Lawfulness and Financial Prudence of Decision Making

After consulting with the 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 he or she 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.

11.4.2 Administration of Financial Affairs

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

11.4.3 Contributing to Corporate Management

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

11.4.4 Providing Advice

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.

11.4.5 Give Financial Information

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

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

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.

11.4.7 Restrictions on Posts

(a) The Chief Finance Officer cannot be the Monitoring Officer or the Head of Democratic Services.

(b) The Chief Finance Officer must be a member of one or more of the following professional bodies: -

(i) the Institute of Chartered Accountants in England and Wales;

(ii) the Chartered Association of Certified Accountants;

(iii) the Chartered Institute of Public Finance and Accountancy;

(iv) the Chartered Institute of Management Accountants; or

(v) any other body of accountants established in the United Kingdom and for the time being approved by the Welsh Ministers for this purpose.

11.5 Functions of the Head of Democratic Services

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

11.5.1 to provide support and advice to the authority in relation to its meetings, subject to paragraph 11.5.10;

11.5.2 to provide support and advice to committees of the authority (other than the committees mentioned in paragraph 11.5.5) and the members of those committees, subject to paragraph 11.5.10;

11.5.3 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 paragraph 11.5.10;

11.5.4 to promote the role of the authority's Scrutiny Committees ;

11.5.5 to provide support and advice to:

(a) the authority's Scrutiny Committees and the members of those Scrutiny Committees; and

(b) the authority's Democratic Services Committee and the members of that committee;

(c) to provide support and advice in relation to the functions of the authority's Scrutiny Committees to each of the following:

(i) members of the authority;

(ii) members of the executive of the authority;

(iii) officers of the authority;

11.5.6 to provide support and advice to each member of the authority in carrying out the role of member of the authority, subject to paragraph 11.5.11;

11.5.7 to make reports and recommendations in respect of any of the following:

(a) the number and grades of staff required to discharge democratic services functions;

(b) the appointment of staff to discharge democratic services functions;

(c) the organisation and proper management of staff discharging democratic services functions;

11.5.8 such other functions as may be prescribed by law.

11.5.9 Restrictions on Posts

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

11.5.10 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.

11.5.11 Advice to a Member does not include advice in connection with their role as an executive Member and does not include advice about a matter being or to be considered at a meeting (other than a meeting of an Scrutiny Committees or Democratic Services Committee.

11.6 Duty to Provide Sufficient Resources to the Chief Executive, Monitoring Officer, Chief Finance Officer and Head of Democratic Services

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

11.7 Conduct

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Sections 20 and 21 of this Constitution.

11.8 Employment

The recruitment, selection and dismissal of Officers will comply with the Officer Employment Rules set out below.

11.9 Remuneration of Chief Officers

The Full Council will determine the level and any change in the level of the remuneration to be paid to Chief Officers. Remuneration is defined in accordance with Section 43(3) of the Localism Act 2006.

11.10 Officer Employment Procedure Rules

11.10.1 Recruitment and Appointment

(a) Declarations

(i) The Council has drawn up procedures which include a requirement that any candidate for an appointment as an Officer must state in writing whether they have any relationship with any councillor or Officer of the Council.

(ii) 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.

(b) Seeking Support for Appointment

(i) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

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

11.10.2 Recruitment of Chief Officers

Where the Council proposes to appoint a Chief Officer (within the meaning of the Local Authorities (Standing Orders) (Wales) Regulations 2006) and, subject to the requirement in (b)(ii) below it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will:

(a) draw up a statement including the following:

(i) the duties of the Officer concerned; and

(ii) any qualifications or qualities to be sought in the person to be appointed;

(b) (i) 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

(ii) in cases where the annual remuneration for the post is £100,000 or more the post must be publicly advertised save where the appointment is for a fixed term of no more than 12 months.

(c) make arrangements for a copy of the procedures mentioned in paragraph (a) to be sent to any person on request.

(d) The steps mentioned in paragraph (a) to (c) shall be delegated to the Chief Executive.

(e) Where a post has been advertised as provided in paragraph (b), the relevant authority must either:

(i) interview all qualified applicants for the post, or

(ii) select a short list of such qualified applicants and interview those included on the short list.

(f) 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 paragraph (b).

(g) The steps mentioned in paragraph (e) and (f) shall be delegated to the relevant committee in accordance with the Council's Delegation Scheme for Committees and Sub-committees.

