

**Scottish Joint Negotiating Committee for  
Chief Officials**

SCHEME of SALARIES  
&  
CONDITIONS of SERVICE  
FOR CHIEF OFFICIALS

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*(2014)*

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# Scottish Joint Negotiating Committee for Chief Officials

## SCHEME of SALARIES & CONDITIONS of SERVICE

### INTRODUCTION

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The purpose of this Scheme is to provide a uniform basis for determining the salaries and related conditions of service of employees covered by the Scottish Joint Negotiating Committee.

The Scheme applies to any employee who is within the scope of the Committee as defined in the Constitution.

The Scheme does not apply to any post which is dealt with by other joint negotiating machinery on which the Convention of Scottish Local Authorities is represented.

The Constitution of the Scottish Joint Negotiating Committee is set out in Appendix C.

In applying this Scheme, each council must take actions which comply with statutory and regulatory legislation.

Conditions which are not covered by this Scheme and conditions contained in the Scheme but referred to as for local determination, are for consultation and negotiation with trade unions at a local level.

### 1 EQUALITIES

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- 1.1 Employees should be afforded equal opportunities in employment irrespective of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.
- 1.2 Each council should ensure that unlawful discrimination and harassment is eliminated and equality of opportunity promoted in all areas of employment including recruitment, training and development, pay, promotion and exit arrangements.
- 1.3 Each council will develop, publish and regularly review an equal pay statement.
- 1.4 Conditions of service are equally applicable to all employees irrespective of hours worked and employment status.

## 2 OFFICIAL CONDUCT

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- 2.1 Employees should maintain conduct of the highest standard such that public confidence in their integrity is sustained.
- 2.2 Each council will develop local codes of practice to cover the official conduct and the obligations of employees.

## 3 LEARNING AND DEVELOPMENT

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- 3.1 Each council should have arrangements to identify training needs in line with service plans.
- 3.2 Each council should have policies and arrangements which support learning and development for employees in line with council priorities with payment and time-off arrangements to be determined locally.
- 3.3 Part time employees should have access equal to that of full time employees and when on training courses outside their contracted daily hours, will be paid on the same basis as full time employees.

## 4 HEALTH, SAFETY AND EMPLOYEE WELLBEING

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- 4.1 Each council has a duty to comply with legislation governing the health, safety and wellbeing of all employees, including the conditions under which they work, the provision and maintenance of necessary personal protective equipment and relevant health surveillance.

- 4.2 Employees have a duty of care to themselves and others affected by their activity at work and to co-operate with actions taken by the council to meet their duties under the relevant regulations.

## 5 SALARIES

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- 5.1 Salaries for chief executives and all other chief officers within the scope of this Scheme will be determined as follows:

5.2 Chief Executives

The salaries for each chief executive will be set nationally and will comprise a three point incremental scale. Placement on and progression within the scale will be determined locally. A council may however choose to adopt a single point salary for the chief executive, in which case the council will apply the top point of the scale.

5.3 Other Chief Officers

For all other chief officers, spinal column points on which salaries may be based will be set nationally. The determination of each chief officer's salary will be at the discretion of each council. Councils are not required to use the spinal column points but must take into account relative levels of responsibility and any special factors affecting a particular post.

5.4 Preservation of Salary

Should any salary or structure review result in a reduced substantive salary for an employee, preservation arrangements, if any, will be determined locally.

## 6 LEAVE

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- 6.1 Each council will ensure that employees receive their statutory entitlement to leave.

- 6.2 The entitlements to annual leave and public holidays as expressed below apply to five day working patterns. For alternative working patterns equivalent leave entitlements will be calculated pro rata to working hours. This may be expressed in hours over the leave year.

6.3 Public Holidays

Public holidays recognised by each council for its employees will be granted as holidays with pay. By local agreement some of these may be added to annual leave.

#### 6.4 Annual Leave

6.4.1 Each council will set its leave year. The minimum paid full annual leave entitlement is twenty days. An employee who has at least five years continuous service at the start of the leave year will receive a further five days annual leave.

6.4.2 Where an employee has been absent through illness for a period exceeding three months each council will have discretion to limit the leave to an amount equal to the period of actual service given during the leave year, provided the period of leave (annual plus public) does not fall below the statutory minimum (currently twenty eight days).

6.4.3 The annual leave entitlement of an employee leaving or joining a council will be proportionate to their completed service during the leave year.

#### 6.5 Special Leave

6.5.1 Additional Leave: Additional leave with or without pay may be granted at the discretion of the council in special circumstances e.g. reserve forces and retained fire fighters.

6.5.2 Public Duties: Paid leave of absence will be granted to an employee undertaking jury service and paid leave of absence, with the approval of the council, will be granted to an employee serving on public bodies or undertaking public duties. Where an allowance is claimable for loss of earnings the employee should claim and pay will be amended accordingly depending on whether the allowance is paid direct to the employee or to the council.

6.5.3 Health: An employee will be entitled to take such reasonable time off without loss of pay as is required, in accordance with locally determined arrangements, for the purpose of preventative medical examination.

6.5.4 Child Care and Dependants: Each council is encouraged to develop policies which recognise the particular requirement of employees with responsibilities for children and dependants.

6.5.5 Meetings: Each council should grant, in appropriate cases, paid leave of absence to employees attending meetings concerned with Scottish Joint Negotiating Committee affairs, or other such matters relating to national developments impacting on councils.

## 7 SICKNESS PROVISIONS

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7.1 The management of sickness absence is for each council to determine. Each council should develop sickness absence procedures, which support attendance

management. An employee's entitlement to sickness allowance is determined by paragraphs 7.2 to 7.8 below.

7.2 Sickness Allowance

- 7.2.1 The provisions relating to sickness allowance are set out in paragraph 7.3. The allowance is complementary to any statutory based payments which an employee may receive and is subject to a range of conditions, many of which are additional to those applying to the statutory based payments.
- 7.2.2 An employee is not entitled to receive sick pay unless the council's notification procedures are followed including submission of a medical statement at appropriate intervals and completion of any other self-declaration or other forms as required by the council's procedures.
- 7.2.3 Where, for the purpose of qualifying for sick pay, a council requires a medical statement from an employee, the council may, with exception of the requirements outlined at 7.2.2 and with the exception of sub-clause 7.8.1, reimburse the employee the costs of such a statement on the provision of a receipt.
- 7.2.4 An employee who falls sick during the course of annual leave will be regarded as being on sick leave from the date of a medical statement.
- 7.2.5 Where an employee is receiving sick pay, sick pay will continue if a public holiday recognised by the council for its employees falls during such sickness absence. No substitute public holiday will be given. Where an employee has exhausted sickness allowance entitlement, no payment should be made in respect of a public holiday occurring during the period of absence.

7.3 Payment and Period of Allowance

- 7.3.1 An employee's entitlement to sickness allowance will depend on length of continuous service as follows:

<i>Service at start of absence from work</i>	<i>Full Allowance for</i>	<i>Half Allowance for</i>
Less than 26 weeks	Nil	Nil
26 weeks or more but less than 1 year	5 weeks	5 weeks
1 year but less than 2 years	9 weeks	9 weeks
2 years but less than 3 years	18 weeks	18 weeks
3 years but less than 5 years	22 weeks	22 weeks
5 years and over	26 weeks	26 weeks

- 7.3.2 In exceptional circumstances a council may extend the period of full allowance or half allowance outlined in 7.3.1.
- 7.3.3 The period during which sick pay will be paid, and the rate of sick pay in respect of any period of absence, will be calculated by deducting from the employee's entitlement on the first day, the aggregate of periods of paid absence during the

twelve months immediately preceding the first day of absence, except that neither the aggregate nor the twelve month period shall include any periods of absence on unpaid leave. The aggregate of such previous periods of sickness allowance will be deducted in the first instance from the full allowance period and the balance from the half allowance period to which the employee is entitled in respect of the latest absence.

#### 7.4 Calculation of Allowance

- 7.4.1 In the case of full pay periods, sick pay will be an amount which when added to Statutory Sick Pay and Employment and Support allowance receivable, will secure the equivalent of normal pay.
- 7.4.2 In the case of half-pay periods, sick pay will be an amount equal to half normal earnings plus an amount equivalent to Statutory Sick Pay and Employment and Support allowance receivable, so long as the total sum does not exceed normal pay.
- 7.4.3 Normal pay will be as defined by an employee's contract but will normally include all earnings that would be paid during a period of normal working, excluding any payments not made on a regular basis.
- 7.4.4 The state benefits to be taken into account for the calculation of sick pay are those to which an employee is entitled on the basis that the employee has satisfied, so far as is possible:
- i) The council's absence management arrangements;
  - ii) The claiming of benefits;
  - iii) The obligation to declare any entitlements to benefits and any subsequent changes in circumstances affecting such entitlement.
- 7.5 Sickness or Disablement due to an Accident in the Course of Employment.
- 7.5.1 Absence in respect of normal sickness is entirely separate from absence through industrial disease or injury arising out of, or in the course of, employment with a council. Periods of absence in respect of one will not be offset against the other for the purpose of calculating entitlements.
- 7.5.2 An absence due to an accident will only qualify for payment under this paragraph when an entry in the council's Accident Book has been completed, any other local procedures are followed by the employee, and any subsequent investigation



by the council into the facts recorded find these to be accurate and the absence to be as a result of an accident.