(h) Where the duties of a chief officer include the discharge of functions of two or more relevant authorities in pursuance of section 101(5) of the Local Government Act 1972:

(i) the steps taken under paragraph (a)(b) or (c) above may be taken by a joint committee of those relevant authorities, a sub-committee of that committee, or a chief officer of any of the relevant authorities concerned; and

(ii) any chief officer may be appointed by such a joint committee, a subcommittee of that committee or a committee or sub-committee of any of those relevant authorities.

11.10.3 Appointment of Chief Executive

The Full Council will approve the appointment of the Chief Executive, following the recommendation of such appointment by a committee or sub-committee of the Council. That committee or sub-committee must include at least one Member of the Cabinet.

11.10.4 Appointments and Dismissals of Chief Officers

(a) In this paragraph:

"the Committee"	means the Chief Officers' Appointments Committee; and
"the Proper Officer"	means the Head of Democratic Services.

(b) The appointment and dismissal of the Chief Executive and Chief Officers is the responsibility of the Committee.

(c) At least one Member of the Cabinet must be a Member of the Committee and not more than half the Members of that Committee should be Members of the Cabinet (Schedule 3 of the Local Authorities (Standing Orders) (Wales) Regulations 2006).

(d) Where the Committee is proposing to appoint or dismiss the Chief Executive, the Full Council must approve that appointment before the offer of appointment is made or must approve that dismissal before notice of dismissal is given.

11.10.5 Other Officers

(a) Appointment and dismissal of Officers below Chief Officer is the responsibility of the Chief Executive or his nominee, and may not be undertaken by councillors.

(b) 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 and related procedures, as adopted from time to time, allow a right of appeal to Members.

(c) Paragraphs (a) and (b) will not apply to:

(i) the officer designated as the Chief Executive;

ii) a statutory chief officer within the meaning of section 2(6) of the 1989 Act 2 (politically restricted posts);

(iii) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;

~~(iv) a deputy chief officer within the meaning of section 2(8) of the 1989 Act;~~

(v) the monitoring officer;

(vi) the head of democratic services;

(vii) a person appointed in pursuance of section 9 of the 1989 Act 3 (assistants for political groups); or

(viii) a person to whom regulations made under section 35(4) and (5) (provision with respect to the appointment, discipline, suspension and dismissal of teachers and other staff of schools employed by the local authority) of the Education Act 2002 apply.

11.10.6 Appointment of assistants to political groups

(a) Political group assistants will be appointed in accordance with the wishes of that political group.

(b) The Head of Democratic Services will be invited to observe any interview for the appointment of a political group assistant.

11.10.7 Disciplinary Action

(a) In this paragraph "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.

(b) Written Procedures

(i) Disciplinary action against the Chief Executive, the Monitoring Officer the Chief Finance Officer and the Head of Democratic Services will be taken in accordance with the Council's Chief Officer Procedures in Schedule 1.(this includes an officer who was employed in one of the above posts at the time of the alleged misconduct, but at the time of the proposed disciplinary action is no longer in that post)

~~(i) If I it becomes apparent that an allegation of misconduct which could lead to disciplinary action has been made against an officer listed in (s) above then the Council will appoint an Investigation Committee to investigate the allegations in accordance with Regulation 9 of the Local Authorities (Standing Orders) (Wales) Regulations 2006.~~

(ii) Disciplinary action against all other Chief Officers will be taken in accordance with the Council's Chief Officer Procedures in Schedule 1. ~~Local Conditions of Service.~~

(iii) Disciplinary action against all other officers will be taken in accordance with Local Conditions of Service.

~~**(c) Independent Person**~~

~~No disciplinary action may be taken under paragraph (b) above except in accordance with a recommendation in a report made by a designated independent person under Rule 9 of the Local Authorities (Standing Orders)(Wales) Regulations 2006.~~

~~**(d) Suspension**~~

~~An Officer named in (b) above may be suspended whilst an investigation takes place into alleged misconduct. The suspension will be on full pay and the suspension period shall not exceed two months from the date it comes into effect.~~

11.10.8 Appeals

None of the above shall prevent a Councillor serving as a Member of an appeals committee or body established to consider an appeal by:

(a) any person against any decision relating to the appointment of that person as a Member of staff of the authority; or

(b) a Member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that Member of staff unless the dismissal relates to a capability issue, misconduct, some other substantial reason, some other statutory enactment or planned retirement where the Member of staff has less than six months' notice. In these instances the appeal shall be conducted by a senior Officer.