7.5.3 Every effort must be made to ensure that all accidents are entered in the Accident Book including those where the employee, as a result of the accident, is unable to make the entry personally. In circumstances where no entry is made at the time of the accident, the council should not unreasonably refuse the payment of industrial injury allowance. The council will still need to carry out the required investigation into the accident to establish the facts. If that investigation establishes that an accident took place arising out of or in the course of employment, the employee will nonetheless be entitled to the industrial injury allowance, despite the fact that no entry has been made in the Accident Book.

#### 7.6 Medical Examination

7.6.1 An employee will, if required by the council at any time, attend a medical examination by a medical practitioner nominated by the council, subject to the provisions of the Access to Medical Reports Act 1988 where applicable. Any costs associated with the examination will be met by the council. Where it is necessary to obtain a second medical opinion, it should be provided by an independent medical referee nominated by the council.

#### 7.7 Infectious Diseases

7.7.1 An employee who is prevented from attending work because of contact with infectious disease will advise their department immediately and will be entitled to receive normal pay. The period of absence on this account will not be reckoned against the employee's sickness allowance entitlement.

#### 7.8 Exclusions

7.8.1 There is no entitlement to sickness allowance if an employee:

- Has less than 26 week's continuous service;
- Goes sick during a stoppage of work at the place of employment due to a trade dispute, unless covered by a medical certificate;
- On the first day of sickness has already exhausted or subsequently exhausts sickness allowance entitlement (see paragraph 7.3);
- On the first day of sickness is in legal custody or is subsequently taken into legal custody;
- Fails to satisfy or to continue to satisfy the notification or certification requirements;
- Is absent on maternity leave;
- Terminates or has their contract of employment terminated.

7.8.2 Sick pay may be suspended if an employee abuses the sickness scheme or is absent on account of:

- i) Sickness due or attributable to deliberate conduct prejudicial to recovery;
- ii) The employee's own misconduct or neglect;
- iii) Active participation in professional sport;
- iv) Injury while working in the employee's own time on their own account for private gain or for another employer;
- v) Other criteria as specified by the council.

7.8.3 The council will advise the employee of the ground for suspension and the employee will have a right of appeal through the council's grievance arrangements. If the council decides that the grounds were justified then the employee will forfeit the right to any further payment in respect of that period of absence. Repeated abuse of the sickness scheme should be dealt with under the council's disciplinary arrangements.

7.8.4 An employee who is paid any damages as the result of an accident will be required to re-pay any sickness allowance paid, either in total or the proportion thereof represented in the amount of damages received. Any period of absence in such a case where a refund is made in full, will not be treated as sickness absence.

## 8 FAMILY LEAVE

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### 8.1 Maternity Leave

8.1.1 An employee is entitled to 52 weeks maternity leave (ML) regardless of length of service.

8.1.2 ML can begin from a date not earlier than the 11th week before the expected week of childbirth (EWC), unless childbirth has taken place prior to this.

8.1.3 ML can commence on any day of the week.

8.1.4 During ML, all of the employee's contractual terms and conditions, with the exception of pay, continue to apply.

8.1.5 An employee is required to take compulsory ML of 2 weeks, starting on the day on which the childbirth occurs.

8.1.6 An employee must comply with the notification procedures determined by the council in order to qualify for the maternity leave provisions.

8.1.7 A pregnant employee shall be allowed to take reasonable time off, without loss of pay, as is required to attend antenatal care and must follow the council's procedures for the notification of a request for this time off.

8.1.8 Where an employee is absent before the start of the ML period due to illness, the absence will be treated as sickness absence. This includes absence due to still

birth or neonatal death prior to the 24th week of pregnancy. It excludes absences due to a pregnancy related illness which occurs 4 weeks or less before an employee's baby is due, in which case she will be deemed to have commenced ML.

## 8.2 Maternity Pay

8.2.1 An employee with less than 26 weeks' continuous service at the beginning of the 15th week before the EWC will have no entitlement to maternity pay. She may, however, be entitled to Maternity Allowance and should be referred to the appropriate government department for this purpose.

8.2.2 An employee with at least 26 weeks' continuous service at the beginning of the 15th week before the EWC is entitled to:

- i) Occupational Maternity Pay (OMP) for the first six weeks of absence paid at nine-tenths of a week's pay offset against payments made by way of Statutory Maternity Pay (SMP) or Maternity Allowance (MA) where eligible. Payment will not be higher than a normal week's pay.
- ii) OMP for the subsequent 12 weeks of absence paid at half a week's pay plus SMP (or MA and / or any other dependents allowance), without deduction, provided payments are not higher than a normal week's pay.
- iii) SMP only, for the subsequent 21 weeks or, 90% of average weekly earnings if this is less than the current rate of SMP.
- iv) The remainder of maternity leave will be unpaid.
- v) Normal pay will be as defined by an employee's contract but will normally include all earnings that would be paid during a period of normal working, excluding any payments not made on a regular basis.

8.2.3 Payments made by the council during maternity leave will normally be on the understanding that the employee will return to council employment for a period of at least three months. Statutory payments to the employee are not refundable.

8.2.4 With the exception of Keeping In Touch Days, as outlined in legislation, when an employee returns to work before the full ML period ends, her entitlement to any balance of maternity leave and maternity pay will cease. The employee will receive her normal salary from the date of her return to work.

## 8.3 Sickness Absence and Annual Leave on Return to Work

8.3.1 Where an employee is unable to return to work on the notified end date of her ML due to sickness absence, normal sickness absence procedures will apply.

8.3.2 Annual leave shall accrue during the full period of maternity leave and should be taken by the employee in accordance with the council's local policy. Where an employee gives notice that she does not intend to return to work at the end of her ML period, the council will make a payment in lieu of leave accrued during the ML period.

## 8.4 Adoption Leave

- 8.4.1 Each council will develop a local policy for adoption leave which will normally mirror the arrangements in place for maternity leave. Maternity leave, pay and other arrangements outlined in this Scheme, will also apply to adoption leave.
- 8.4.2 An employee must comply with the notification procedures outlined in the council's policy in order to qualify for the adoption leave provisions.
- 8.4.3 An employee who is adopting shall be allowed to take reasonable time off without loss of pay, as required, to attend pre-adoption meetings and must follow council procedures for the notification of a request for this time off.
- 8.5 Paternity, Maternity/Adoption Support and Parental Leave
- 8.5.1 Support leave of five days with normal pay (pro rata for part time/part week employees), will be granted to the spouse or partner or nominated carer of an expectant mother or of someone taking adoption leave, at or around the time of the birth or placement. The nominated carer is the person nominated by the mother or the person taking the adoption leave to assist in the care of the child and to provide support to her/him. This is available to all employees who have a minimum of 26 weeks continuous service at the start of the 15th week before the EWC or date of placement of a child.
- 8.5.2 Each council will develop procedures which must be followed in relation to the notification of requests for such leave.
- 8.5.3 In addition and in accordance with legislation, each council will develop and publish policies to notify employees of their entitlement to:
- i) Ordinary Paternity Leave of one week paid at the rate of Statutory Paternity Pay;
  - ii) Additional Paternity Leave of up to 26 weeks with payment being in accordance with legislation;
  - iii) Parental Leave of up to 13 weeks for each child or 18 weeks for each disabled child, which will be unpaid.

## 9 PERIOD OF NOTICE TO TERMINATE EMPLOYMENT

- 9.1 The minimum period of notice to be given by a council is governed by the Employment Rights Act 1996:

<i>Service</i>	<i>Period of Notice</i>
One month or more but less than two years	Not less than one week
Two years or more but less than twelve years	Not less than one week for each year of continuous service
Twelve years or more	Not less than twelve weeks.

- 9.2 The period of notice to terminate employment to be given by an employee will be determined locally by each council.

## 10 CONTINUOUS SERVICE

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- 10.1 For the purpose of entitlements regarding annual leave, sickness allowances and maternity leave and pay, continuous service will include continuous previous service with any public authority to which The Redundancy Payments (Continuity of Employment in Local Government, etc.) (Modification) Order 1999 as amended, applies.
- 10.2 Where an employee returns to local government service following a break for maternity reasons, they will be entitled to have previous service taken into account in respect of sickness and maternity leave and pay, provided that the break in service does not exceed eight years and that no paid employment has intervened. For the purpose of the calculation of entitlement to annual leave the eight years time limit does not apply provided that no paid employment has intervened.
- 10.3 For the purpose of entitlement to period of notice from the council to terminate employment, continuous service is continuous service with that council.

## 11 GRIEVANCE

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- 11.1 Each council will have a locally determined grievance procedure which will apply to chief officers. Should a chief executive have a grievance, they should initially raise the grievance with the Leader of the Council. Should, after consideration by the Leader the chief executive remain dissatisfied, then the matter should be considered by the Appeal Committee (or other relevant body within the council).

## 12 DISCIPLINE AND CAPABILITY

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- 12.1 It is recognised that discipline is essential for the proper and efficient conduct of a council's affairs. It is also recognised that disciplinary action must be applied fairly and that employees should have the right of appeal against any disciplinary action taken against them.
- 12.2 While each council will have a locally determined disciplinary procedure for chief officers, where an allegation of misconduct is made against a chief executive, it is recognised that the procedure must reflect the seniority of this post as head of paid service. In this regard, councils will follow the disciplinary

framework detailed in Appendix A. The framework meets legal requirements and is in line with the ACAS Code of Practice.

- 12.3 The Disciplinary Framework is designed to deal with any allegation of misconduct against a chief executive. Any question or complaint as to the capability of the chief executive to fulfil the duties and responsibilities of the post, including any alleged failure by the chief executive to establish and maintain a satisfactory working relationship with the council, is not a disciplinary matter. Appendix B provides a Capability Framework for councils to follow should any such complaint or question arise.

## 13 TRAVEL ALLOWANCES

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- 13.1 Where a council authorises an employee to use a form of transport in the course of their work they will be reimbursed in accordance with locally determined arrangements.

## 14 REIMBURSEMENT OF EXPENDITURE

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- 14.1 An employee necessarily incurring additional expense in the course of their work in respect of meals or overnight accommodation will be reimbursed approved expenses, subject to appropriate evidence of expenditure being produced, in accordance with locally determined arrangements.

## 15 ISLANDS ALLOWANCE

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- 15.1 An annual allowance, determined nationally, will be paid to an employee employed by an island council and to an employee based on Tiree, Coll or Colonsay. This allowance will be increased each year in accordance with the Average Weekly Earnings Index.

## 16 FEES FOR RETURNING OFFICERS

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- 16.1 The fees for Returning Officers will be determined nationally.

## 17 TRADE UNION FACILITIES

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- 17.1 Each council will provide the recognised trade unions with facilities necessary to carry out their functions in accordance with the ACAS Code of Practice. This will

include paid leave of absence to attend relevant meetings concerned with the work of the Scottish Joint Negotiating Committee for Chief Officials.

## CHIEF EXECUTIVE DISCIPLINARY FRAMEWORK

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In following this framework it should be noted that:

- Indicative timescales are provided at various stages of the framework. These can be varied to tie in with timescales adopted locally for other chief officers. Any chief executive subject to action under this framework will at the outset be advised of the timescales which will apply.
- At various stages of the framework, reference is made to the head of human resources. It is essential that professional support and advice is available, but it is for each council to determine within their own structure who provides such support and advice.
- Elected members and professional advisers will declare any personal interest they have in the case and consideration will be given to them not taking part in any proceedings depending on the nature of that interest.
- It is for each council to determine who presents any case against the chief executive at a disciplinary hearing and similarly who presents at any subsequent appeal hearing.
- It is for each council to determine the disciplinary sanctions and the length of time any warnings remain 'live' but these will be consistent with those which apply to other chief officers.
- The framework makes reference to the chief executive being represented. That representation will be consistent with that which applies within the council's disciplinary procedure for other chief officers.



1. When faced with an allegation(s) of misconduct against the chief executive, initial consideration will be given to the allegation(s) to determine whether the matter should be formally investigated and whether suspension is appropriate.

The allegation(s) will initially be discussed between an appropriate senior officer(s) e.g. the head of human resources and/or the monitoring officer and the Leader of the council.

The Leader will appoint an Assessment Group. This group will be made up of a cross party group of elected members representing, as far as is practicable, the political balance of the council. Members of the group will not participate in the remaining stages of the procedure, unless the size of the council is such that there are insufficient numbers of elected members to resource each of the stages independently.

The head of human resources will be available to assist the group.

The head of human resources will verbally make the chief executive aware of the allegation(s) and that an Assessment Group is being called to consider the matter. The chief executive may wish to make initial observations to the head of human resources. If agreed with the chief executive the head of human resources will share these with the Assessment Group.

The Assessment Group will be advised of the allegation(s) against the chief executive, and if previously agreed, initial observations from the chief executive. It is unlikely that much detail will be known, but in any event, the purpose of the group at this stage is solely to decide whether a formal investigation is required. If the decision is taken to proceed to formal investigation the Assessment Group will also, depending on the nature of the allegation(s), consider whether suspension, which must be on full pay, is appropriate.

A note of the meeting and decision will be taken.

The decision of the Assessment Group will be communicated in writing to the chief executive.

2. Should the matter proceed to formal investigation, an Investigating Officer will be appointed to conduct a formal investigation into the allegation(s).

The Investigating Officer will be agreed between, and be independent of both, the council and the chief executive. In the event of a failure to agree it will be for the Joint Secretaries to the SJNC to recommend an Investigating Officer.

The investigation should be conducted within a reasonable period. If the investigation is likely to extend beyond 4 weeks following appointment of the Investigating Officer, the chief executive will be kept informed of progress.

It is for the Investigating Officer to determine how best to investigate the allegation(s). However, the Investigating Officer will be expected to:

- Meet the chief executive to discuss, and question the chief executive on, the allegation(s). The chief executive should be given a minimum of 5 working days notice of such a meeting and be advised of the right to be accompanied at that meeting.
- Meet with and interview any witnesses to or parties associated with the allegation(s), a statement being prepared to record each interview.
- Review any documentation associated with the allegation(s).

At the conclusion of the investigation, the Investigating Officer will prepare a report for the Assessment Group outlining the findings of the investigation. The report will include a recommendation as to whether the Investigating Officer considers there are sufficient grounds to the allegation(s) to warrant proceeding to a disciplinary hearing.

The Assessment Group will be reconvened to consider the report from the Investigating Officer.

The group, following consideration of the report from the Investigating Officer, will decide if a disciplinary hearing should be convened. The group will also indicate whether, having considered the report, they consider the allegation(s), if substantiated, constitute misconduct or gross misconduct. If gross misconduct and the chief executive has not already been suspended, then they will reconsider suspension at this stage, such suspension being on full pay.

The chief executive will be advised in writing of the decision of the Assessment Group no later than 5 working days following the meeting of the group. A copy of the report from the Investigating Officer will accompany that letter.

Where the Assessment Group decision is that no further action is necessary, no record of the allegation(s) will be entered on the chief executive's personal file.

3. Should the Assessment Group consider that the matter should proceed to a disciplinary hearing, a Hearing Committee will be set up and formal notification issued to the chief executive of the hearing.

The Hearing Committee will exclude members of the Assessment Group and, as far as is practicable, be made up of a cross party group of elected members representing the political balance of the council.

The head of human resources will advise the Committee. A record of the meeting and decision reached will be taken.

The chief executive will be given a minimum of 5 working days prior notice in writing of the Hearing. The letter will provide full details of the allegation(s), an indication of whether the allegation(s) if substantiated, may constitute misconduct or gross misconduct and the implications of this, i.e. gross misconduct may result in

dismissal, advise that the Committee will refer to the report from the Investigating Officer and advise of any witnesses that may be called. The letter will also advise the chief executive of their right to be represented at the hearing and ask the chief executive (or their representative) to provide in advance of the hearing any relevant papers that they may present as part of their case and the names of any witnesses they may wish to call.

The chief executive may seek a postponement of the hearing to enable representation; such postponement should be for no more than 10 working days.

Conduct of the Hearing: The purpose of the Hearing Committee is to ensure that a fair hearing is conducted into the allegation(s) so that a reasonable decision can be made, based on the information presented. The conduct of the hearing will be as follows:

- A representative on behalf of the Assessment Group will present their case.
- Members of the Hearing Committee and the chief executive (or their representative) will have the opportunity to question the Assessment Group representative and any witnesses called.
- The chief executive (or their representative) will present their case.
- Members of the Hearing Committee and the Assessment Group representative will have the opportunity to question the chief executive (or representative) and any witnesses called.
- The representative of the Assessment Group will summarise their case, introducing no new evidence.
- The chief executive (or their representative), will summarise their case introducing no new evidence.
- Both parties will withdraw to enable the Hearing Committee to make a decision in private.
- Following the recess, the parties will reconvene and the convener of the Hearing Committee will advise the chief executive of the Committee's decision. If the Hearing Committee is unable to provide a decision on the day of the Hearing, they will reach a decision as soon as possible but in any event, the decision will be confirmed in writing to the chief executive within 5 working days. The letter will also include details of to whom the chief executive can appeal the decision of the Hearing Committee, should they wish to do so, together with the associated timescale.

Sanctions: If the allegation(s) against the chief executive are considered to have been substantiated, any disciplinary action taken should be reasonable in the circumstances taking into account the seriousness and any mitigation presented.

In the case of a first offence, other than for gross misconduct, the sanction should normally be a written or final written warning. Where a written warning had previously been issued and the chief executive has committed a similar offence or a subsequent different but equally serious offence, the Hearing Committee may issue a

final written warning or more serious sanction. A chief executive should normally be given a final written warning regarding their conduct before dismissal is contemplated. However, it should be noted that there may be cases of gross misconduct so serious that summary dismissal without notice is appropriate.

Notwithstanding the above, the disciplinary action taken will be in line with the sanctions contained within the council's disciplinary procedure for all other chief officers.

Similarly, examples of what constitutes gross misconduct will be as per the disciplinary procedure for other chief officers.

Should the allegation(s) be found to be not substantiated and no disciplinary action taken no record of the allegation(s) will be entered on the chief executive's personal file.

4. Should the chief executive appeal the decision of the Hearing Committee, a meeting of the Appeal Committee (or other relevant body within the council), will be arranged to consider the appeal.

The Appeal Committee will exclude members of the Hearing Committee and, as far as is practicable, be made up of a cross party group of elected members representing the political balance of the council.

The head of human resources will advise the committee. A record of the meeting and decision reached will be taken.

The Appeal Committee will ideally be held within 20 working days of receipt of the appeal.

The chief executive will be given a minimum of 5 working days prior notice in writing of the date of the Appeal Hearing and be provided with a copy of any associated paperwork that will be presented on behalf of the Hearing Committee. The letter will advise the chief executive of their right to be represented at the Appeal, advise of any witnesses that may be called and ask the chief executive (or their representative) to provide in advance of the appeal any documentation that they intend to refer to and the names of any witnesses they may call.

The conduct of the Appeal Hearing will follow that of the Disciplinary Hearing, however it will be for the chief executive (or representative) as appellant to present their case first and be allowed to summarise their case last.

It is the responsibility of Appeal Committee to determine whether the appeal from the chief executive should be upheld, upheld in part or dismissed. If upheld in part the Appeal Committee must also determine the impact of this decision on any sanction implemented by the Hearing Committee.

The convener of the Appeal Committee will advise the chief executive of the decision of the Appeal Committee. If the committee is unable to reach a decision at the conclusion of the Hearing they will do so as soon as possible but in any event the

decision will be confirmed in writing to the chief executive within 5 working days of the date of the hearing.

## CHIEF EXECUTIVE CAPABILITY FRAMEWORK

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The Capability Framework is based on the Disciplinary Framework in Appendix A, adapted as detailed below, and should therefore be read in conjunction with that framework.

1. In the first instance any question or complaint with regard to a chief executive's capability will be referred to an Assessment Group which will be appointed as per section 1 of Appendix A.
2. The Assessment Group will meet with the chief executive to discuss the nature of the complaint or question.
3. If the Assessment Group concludes that there is a question of substance as to the chief executive's capability they will advise the chief executive of the ways in which performance should improve and a period of time after which the matter will be reviewed. This period should be sufficient to allow the chief executive a reasonable opportunity to show the required level of improved performance.
4. If the Assessment Group consider that there is evidence of serious incapability which is not likely to be remedied within a reasonable period of time, or if a previous warning has been issued to the chief executive in regard to performance then the Assessment Group will refer the matter to an Investigating Officer.
5. Similarly if subsequent to 3 above there remains a question as to the capability of the chief executive the matter will be referred to an Investigating Officer.
6. The Investigating Officer will be appointed and the investigation conducted as per section 2 of Appendix A
7. Upon receipt of the report from the Investigating Officer the Assessment Group will decide whether or not the matter should proceed to a Hearing Committee.
8. The Hearing Committee will be appointed as per section 3 of Appendix A. The conduct of the hearing will be as per section 3 of Appendix A.
9. If the Hearing Committee conclude that the chief executive is not carrying out his/her duties and responsibilities to the level of capability that the council believes is required, the Hearing Committee will consider issuing a written warning with the provision of a reasonable amount of time for the chief executive to meet the requirements of the post, or (if a previous warning has been issued or, the Hearing Committee judge the incapability to be fundamentally irremediable) confirm dismissal with notice. A satisfactory outcome may alternatively be achieved by the chief executive actively seeking other employment, resigning or accepting retirement.
10. The chief executive will have the right to appeal the decision of the Hearing Committee to an Appeal Committee (or other relevant body within the council). The

appointment of that committee and conduct of the appeal will be as per section 4 of Appendix A.

**Scottish Joint Negotiating Committee for  
Chief Officials**

**CONSTITUTION**

**1 NAME OF ORGANISATION**

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The Committee will be known as the Scottish Joint Negotiating Committee for Chief Officials of Local Authorities, hereinafter referred to as "the Committee".

**2 SCOPE**

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The Committee will cover council Chief Executives (head of paid services) and any officer regarded by a council as a Chief Officer. This is for local determination but will normally include those reporting directly to the chief executive as well as their immediate reports.

**3 MEMBERSHIP**

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- a) The Committee will have 12 members, 6 to represent the employers and 6 to represent the employees.
- b) The 6 employers' representatives will be appointed by the Convention of Scottish Local Authorities.
- c) The 6 employee representatives will be appointed as follows:

<b>Unison</b>	2 representatives
<b>GMB</b>	2 representatives
<b>ALACE</b>	2 representatives



- d) If any of the bodies referred to in paragraphs (b) and (c) do not appoint the number of representatives provided for by the constitution, failure to appoint will not invalidate the decisions of the Committee.
- e) In the event of any member of the Committee or any of its sub-groups being unable to attend any meeting the body represented by the member will be entitled to appoint a substitute to attend the meeting. A substitute for a member of a sub-group will be appointed only from amongst the remaining members of the Committee.
- f) The members of the Committee will retire annually immediately prior to the annual general meeting and be eligible for re-appointment. A member will retire from the Committee on ceasing to be a member of the body by which they were appointed.
- g) If a vacancy arises, a new member will be appointed by the body who the previous member represented and will be a member until the end of the period for which the previous member was appointed.

#### 4 FUNCTIONS OF COMMITTEE

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Scottish local government employers and trade unions plan to develop a fair and progressive employment agenda to support innovative quality service delivery. This principle will underpin all of the Committee's agreements and activities.

The functions of the Committee are as follows:

- To support and develop a national framework which will contribute to the development of a highly skilled and motivated workforce.
- To negotiate sustainable collective agreements on employment related matters.
- To promote and support the application of such agreements for local government and its employees.
- To promote co-operation between employers and recognised unions throughout local government.
- To support the promotion of equality and the elimination of discriminatory practices in employment.
- To support the development and adoption of local codes of practice to cover the conduct and obligations of employees and employers.
- To support the development and implementation of training and development initiatives and to ensure their integration into broader employee development strategies.
- To provide advice and assistance to councils, recognised unions and employees on employment related issues.
- To settle differences of interpretation and/or application of the national agreement that cannot be resolved locally.

- To provide a national conciliation service for the resolution of disputes that cannot be resolved locally.
- To undertake any activity incidental to the above.

## 5 SUB-GROUPS

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The Committee may establish, from its own membership, sub-groups as it considers necessary. Reports from sub-groups will be submitted to the Committee. The Committee when establishing a sub-group may delegate special powers to the sub-group, in such cases reports to the Committee will be submitted for information.

## 6 CONVENER AND VICE-CONVENER

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The Committee will appoint from amongst its membership a convener and vice convener who will retire in the same manner as provided for members in paragraph 3. Convenership of the Committee will be held in alternative years by a member of the Employers' Side.

In the absence of the convener, the vice convener will preside at the meetings of the Committee. If neither the convener nor the vice convener is present, a chair will be elected for the meeting.

The convener will have a vote but not a casting vote.

The convener and vice convener will be members of all sub-groups established by the Committee.

## 7 OFFICERS

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The Committee will appoint joint secretaries, and any other officers as it thinks fit. These officers will retire in the same manner as is provided for members in paragraph 3 and will be eligible for re-appointment.

## 8 ADVISERS

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The Convention of Scottish Local Authorities and the Employees Side may appoint an appropriate official or officials to act as advisers; such officials will only serve in a consultative capacity.

## 9 OTHERS INVITED TO ATTEND MEETINGS

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The Committee or a sub-group may invite any persons whose special knowledge would be of assistance to attend and speak at its meetings. Such persons will not have the power to vote.

## 10 MEETINGS

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The annual meeting of the Committee will be held during the month of November.

Ordinary meetings of the Committee will be held as necessary.

The convener will call a special meeting of the Committee if so requested by either side. The notice summoning the meeting will state the nature of the business to be transacted and may include any other matters which were not the reason for the request for the special meeting.

All notices of meetings of the Committee and of sub-groups will be issued to the respective members at least seven days before the meeting.

## 11 VOTING

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Voting at Committee and sub-group meetings will be by show of hands or otherwise as the Committee or sub-group determines. No resolution will be carried unless it is approved by the majority of the members present and voting on each side of the Committee or sub-group.

## 12 NOT ENOUGH MEMBERS PRESENT

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If fewer than one third of the members of the Committee divided equally between the two sides are present at the start of the meeting, the convener will declare the meeting closed and the business then under discussion will be the first business to be discussed at the next meeting of the Committee. The required number of members to be present at a meeting of a sub-group will be determined by the Committee.

## 13 ARBITRATION

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In the event of the Committee failing to reach agreement over nationally determined terms and conditions of employment both sides may agree to refer the matter to ACAS for submission to arbitration.

## 14 FINANCE

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The administrative expenses of the Committee (excluding expenses of representatives which will be met by the respective sides) and its sub-groups will be borne equally by the two sides.

## 15 AMENDING THE CONSTITUTION

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The constitution may only be amended with the agreement of the Convention of Scottish Local Authorities, and the three trade unions referred to in paragraph 3.